

1 STATE OF ILLINOIS)
)SS
2 COUNTY OF JO DAVIESS)

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5 In the Matter of the Petition

6 of

7 Rentech Energy Midwest Corporation,
 Jo Daviess County, Illinois

8

9

10 Testimony of Witnesses
 Produced, Sworn and
11 Examined on this 15th day
 of February A.D. 2007
12 before the Jo Daviess County
 Zoning Board of Appeals

13

14

15

16 Present:

17 Tom Heidenreich

 Nick Tranel

18 Susan Davis

 David Jansen

19 Melvin Gratton, Chairman

20 Linda Delvaux, Zoning Administrator

21

22

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1 MR. GRATTON: Okay. Good evening, Ladies
2 and Gentlemen, and welcome to our continued
3 session of Jo Daviess County Zoning Board of
4 Appeals. This is a hearing which began last
5 evening which is carrying a request for a
6 Special Use for a basic industry application as
7 a Special Use in an AG district. The Applicant
8 is Rentech Midwest and their request is to
9 expand the existing facilities in East Dubuque
10 to include coal gasification as part of the
11 feedstock for the plant. And as I said, we

12 began last night and this is a continuation of
13 that.
14 What I expect to do tonight is to have the
15 Petitioner conclude their testimony. They have
16 several presentations they would like to
17 complete. Once that is done we will open the
18 hearing to any public comments that you have and
19 after we've exhausted all public testimony we
20 will use the rest of our time to try to
21 formulate findings of fact that can be
22 incorporated into the document that we will
23 ultimately present to the County Board for their
24 consideration.

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1 As most of you know, in Jo Daviess County
2 the action taken by this board in Special Uses
3 is advisory in nature and we make a
4 recommendation to either approve, to disapprove
5 or to approve with modifications and we forward

6 that to the Jo Daviess County Board. They make
7 the final disposition of that and usually it's
8 at their next meeting unless they have other
9 information which they require. They also can
10 ask for modifications or changes, send it back
11 to us or whatever the case may dictate. So
12 that's basically the process and what's going to
13 happen this evening. I'm not sure that we will
14 reach a full resolution tonight. There's a lot
15 of information to digest. A lot of it just
16 coming in the last several days, so we'll do our
17 best and we'll try to get as far into this
18 process as possible tonight.

19 So does anyone have any questions as far
20 as procedure before we begin? Okay. I did
21 swear everybody in last night, but just in case
22 we missed anybody let's do this one more time.
23 Remember that any testimony you give this
24 evening will be under oath, so I'm going to ask

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1 you to raise your right hand again.

2 (WHEREUPON everyone present

3 was sworn in.)

4 MR. GRATTON: Thank you very much. When

5 it comes time for -- most people -- the

6 Petitioners have been identifying themselves and

7 their interest and who they represent in this

8 particular case. As we get others from the

9 public it's very helpful to us when you choose

10 to -- if you choose to testify -- I think

11 there's a legal pad on the podium here. I'd

12 like you to sign your name and address so it can

13 be recorded correctly. I would also ask that,

14 you know, you identify your interest in the case

15 being heard. That helps us understand who's

16 impacted and how and so forth, so if there are

17 no further questions we'll begin -- or continue

18 our proceedings from last evening. Anybody?

19 Okay. Jock, I'm going to turn it back over to

20 you for continuation.

21 MR. HEATON: I'd like to call Larry Boyer

22 forward. You can come forward, Mr. Boyer.

23 LARRY BOYER,

24 being previously duly sworn, was examined and

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1 testified as follows:

2 DIRECT EXAMINATION

3 BY MR. HEATON:

4 Q. Mr. Boyer, you are the surveyor that has done

5 the work for this project; is that correct?

6 A. That's correct.

7 Q. And what company are you with?

8 A. I'm with WHKS & Company, 185 Wisconsin Avenue,

9 East Dubuque.

10 Q. And your company consists of civil engineers

11 and surveyors?

12 A. That's correct.

13 Q. And what is your license?

14 A. I'm a licensed professional land surveyor in

15 the State of Illinois.

16 Q. In doing the survey work for this project you

17 not only surveyed the Rentech property, but you

18 also worked on the surrounding property that's

19 owned by Mr. Gary Newt; is that correct?
20 A. That's correct. We had to find the property
21 lines that affect the entire situation.
22 Q. Okay. Now, on the concept plan that is -- was
23 given -- which you prepared and we filed with
24 the County, that is the document that's before

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1 you this evening on the easel; is that right?
2 A. That's correct.
3 Q. That is the proposed concept plan?
4 A. That's correct.
5 Q. Okay. Now, on the right-hand side of that
6 there's a subdivision known as Galena Estates
7 subdivision; is that correct?
8 A. That's correct.
9 Q. Are you familiar when that subdivision was
10 platted?
11 A. Yes, in 1973.
12 Q. Showing you what's been marked as Petitioner's
13 Exhibit No. 9, are you familiar with that?

14 A. Yes.

15 Q. That is a copy of the plat of Galena Estates

16 subdivision; is that correct?

17 A. That's a copy of the official recorded plat in

18 the recorder's office in Jo Daviess County.

19 Q. And the date again on that -- the date of

20 platting was?

21 A. December 14th, 1973.

22 Q. Okay. Last evening I think you were here when

23 an individual testified, his name was

24 Tom Sheemack (phonetic) or Tom Shimak who

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1 indicated he lived in the estates subdivision;

2 is that correct?

3 A. That's correct.

4 Q. Now, are you familiar with -- on the plat which

5 lot Mr. Shimak owns?

6 A. Oh, the record shows that he owns Lot 11.

7 Q. Okay. Now, I heard him testify last night that

8 the railroad spur, and I'm referring to the spur
9 coming off the main line that leads up through
10 the Newt property and eventually to the Rentech
11 plant, I thought I heard him say that the
12 railroad spur passed through his land. Did you
13 hear him say that?

14 A. Yes, I did.

15 Q. Okay. Now, you're familiar with the plat and
16 his property; isn't that correct?

17 A. That's correct.

18 Q. And you're also familiar with the location of
19 the rail spur not only as it exists today, but
20 as it has existed for many years; isn't that
21 right?

22 A. I would say yes because I had to follow the
23 1965 railroad plans for that spur.

24 Q. Okay, and it's your understanding the spur has

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1 been there since the plant was constructed back
2 in 1965?

3 A. According to all the records that the railroad
4 furnished me it has been and it was in its exact
5 location.

6 Q. Does any of that rail spur that comes off the
7 main line, does any of it pass through
8 Mr. Shimak's land or for that matter any other
9 land in the Galena Estates subdivision?

10 A. It does not enter into any Galena Estates
11 property.

12 Q. And although the spur on this concept plan
13 looks like it is fairly close to the westerly
14 boundary line of Mr. Shimak's property in the
15 Galena Estates subdivision, there is a distance
16 of over a hundred feet from the westerly
17 boundary line of that subdivision to the
18 railroad spur; isn't that correct?

19 A. At the -- at the very narrowest point in here
20 the railroad is 103 feet from the Galena Estates
21 property line.

22 Q. Now, if Mr. Shimak were to walk -- well, why
23 don't you -- on the plat, if you will, can you
24 generally describe where his house is if you

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1 know and maybe you could point up to the one

2 that we've tendered to the Chairman?

3 A. His house would be up in here in this area.

4 Q. Now, as he would -- as he would walk west from

5 his house to his westerly boundary line at Lot

6 11 is that all yard or would he have to cross

7 anything?

8 A. He would have to cross the Little Menominee

9 River.

10 Q. And that is shown on the plat here on the

11 concept plan, this area in here?

12 A. That's right here.

13 Q. When did he purchase his lot, Lot 11 that he

14 now resides on, if you know?

15 A. The records in the assessor's office say

16 December 1986.

17 Q. And there was a lot of talk last night about

18 the railroad that goes along the east side of

19 the Mississippi River. Those railroads have

20 been there for many years; isn't that right?

21 A. My knowledge of that is I'd say in the 1850s.

22 Q. Let me ask you a question. Looking at the

23 plat, if you went to the southerly boundary line

24 of his Lot 11 can you tell us approximately how

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1 far it would be from the southerly boundary line

2 of his Lot 11 to the existing railroad tracks

3 that come up along the Mississippi?

4 A. The main line?

5 Q. The main line.

6 A. Oh, 690 feet.

7 MR. HEATON: Okay. Thank you, Mr. Boyer,

8 or maybe someone else has questions.

9 MR. GRATTON: Yeah. Can you tell us who

10 inhabits or if there is improvements on the

11 other lots that may be closer to the proposal --

12 the railroad and the proposal?

13 MR. BOYER: There's -- there's a house

14 down here on Lot 10 and I believe there's a

15 house down here on Lot 9, but the -- the --

16 excuse me -- the Little Menominee River just
17 bisects these lots right through here.

18 MR. GRATTON: It's not shown on here, but
19 where would the railroad be in proximity to this
20 plat?

21 MR. BOYER: The main line railroad is --
22 is right here. It's called the Illinois Central
23 Railroad and there's two tracks there. There's
24 what they call the northbound and the

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1 southbound.

2 MR. GRATTON: And then the spur that
3 serves Rentech, where does that --

4 MR. BOYER: That would be off the paper
5 here.

6 MR. GRATTON: Just show us approximately
7 where it might be?

8 MR. BOYER: It would be right in here. It
9 wouldn't -- it wouldn't be within the margin of

10 this sheet.

11 MR. GRATTON: Okay, and what type of
12 topography and visual assessment would there be
13 as far as what's between these occupied
14 residences and the railroad?

15 MR. BOYER: This is the Little Menominee
16 River and it's timberland member.

17 MR. GRATTON: Is there buffering of trees?

18 MR. BOYER: It's real heavily wooded.

19 MR. GRATTON: Can you see the railroad
20 from most of these?

21 MR. BOYER: In the summertime it's really
22 grown over and you can't see very far through
23 there, but in the wintertime you can see quite a
24 ways into the woods.

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1 MR. GRATTON: Are there other questions?

2 MR. HEATON: Can I ask him one more
3 question, please, Mr. Chairman?

4 Since -- to follow up what the Chairman

5 asked you about the trees and buffering, when
6 you did your survey work did you walk this area
7 in here, that being from the easterly property
8 line of the Rentech subject property that it
9 intends to build its new plant on, did you
10 travel through this area and walk through it?
11 A. Yes, I did.
12 Q. You spent a lot of time in that area; isn't
13 that correct?
14 A. Yes, I did.
15 Q. Will you just generally describe to the board
16 -- let's start down along the river and if you
17 would take us up through the area where the
18 railroad spur is and then all the way up north
19 and just generally describe what's in there.
20 A. It's very heavily wooded and then there's open
21 -- there's open areas where there was
22 cultivation and it -- it might be, you know, hay
23 ground and corn, but it's all -- all these field
24 areas are surrounded by heavy woods and I would

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1 say most of the land is in heavy timber and very

2 steep and --

3 Q. There's a lot of gorges and whatnot?

4 A. Yep.

5 Q. It's not flat?

6 A. It's not flat. It's very, very steep.

7 MR. GRATTON: What kind of elevation

8 change do we have from most of Watson, Galena

9 Estates and the proposal here?

10 MR. BOYER: This is -- this is Galena

11 Estates. The road that goes up through here is

12 kind of on a ridgetop and then you have the

13 Little Menominee River valley and then you have

14 another ridgetop over here where the plant is.

15 MR. GRATTON: Okay. If anybody wants any

16 measurements Melissa can do those. What did you

17 put up there for us?

18 MR. HEATON: Can you measure with that?

19 MR. GRATTON: Yes. Why don't you show us

20 the proximity of the subdivision to the request,

21 if you can, Melissa. Just point the cursor at

22 the subdivision first if you can do so.

23 MS. SOPPE: This is the actual --

24 MR. HEATON: What is this we're looking

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1 at, do you know?

2 MS. SOPPE: This is the actual subdivision

3 right here, where I've got my cursor is Lot 11.

4 MR. HEATON: So that -- if you want to put

5 your pointer on that right there and then this

6 would be the railroad spur as it comes off the

7 main line and swings back up to the plant; is

8 that right?

9 A. Yes, it is.

10 Q. In yellow?

11 A. This -- this white line here going up in this

12 area would be the actual track, where that white

13 line goes up to the plant.

14 MR. HEATON: And I'm sorry, could you --

15 are you Melissa?

16 MS. SOPPE: Yeah, 962 feet from that.

17 MR. HEATON: From the east side of the

18 spur to his house is 960 feet.

19 MS. SOPPE: Uh-huh.

20 MR. HEATON: And then could you take it
21 from this house down to the main line down here?
22 Could you tell us what that distance is?

23 MS. SOPPE: 1277 feet.

24 MR. HEATON: Okay.

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1 MR. HEIDENREICH: Can she do it from the
2 house to the side of the proposed plant?

3 MR. HEATON: That's a good idea. Can you
4 do that for us? Let's take it to this -- how
5 about -- and John, maybe you could step up for a
6 minute. Why don't you show us where the -- the
7 new plant -- the footprint will be on here?

8 MR. DIESCH: The outer edge is going to be
9 right about there.

10 MR. BOYER: I would say right about there.

11 MS. SOPPE: About right there? About

12 5700 feet.

13 MR. HEATON: 5700 feet?

14 MS. SOPPE: Uh-huh.

15 MR. HEATON: Could you, Melissa, be so

16 kind --

17 MR. TRANEL: Over a mile.

18 MR. DIESCH: How many elevation changes

19 are there? Because when I go out there I see --

20 you know, you're doing this. Is there -- how

21 many significant elevation changes are there

22 between the Little Menominee and then to the

23 plant site?

24 MR. BOYER: How many different elevation

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1 changes?

2 MR. DIESCH: Yeah.

3 MR. BOYER: A lot. If you're on the

4 ground walking on the ground or driving in a

5 four-wheeler you're just going like this all the

6 time and it's just like climbing huge stairs all

7 the time, up and down and up and down.

8 MR. HEATON: Melissa, can I ask you to do
9 one more measurement? Would you measure from
10 the -- John Diesch indicated that the new plant
11 -- right about there. Would you measure then
12 from that point over to the nearest lot in
13 Galena Estates.

14 MS. SOPPE: The boundary line is about
15 3400 feet.

16 MR. HEATON: Can I ask you -- I'm just
17 intrigued. How do you -- where does it tell you
18 that? Oh, okay. Oh, right there. I thought,
19 wow, she's really fast. Thank you.

20 MR. GRATTON: But she is good.

21 STAFF MEMBER: Mel, I think it's important
22 that we state though that these measurements are
23 approximations only, that they're not -- they're
24 not exact, but they are approximations.

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1 MR. HEATON: Okay. Thank you. Thanks,
2 Larry.

3 MR. GRATTON: Okay.

4 MR. HEATON: Now, I'd like to call -- and
5 I think I asked the Chairman if I could call
6 them up together, Mark Ibsen and John Iwanski
7 who testified last night. Since we're trying to
8 save some time I think they're both going to
9 give some input on a couple of the issues that
10 came up last night. Is that all right with you,
11 Mr. Chairman?

12 MR. GRATTON: Certainly.

13 MR. HEATON: Mark, one of the issues that
14 came up last night was noise and we talked about
15 trains. First with regard to trains, do you
16 know on the average how many trains are
17 traveling on the main track on a daily basis?

18 MR. IBSEN: There's about 80 trains that
19 pass through that main line on a daily basis.

20 MR. HEATON: When you say the main line it
21 would pass south of Galena Estates
22 Subdivision --

23 MR. IBSEN: Correct, along the
24 Mississippi.

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1 MR. HEATON: -- and continue on up to --
2 north or south?

3 MR. IBSEN: Yeah, south going north.

4 MR. HEATON: 80 trains a day?

5 MR. IBSEN: Yeah.

6 MR. HEATON: Okay. With regard to noise
7 the issue came up last night and I think Bruce,
8 one of the individuals from URS, had talked
9 about noise levels and you indicated that
10 Rentech would stand by its commitment that the
11 decibel level at the fence line would be
12 70 decibels or lower; is that right?

13 MR. IBSEN: Correct.

14 MR. HEATON: And when you're talking about
15 the fence line, assuming that the new footprint
16 of the plant will be -- I think about right in
17 here, the actual Rentech property line would
18 exceed farther to the east, but I believe
19 Mr. Diesch indicated that there would be a fence

20 line around some of the buildings or at least

21 the gasifier and whatnot, right?

22 MR. IBSEN: The process area will have a

23 fence line around it for safety reasons and for

24 other reasons.

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1 MR. DIESCH: The yellow is the property

2 line.

3 MR. HEATON: Okay, so your commitment is

4 that -- let's assume that the fence were on the

5 property line. Your commitment -- Rentech's is

6 that it would be 70 decibels at this point; is

7 that right?

8 MR. IBSEN: Correct.

9 MR. HEATON: Now, I think Melissa said the

10 closest lot -- not the closest house -- but the

11 closest lot at Galena Estates would be 3300

12 and --

13 MS. SOPPE: 34.

14 MR. HEATON: -- 3400 feet and I think it
15 was like 5700 or something down to Mr. Shimak's,
16 but would you or Mr. Iwanski talk about how
17 sound is dispersed as it travels that distance?
18 Is there a formula for that?

19 MR. IBSEN: Yeah, there's mathematical
20 formulas that depict how the sound is going to
21 dissipate as it goes across distance and it
22 doesn't like -- it was mentioned last night the
23 sound -- the scale itself that measures that
24 increases what's called exponentially, all

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1 right, so for those who aren't as fun with math,
2 you know, that means when it goes up by one
3 number that doesn't mean it's gone up by one or
4 a factor of ten or some multiple or something
5 that's more heavily weighted that way, but as
6 true as the distance increases the sound level
7 drops faster than just -- just if you were to
8 divide it by the distance because it dissipates

9 over what's called the square of the distance as
10 well. So you know, we're sensitive to the sound
11 issue. We don't want it to be a problem for
12 anyone, so we took a look around some of the
13 references that we found and found that, you
14 know, if you were to go -- start at 70 decibels
15 and go out about 200 feet that sound level will
16 drop to about -- to under 30 decibels, so at
17 200 feet from a 70-decibel source that sound
18 level has dropped to 30 decibels because of the
19 effect that the distance has on that sound
20 source and the dissipation and that's on a
21 straight -- that's with no trees in the way, no
22 barriers of any kind, no changes in the ground,
23 contours or anything like that. That's just
24 kind of a line-of-sight type distance.

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1 MR. HEATON: So if your commitment is 70
2 decibels at the fence line and is that sound --

3 let's assume that it travels east toward Galena
4 Estates. If it went 500 feet the decibel level
5 from 70 would go down to --

6 MR. IBSEN: I didn't necessarily calculate
7 that one per se, but I mean, it would tend to
8 fall off to where it was not a factor in adding
9 to noise out at some distance. At 500 feet it
10 probably wouldn't be that much at all.

11 MR. HEATON: Okay, and URS through the
12 County gave us last night the County Staff's
13 report and in that report it talked about noise
14 and it had some reference to a certain section I
15 think which was in the pollution control board
16 environmental regs, is that right, Bruce?

17 DR. DUMDEI: Yeah, it's Section 35-901.

18 MR. HEATON: And John or Mark, it's my
19 understanding that those regs provide that the
20 decibel levels when sound leaves a Class C site
21 which is Rentech and then if it goes to another
22 site depending upon what type of site it is it
23 has to -- at certain frequency levels or hertz
24 it has to have decibels below a certain

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1 threshold; is that right?

2 MR. IWANSKI: Right, right.

3 MR. HEATON: Now, Rentech is a Class C

4 under those regs. What is the land in between

5 Rentech's east property line that's denoted in

6 yellow and Galena Estates, that area that

7 Larry Boyer described as heavily dense woods, do

8 you know what type of site that is?

9 MR. IWANSKI: That would be classified as

10 agriculture, forestry, fishing and hunting.

11 MR. HEATON: And is that a Class C?

12 MR. IWANSKI: That's a Class C.

13 MR. HEATON: So if sound goes from a Class

14 C site to another Class C site then the regs are

15 different -- the thresholds?

16 MR. IWANSKI: There's no specific decibel

17 level regulations from a C to a C. It's from C

18 to B or from C to A, so --

19 MR. HEATON: So there are no regs about

20 how loud the sound can be as it travels over the

21 buffer zone, but if the sound is going to go

22 from C over here to a residential subdivision
23 then it goes to a Class A; is that right?
24 MR. IWANSKI: Residential is Class A.

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1 MR. HEATON: Okay, and on that chart as I
2 look at it and without much knowledge about the
3 subject it appears that the -- the lowest
4 decibel threshold level is at 8,000 hertz; is
5 that right?

6 MR. IBSEN: That's what it says. It says
7 8,000 hertz.

8 MR. HEATON: And at 70 decibels just going
9 500 feet over this agriculture land according to
10 your calculation would take that decibel level
11 even on flat land -- well, actually on flat land
12 it would take it down to around 30.

13 MR. IBSEN: Right, correct.

14 MR. HEATON: So it's your opinion that the
15 decibel level if indeed you're at 70 at the

16 fence line it would not have any effect on those
17 living in Galena Estates Subdivision?

18 MR. IBSEN: That's correct.

19 MR. HEATON: Thank you.

20 MS. TOEPFER: I was just wondering -- I
21 understand that the sound drops off and I
22 understand going from 70 decibels to 30 decibels
23 is a big drop-off and I understand that they're
24 probably not going to hear a peep in Galena

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1 Estates. What does 70 decibels sound like? Is
2 that a jet engine roar? Is that a car
3 backfiring? Is that a refrigerator condenser?

4 MR. IBSEN: No. I mean a jet engine --
5 and I don't have the exact numbers, but a jet
6 engine would be in the 110, 120 plus decibel
7 range, probably more 130 decibel range and I am
8 pulling these numbers off of just some general
9 memories, so you know, I can tell you that in
10 plants that I've worked at where we've monitored

11 directly under very large fans -- in one of the
12 plants I was in we had a fan that blew air
13 across metal tubes. Those tubes were designed
14 to cool this one stream and so it was moving a
15 lot of air. It was 105 to 110 decibels
16 immediately underneath that fan. So when you go
17 down to 70 decibels, 70 decibels is way below
18 what OSHA says any person in a workplace could
19 be exposed to. They say that 85 decibels is the
20 maximum that a worker can be exposed to for
21 eight hours continuously and not have any
22 hearing damage. So I apologize I can't give you
23 an example of an 85 decibel level or a 70
24 directly. I can give you some of the larger

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1 ones.

2 MS. TOEPFER: Okay.

3 MR. GRATTON: Sally, for the record would

4 you identify yourself so our reporter can record

5 that.

6 MS. TOEPFER: Sure. I'm Sally Toepfer.

7 I'm a member of the Jo Daviess County Board.

8 I'm representing District 6.

9 MR. GRATTON: Okay. Question, John?

10 MR. SCHULTZ: John Schultz. That humming
11 you hear in the background, the fan is about 70.

12 MR. IBSEN: Thank you.

13 DR. DUMDEI: Bruce Dumdei with URS. Just
14 to clarify, the regulation -- there's actually a
15 nighttime and a daytime standard. The daytime
16 is 40 decibels, the nighttime low is 32.

17 MR. HEATON: So if the sound travel at
18 70 decibels from the lot line to -- at night
19 it's your opinion at 500 feet dispersed out even
20 on flat land would be under 32?

21 MR. IBSEN: It still would be under 30
22 decibels. It wouldn't be a problem.

23 MR. JANSEN: And we're assuming the plant
24 runs 24 hours a day?

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1 MR. HEATON: Yeah. Mr. Chairman, there
2 are some other issues that Mr. Zibart and I
3 discussed today that I think we'll discuss later
4 that I'll have these gentlemen participate in.
5 We'd like to now call Konstantine Savoy and if
6 we can submit to the board and the staff a copy
7 of Mr. Savoy's report.

8 MR. GRATTON: Is this different than the
9 one we have?

10 MR. HEATON: I think it is, yes. It has
11 some minor modifications to it since you've been
12 given the first one.

13 MR. SANDERS: May I, Mr. Chairman?

14 MR. GRATTON: Yes.

15 KONSTANTINE SAVOY,
16 having been previously duly sworn, was
17 examined and testified as follows:

18 DIRECT EXAMINATION

19 BY MR. SANDERS:

20 Q. State your name, sir.

21 A. Konstantine Savoy.

22 Q. And what is your occupation?

23 A. City planner.

24 Q. How long have you been a city planner?

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1 A. 26 years.

2 Q. Who are you employed by or who are you

3 associated with?

4 A. Teska Associates, Incorporated with offices in

5 Evanston, Illinois and Plainfield, Illinois.

6 Q. What office do you work out of?

7 A. I work out of the Evanston office.

8 Q. Are you licensed by any organization or by any

9 governmental agency?

10 A. I am by the American Planning Association. I

11 have an AICP certification which is the American

12 Institute of Certified Planners.

13 Q. Generally speaking, Kon, where do you practice,

14 where do your business activities take place?

15 A. My practice is primarily focussed in Central

16 and Northern Illinois and immediate adjacent

17 states, some limited work in Wisconsin and

18 Indiana, but primarily Illinois communities.

19 Q. So you and your firm do work for

20 municipalities?

21 A. Yes, we do.

22 Q. Can you describe for me your individual

23 practice, Kon, what do you do?

24 A. My individual practice is I'm almost 90 to

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1 95 percent focussed on municipal work. Most of
2 my work includes comprehensive planning, zoning,
3 reviewing development projects for
4 municipalities. In fact, our firm has worked in
5 Galena. Many years ago we prepared the downtown
6 taxing for the financing district that was used
7 to rehabilitate the De Soto Hotel. Our firm
8 also assisted in subsequent years the Galena
9 staff and reviewed development projects and
10 zoning applications.

11 Q. Thank you. Kon, were you asked in this case to

12 review the proposed expansion of the Rentech

13 property -- the proposed Special Use under the

14 standards set forth in the Jo Daviess County

15 Special Use Ordinance?

16 A. Yes, I was.

17 Q. Did you prepare a report at our request setting

18 forth your opinions?

19 A. I have.

20 Q. Is that before you right now, sir?

21 A. It is.

22 Q. All right. Attached to that report is a copy

23 of your vocational background and your

24 credentials and so forth; is that correct?

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1 A. Yes.

2 Q. And that's accurate in all respects?

3 A. Yes.

4 Q. The standards under the Jo Daviess County

5 Special Use Permit, Kon, are those standards

6 familiar to you?

7 A. They very much are. They are very typical of
8 what we would find in most zoning ordinances.

9 Q. Okay. Thank you. Kon, are you -- have you
10 become familiar with the proposed Special Use to
11 be developed on the Rentech site?

12 A. Yes, I have.

13 Q. How did you become familiarized with it?

14 A. Through review of plans provided by the Rentech
15 Energy Corporation and from a visit to the site.

16 MR. GRATTON: Excuse me. Some of the
17 people in the back are having trouble hearing,
18 so either try to project or else use the
19 speaker, please.

20 MR. SANDERS: Thank you, sir. My
21 apologies.

22 Kon, can you tell us what else you did in
23 preparation for preparing your report in this
24 case, please?

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1 A. As I mentioned, we have interviewed the -- the

2 corporate officials of Rentech Energy to
3 understand the operational characteristics as
4 best we could. I don't pretend to be an expert
5 in all the operational facets, but enough to
6 know the general operational characteristics.
7 We have, as I mentioned, visited the site in
8 January, we took a tour of the site and the
9 adjacent properties particularly along Sand Lake
10 -- not Sand Lake -- Sand Ridge Road I believe it
11 is. We also took a tour of the adjacent roads
12 including a tour of the nearest subdivision,
13 Galena Estates. In addition to that we
14 consulted several, numerous documents including
15 the County's comprehensive plan, zoning
16 ordinance, the County's economic development
17 plan, the County Staff's assessment of the
18 agriculture quality of the property to name a
19 few.

20 Q. Thank you, Kon. Kon, do you have an opinion as
21 to whether or not the establishment, maintenance
22 or operation of the Special Use proposed in this
23 case would be detrimental to or endanger the
24 public health, safety, morals, comfort or

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1 general welfare?
2 A. It is our opinion -- my opinion specifically
3 that this would not affect -- have a detrimental
4 effect or endanger the public health, safety,
5 morals or welfare. I make that finding based on
6 several conclusions. One, that the property --
7 subject property is submarginal farmland and
8 it's based on the land evaluation assessment
9 done by the County which indicates that the site
10 has a score of 48.8 which is less than half of
11 the total points that can be achieved on a
12 particular property. As I understand it the
13 average score for all soils in Jo Daviess County
14 is 61.9, so it's clearly below that average.
15 And furthermore, the soils on the subject
16 property have low to moderate agricultural
17 productivity according to the Soil and Water
18 Conservation District Soil Survey. Furthermore,
19 these unfavorable characteristics of the

20 agricultural soils are present on the majority
21 of the subject property and I'd go further to
22 say also the adjacent lands such that it is --
23 it is not -- the best use of the land is not for
24 farming and, in fact, most of it is not being

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1 farmed. Furthermore, we have found that the --
2 the plant will be, in fact, producing an
3 ultraclean fuel as we understand it. That fuel
4 being an alternative to oil-based fuels and will
5 have a net benefit to the environment as well as
6 to the economy reducing dependence on oil
7 sources. That's also supplemented by the fact
8 that we understand that the company and this
9 facility will potentially produce an additional
10 energy source to the power grid. In addition to
11 that we understand that the highest point of the
12 facility structure will be a narrow tower
13 approximately 200 to 225 feet and that
14 admittedly may be visible from some vantage

15 points because it's only a one-point and it is a
16 very narrow point and that -- as already has
17 been testified to, the nearest properties are
18 over a half mile away, we believe that the fact
19 that there may be one very narrow structure that
20 tall it will not have any detrimental impact on
21 property or property values. And again, I
22 underscore that that is true because of the
23 properties relative isolation and the dense
24 nature of the forest cover in the area.

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1 Also, I believe it's been testified that
2 emissions will continue to be controlled and
3 monitored so there's assurance to the public
4 that there will be continuing monitoring.

5 What has been testified to -- we've
6 already heard testimony with regard to noise, so
7 I don't believe I need to further make any
8 evidence to that effect and that in addition to

9 that we understand that there's a HazMat team
10 that's already in place to handle any potential
11 emergencies. All of those lead us again to
12 believe that there would be no impact.

13 Q. All right. Thank you, Kon. Do you have an
14 opinion as to whether or not the Special Use, if
15 granted, would be injurious to the use and
16 enjoyment of other property in the immediate
17 vicinity?

18 A. Well, again, not to repeat too much what I've
19 said previously, one of the, of course,
20 important issues to understand is that all the
21 lands in the immediate vicinity of the property
22 are zoned AG-1, general agricultural district.
23 The only other uses other than the subdivision
24 you mentioned previously and Galena Estates, is

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1 an occasional isolated farmhouse, again, the
2 nearest subdivision being over a mile away. The
3 property characteristic, as I mentioned before,

4 has already been testified to. It's
5 significantly and heavily wooded with
6 significant steep slopes, wooded valleys,
7 significant topographic changes. I believe in
8 one of the soil reports it indicates that these
9 soils are characteristics of slopes in excess of
10 15 percent rated strongly to very steeply
11 sloping in character. So the character of the
12 land, the vegetation, the distance are all
13 contributing factors. To the north of the
14 subject property there are other commercial and
15 residential uses along Highway 20, but again,
16 these are over a half mile, I think close to a
17 mile away from the site and again, for the other
18 reasons I mentioned, these sites are also
19 substantially buffered with dense forest cover
20 and furthermore, our opinion is based on a
21 report given by Mr. Boyer, a certified general
22 real estate appraiser, who's testified, as I
23 understand it, that this use will not have a
24 detrimental impact, so we're relying obviously

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1 on that as well. So those are the reasons why
2 we believe this will not have a detrimental or
3 impair the values of adjacent properties.

4 Q. Kon, do you perceive any reason to suspect or
5 question the credibility of Mr. Boyer's
6 appraisal of the surrounding property?

7 A. I certainly have no -- no basis on which to
8 make any criticisms.

9 Q. Thank you. Kon, do you have an opinion as to
10 whether or not the establishment of the Special
11 Use would impede the normal or orderly
12 development and improvement of surrounding
13 property for uses permitted in the district?

14 A. Okay. I find that the subject use will, in
15 fact, not impede the normal or orderly
16 development and again, that's based on several
17 findings. One, again, the adjacent properties
18 are zoned general agricultural district. As
19 testified previously, the surrounding lands are
20 not particularly well suited for agricultural
21 purposes and I would say very limited pursuits,

22 in fact, could -- could take place. It's
23 possible certainly that they can and even if
24 they did I would argue that the agricultural

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1 pursuits as allowed under your zoning ordinance
2 would not be at all impeded even if they could
3 occur.
4 Regarding nonagricultural residences it's
5 also true that under the AG, ag district, you
6 can have some residential uses, but the County
7 Zoning Ordinance specifies a minimum lot size of
8 one house per 40 acres and I would argue that
9 such a requirement effectively discourages any
10 residential development, anything like what is
11 currently Galena Estates. And furthermore, if a
12 house did occur the 40 acres would be more than
13 enough buffer, if you will, between the plant
14 and the residence and quite frankly, the obvious
15 thing is the plant is there and the residence
16 would come after the fact, so it would be a

17 known quantity walking in the door. So those
18 are the reasons we believe that it will not, in
19 fact, have any impact or impede the orderly
20 development of adjacent lands.
21 Q. Thank you, Kon. Have you also formed an
22 opinion as to the adequacy of utilities, access
23 roads, drainage and other necessity facilities
24 being provided?

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1 A. We have. It's our understanding that all
2 adequate facilities -- roads, facilities
3 including infrastructure, water and sewer are
4 currently being provided and/or are in the
5 process of or will be upgraded to serve the
6 facility. That includes not only roads, but
7 train -- you know, traffic for the rails and for
8 barge traffic as well.
9 Q. Okay. Have you formed an opinion that --
10 whether or not adequate measures have been or

11 will be taken to provide ingress and egress
12 designed to minimize traffic congestion in
13 public streets?
14 A. Yes. We believe that the subject property in
15 the proposed expansion will not have a negative
16 impact on the adjacent road system and will
17 provide adequate ingress and egress and that's
18 both for the vehicle truck traffic coming in and
19 out of the site as well as for the train
20 traffic. Again, it's our understanding that
21 while there will be an increase in truck traffic
22 as the plant is phased in over time, that during
23 what I would call the nonpeak seasonal times.
24 We also understand during the peak seasonal

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1 period where the fertilizer is being trucked to
2 the farms there is a high volume of truck
3 traffic, but that's a condition that already
4 exists during a limited time during the year and
5 the addition of the trucks during the nonpeak

6 time will not be anywhere close to or achieve
7 anywhere near the levels that the truck traffic
8 is at the peak times, so the point is if the
9 road system is currently handling well the peak
10 traffic, we believe that the addition of it --
11 regular truck traffic during nonpeak times would
12 also be easily handled by the adjacent roads
13 including the access road. And with regard to
14 the train traffic it's our understanding that
15 one train comes in to the plant that -- that the
16 -- is it one every three -- two days? Help me.

17 MR. DIESCH: For coal it would be one
18 every three days.

19 MR. SAVOY: One every three days and one
20 per day for --

21 MR. DIESCH: -- for standard shipments.

22 MR. SAVOY: And that one train per day for
23 standard shipments will not increase and at the
24 end of the -- the completion of Phase 2, as John

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1 has indicated, it's our understanding that the
2 addition of a coal train is to run every third
3 day.

4 MR. HEATON: Actually that's -- in Phase 2
5 it's going to be one every other day.

6 MR. SAVOY: One every other day. I'm
7 sorry.

8 MR. HEATON: And after Phase 2.

9 MR. SAVOY: It's our understanding also
10 that the current rail line that adjoins the
11 southern edge of the property has 80 to 85 daily
12 trains through that area, so the fact that there
13 may be another train every other day will be
14 such a marginal increase as to not be
15 significant and not have an impact, so again,
16 it's our opinion for all of the relevant areas
17 for access including traffic and trains that all
18 facilities are adequately being provided and
19 will not have an impact on those facilities.

20 Q. (By Mr. Sanders) Kon, do you have an opinion
21 that the Special Use in all other respects will
22 conform to the applicable regulations of the
23 district in which it is located?

24 A. Yes, it will. The application in our opinion

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1 does, in fact, meet or exceed all the
2 requirements of the ag -- AG-1 District
3 including its Special Use provisions which I've
4 testified to here.
5 Q. Kon, did you also evaluate the proposed Special
6 Use under the County Comprehensive Plan?
7 A. We did.
8 Q. And what did you conclude?
9 A. We concluded that the Special Use is consistent
10 and permitted under the County's Comprehensive
11 Plan which it's important to note that several
12 items in the Comprehensive Plan -- one
13 principally is with regard to the future land
14 use and the future land use also shows this land
15 as agricultural and as I believe the
16 agricultural designation of the land suggests
17 that this is -- I think if I remember correctly
18 there are two classifications and this is not

19 the prime agricultural land meaning those areas
20 that are being designated as prime preservation
21 area. This area of the county is not in one of
22 those classifications, so we believe that it is
23 consistent with the County's Comprehensive Plan.
24 Q. Kon, did you also evaluate the proposed Special

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1 Use under the Jo Daviess County overall economic
2 development plan?
3 A. We have done so and I think it's important to
4 note a couple things with regard to the economic
5 development plan. One of the primary goals of
6 the economic development plan is the retention
7 and expansion of existing businesses in the
8 County's communities as a primary objective of
9 the economic development program. Clearly the
10 proposal before you tonight does that and
11 continues to promote this development. This
12 project is a big asset to the community and

13 furthermore, in fact, the economic development
14 plan goes farther than that and it specifically
15 states in quotes that: "The County should
16 continue to work cooperatively with Rentech
17 Energy Midwest, which is formerly the
18 Royster-Clark Nitrogen Company, to facilitate
19 County support of the expansion, assist in
20 communications and public hearings and assist
21 with efforts necessary and appropriate to
22 support infrastructure, environmental and
23 housing concerns." Both the Comprehensive Plan
24 and this economic development plan are -- are --

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1 it's our understanding as adopted by the County,
2 clearly the policy of the County, this proposed
3 expansion and this use is clearly consistent
4 with that policy.

5 MR. SANDERS: Thank you, Kon.

6 Mr. Chairman, I have no more questions.

7 MR. GRATTON: Okay. Thank you. Are there

8 questions for Kon? Anybody? Okay. Thank you,
9 sir.

10 MR. HEATON: Mr. Chairman, we'd now just
11 like to offer two more exhibits into evidence.
12 First is a letter from State Representative
13 Jim Sacia of the 89th District, a letter dated
14 February 9, 2007. It speaks for itself, but it
15 is Representative Sacia's recommendation that
16 this Special Use would be good for his
17 constituents and for the State.

18 I'd also like to offer into evidence a
19 letter from State Senator Todd Sieben also dated
20 February 9, 2007. A letter of support in favor
21 of the -- this project.

22 Now, as I indicated, there are three other
23 gentlemen that indicated they would like to
24 speak and make a statement on behalf of the

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1 project and I'd first like to call John Schultz

2 forward. Tell the board who you are and what
3 you do, what your position is.

4 MR. SCHULTZ: I'm John A. Schultz. I own
5 a 240-acre farm down river and down wind from
6 the Rentech plant. As with Mr. Lawfer, my
7 farming roots are deep in this area. I operate
8 a farm that my parents have owned since 1846
9 also in the area. The current plan occupies a
10 noticeable spot on my horizon. I don't object
11 to the proposed expansion occupying a slightly
12 larger spot on my horizon. In fact, I'm a
13 strong supporter of changing this plant to the
14 Fischer-Tropsch process and the coal
15 gasification proposed -- as proposed. I'm a
16 farmer who would directly benefit from having a
17 reliable, competitively-priced source of
18 ammonia. Also I have a bachelor of science
19 degree in chemistry and a master of arts in
20 teaching chemistry, so -- from the University of
21 Wisconsin-Platteville. I understand much of the
22 chemistry involved in this coal gasification
23 process. It's not a totally new process and new
24 technology, but many recent innovations have

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1 made it much more environmentally friendly. I
2 like the fact that this process will be using
3 coal which we have abundance in Illinois instead
4 of importing foreign methane and ethane gases as
5 a heat source and hydrogen source in this
6 process. The diesel fuel produced is a much
7 better fuel than the standard diesel and
8 produces far fewer pollutants. Also the plant
9 would produce less pollutants than the current
10 plant does and as a County taxpayer I favor
11 increasing the tax base that this plant
12 expansion will accomplish and enthusiastically
13 support this plant, its conversion and
14 expansion. Thank you.

15 MR. GRATTON: Okay. Any questions for
16 John? Okay. Thank you, sir.

17 MR. HEATON: Mr. Kurt Brunner, if you'd
18 step forward, please. Would you please tell the
19 board who you are and what you do and what your
20 position would be on this project?

21 MR. BRUNNER: I'm Kurt Brunner and I live
22 in Mt. Carroll, Illinois and I work for the
23 Chicago Regional Council of Carpenters as a
24 political coordinator and a business rep and I

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1 was just asked to speak here tonight to try to
2 focus somewhat on the economic impact of the
3 construction jobs.

4 MR. HEATON: You've heard the testimony
5 over the last two evenings?

6 MR. BRUNNER: Yes, yes, I was here last
7 night and again today. I guess I'd just like to
8 also say that in Carroll County I do own a small
9 family farm. It's been in my family since the
10 1880s. We don't farm it ourselves, but we are
11 also interested by all means in the agricultural
12 side of this and the opportunities of the fuel.
13 In my position for the carpenters I'm sort of a
14 liaison to elected officials. I speak to a lot

15 of community and county boards about expansion
16 and the possibilities. I just wanted to touch
17 on what the focus of these numbers are for
18 construction. We're talking about 5, 6, 7, 800
19 people working there at one time. I went to the
20 Illinois Department of Labor website and pulled
21 down prevailing wages for Jo Daviess County.
22 It's my understanding this will be a union job
23 and I just did a little bit of math on some of
24 the more basic skills that are going to be out

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1 there. I just wanted to touch on it. I figured
2 out what wages and -- and benefits are per hour
3 for these workers. That would be their health,
4 their pension and their wages. I got six here
5 that I've focussed on. A carpenter would make
6 39.61 an hour, electrician would be 32.28, an
7 ironworker 39.55, a laborer 38.44, operating
8 engineer 51.95 and a pipefitter at 47.84. These
9 are wages and benefits. I did a little bit more

10 math to calculate what this would be in -- I
11 took those six numbers and I averaged them and I
12 came out to 41.62 an hour. There's about 17
13 trades that would be involved in this and those
14 -- those wages and benefits average from 29 to
15 that 51 number, but you want to -- if you took
16 this -- what I took is an average of the six of
17 the more basic trades, that 41.62, for a 40-hour
18 week that would be \$1,664.80 for just one
19 person. Now, you want to start to -- to do the
20 math. If you had 500 people on this jobsite at
21 one time, which is expected and perhaps even
22 more than that, but for 500 people weekly
23 payroll would be \$832,400 and again, that's with
24 benefits. It would be more than just the

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1 payroll. It's also their benefits going into
2 their collective bargaining agreements. If you
3 took this same number for what a person would

4 earn in a year and I calculated that as 40 hours
5 a week for 50 weeks, it would be \$83,240 per
6 person for the year. If you had 500 people on
7 this job for a year continuous you'd be
8 \$41,620,000. The numbers have gotten bigger.
9 If you talk about 700 people on this job site
10 for a year perhaps, you know, right in the
11 center of this construction there could be that
12 many on the site at one time and it would be
13 \$58,268,000. You know, it's just amazing to
14 think of what that would do to this area. I
15 mean, the workers would have to come from
16 outside the area, of course, when you talk about
17 7, 800 union workers, but they would be living
18 here, they'd be staying in hotels, they'd be
19 traveling back and forth, buying gas, buying
20 meals and also if you want to take into account
21 it would create 120 new jobs. I know they said
22 that the average worker there now was right
23 around \$60,000. Again, just doing the math
24 that's \$7.2 million of payroll of permanent jobs

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1 out there on that site. It's just an incredible
2 amount. You want to talk about part of the
3 Comprehensive Plan, you know, wants development
4 of good jobs and I just think that this is way
5 over the top, just all kinds of possibilities
6 and on behalf of the building trades we look
7 forward to this -- this project and we certainly
8 support it 100 percent.

9 MR. HEATON: May I ask you one question?

10 MR. BRUNNER: Sure.

11 MR. HEATON: You mentioned the
12 Comprehensive Plan. The County has one that was
13 adopted in September of '99 and one of its goals
14 is economic development and one -- according to
15 the Comprehensive Plan one of its highest
16 priority objectives when it adopted this plan
17 was to support retention and creation of jobs
18 providing wages sufficient to support families.
19 From the wages you've talked about it's your
20 opinion that this project with that many trades
21 working would go a long way to meeting that
22 objective?

23 MR. BRUNNER: I think it would be an
24 excellent opportunity and you'll also have to

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1 remember there's 120 new jobs permanent. I
2 believe they mentioned there was 120 employees
3 there now too also and, you know, I think the
4 continued life of this plant is probably
5 contingent somewhat on this expansion, so you're
6 saving those 120 permanent jobs, picking up 120
7 new permanent jobs and then also the
8 construction field between 500 and a thousand
9 people, so --

10 MR. HEATON: Thank you.

11 MR. BRUNNER: Okay. Thank you.

12 MR. HEATON: Mr. Ron Lawfer, would you
13 step forward, please? Mr. Lawfer indicated to
14 us that he would also like to make a statement
15 which I have not seen, but --

16 MR. LAWFER: Would you pass them out?

17 MR. HEATON: Sure.

18 MR. LAWFER: As long as you've got a mike
19 up here maybe -- can you hear me, Mr. Chairman?

20 MR. GRATTON: Yes.

21 MR. LAWFER: I am Ron Lawfer, 14123 Burr
22 Oak Lane, Stockton, 61085. I am a lifetime
23 resident of the County, a former dairy farmer
24 and currently own and operate 160-acre corn and

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1 hay farm in Orange Grove Township. I farm on
2 the same land my ancestors farmed when they came
3 to this area in 1862. As a farmer I am
4 concerned when requests come before this board
5 to move land from ag in their general
6 agricultural district to other uses. So the
7 question I must answer is does the new use
8 benefit the County and the area to a greater
9 extent than the current use. I'd like to use my
10 experience and comments which I hope will be
11 helpful in the commission's decision. Some of

12 these comments will not be new to some of you
13 who have experience or background in the
14 agriculture area. If God is willing I will be
15 planting my 50th corn crop this spring. During
16 these past 50 years a lot of changes have
17 occurred. Yields of corn production have
18 tripled. Fields that 50 years ago averaged 60
19 bushel to the acre now average 180 an acre. I
20 would like to think that I've been able to
21 achieve this by hard work, but in reality a lot
22 of things have contributed to improved corn and
23 crop yields. Improved machinery, management,
24 technology and soil fertilities are some of the

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1 changes responsible for farmers to consistently
2 produce grain year after year. On my farm this
3 related to the production of food, milk, beef
4 and pork.

5 Tonight as we look at the change of land

6 conversion to another use I'd like to emphasize
7 one of the changes I've seen in my 50 years of
8 planting corn and that is the use of commercial
9 nitrogen fertilizer. When I first started
10 planting corn we realized that nitrogen was an
11 important part of the fertilizer equation and we
12 used a lot of animal manure. But manure was not
13 sufficient to cover all the acreage. We used
14 that on the corn ground and the rest of the
15 cropland was in oats or hay. In the 1960s I
16 started to hear about a product called ammonia
17 or anhydrous ammonia and that applicators were
18 available to apply it to cropland. Other
19 farmers agreed and favored it and now the rest,
20 of course, is history. At least one pound of
21 nitrogen is used for every bushel of corn
22 produced in Illinois. In Jo Daviess County
23 alone the production -- with the production of
24 over 11 million bushel of corn each year this

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1 adds up to 11 or 12 million pounds of nitrogen
2 necessary for our local farmers. Even as corn
3 yields have increased over these last 50 years
4 so has the demand for corn. We have increased
5 demand for food both domestic and worldwide,
6 livestock feed and more recently renewable
7 energy sources and the demand for nitrogen has
8 followed. Because of the sky-rocketing price of
9 natural gas to produce nitrogen I, as
10 Jo Daviess County, do not want to become more
11 dependent on foreign nitrogen sources either in
12 the form of anhydrous ammonia or urea, which is,
13 of course, a solid form of nitrogen. Now the
14 chance for some of this change may begin tonight
15 with the rezoning of agriculture land to a
16 company that would be able to produce what I as
17 a crop-producing farmer need, nitrogen and
18 moreover it will be using an Illinois resource
19 to manufacture that, coal. It would benefit not
20 only Jo Daviess County but all of the
21 surrounding areas and reach down into Central
22 Illinois where these coal mines are located.

23 There are probably those who say that we
24 should have looked at alternative energy sources

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1 30 years ago. This is probably true and
2 hindsight is 20/20, but today is today. Do we
3 want our descendants 30 years from now in 2037
4 saying I wish that something was done in 2007?
5 I strongly support this zoning change. I
6 believe it would be an economic and
7 environmental benefit to not only farmers, but
8 the entire County and the State of Illinois.
9 This Rentech project is for farmers and those
10 who consume farmers' food production. Thank you
11 for your time as you consider this step in a
12 long and historic journey hopefully to benefit
13 our descendants as well as to keep this vital
14 nitrogen-producing industry in our area. Thank
15 you.

16 MR. GRATTON: Thank you, sir.

17 MR. HEATON: That was the only testimony
18 we offer at this time, Mr. Chairman.

19 MR. GRATTON: Does that conclude the
20 Petitioner's testimony?

21 MR. HEATON: Yes, but there are some
22 discussions we're going to have --

23 MR. GRATTON: Okay. At this point in the
24 proceedings what I would like to do is open this

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1 up for any public input or testimony that anyone
2 would like to provide. Please remember that
3 you're under oath and remember to state your
4 name and address and your interest in the
5 particular request for our reporter to record.
6 Are there those who wish to be heard this
7 evening? We'll just do it informally. Just
8 raise your hand and you'll be recognized.
9 Anybody? Okay. Hearing none, we will continue
10 the proceedings with -- and let the record
11 indicate that there was no public testimony this
12 evening.

13 So we are charged at this point I think in

14 the proceedings of trying to put all of this
15 into a form that best suits the needs of all the
16 people of Jo Daviess County. That's who we're
17 here to represent and that's our goal this
18 evening. As you know, the request before us is
19 for a Special Use in an ag district and there
20 are certain criteria we use in order to grant
21 those special uses. We've been inundated with a
22 lot of material in the last couple days and it's
23 not that we're not quick studies, but it's a lot
24 to digest in a short period of time and what I

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1 would suggest that we do as far as proceeding
2 now would be to continue with the discussion and
3 -- with the aim of developing a finding of fact
4 that can be compiled and put into draft form so
5 that we can review it and then approve it
6 eventually and pass it to the County Board for
7 their either approval or denial and to -- to get

8 to this point, as I indicated last night, the
9 County has contracted with URS Consulting and
10 they are working with staff to represent the
11 County to make sure that all of the bases are
12 covered and all of the permitting and things
13 like that can be accomplished as described and
14 what I'd like to do is begin the discussion
15 among the members here, also the -- the people
16 from the staff and URS have provided us with
17 some information, areas of concern of things
18 that we may need to develop more fully before we
19 put that into a formal finding. So I'm going to
20 use what staff has provided as a stepping stone
21 as our first starting point to start the
22 discussion and keep in mind that anything that
23 the ZBA officials also have as far as anything
24 you want to include in these findings we need to

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1 -- also we'll hear those. So I'm just going to
2 read those and we're just going to try to --

3 there's a whole list of things and I have a list
4 and I'm sure the rest of you do for discussion.
5 The first item on here and this was -- I think
6 the Petitioner requested this last night and
7 maybe we need to discuss it a little bit. They
8 wanted to make sure that the Special Use was
9 transferable, that it would go with the property
10 and that's typically the way we grant Special
11 Uses although it's not always the way it's done.
12 So is there any discussion on the
13 transferability or the ability of this Special
14 Use permit to go with the property?

15 MS. DAVIS: I could find -- I could find
16 nothing negative on that, because everything has
17 to follow through with the new owner of the
18 Special Use items that we apply to it. It just
19 carried right on, so I -- I had a hard time
20 finding something negative about that.

21 MR. HEIDENREICH: Special Uses run with
22 the land and not with the owner.

23 MR. GRATTON: That's the way we typically
24 grant those, so I think that concern -- I don't

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1 think it's an issue with us at this time. If
2 someone else were to operate this plant tomorrow
3 or two years from now I think those -- that
4 Special Use would continue and be binding upon
5 those new and current owners, so -- as well as
6 the permits, I mean, the same conditions would
7 be applicable going forward, so does the staff
8 or anybody have any thoughts on any of those --
9 on this particular item? So we are agreed then
10 as a board that transferability of the Special
11 Use would run with the property?

12 (All members simultaneously
13 responded affirmatively.)

14 MR. GRATTON: Okay, so we'll put that in
15 the findings. There's also a request that
16 normally Special Uses need to be enacted or
17 started within one year of their issuance before
18 construction begins. The zoning office requires
19 construction or -- within that year period or
20 the -- the permit lapses or you have to come

21 back and go through this process again. Is that
22 an issue?

23 MR. HEATON: It's an issue in that -- for
24 a couple reasons. No. 1, it's our intention if

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1 things go well with the permitting process that,
2 as you heard last night, they would start moving
3 dirt this summer and then move into construction
4 with the goal of being online, so to speak,
5 starting -- beginning I think 2010, late 2009.

6 MR. DIESCH: Actually the start-up process
7 would be in the latter part of 2009 where we'd
8 begin starting the plant up. It typically takes
9 six to nine months to go through that process to
10 check equipment out and do all those types of
11 things.

12 MR. GRATTON: But construction per se
13 would commence within the year period?

14 MR. HEATON: Well, here's the issue that
15 we need to raise with you and that is it used to

16 be if someone wanted to object to the County
17 Board's -- let's assume the County Board were
18 willing to grant the Special Use Permit to
19 Rentech. The law has changed in the last year
20 about lawsuits and how long a person has to file
21 to try to stop the Special Use and Chris, you
22 can jump in here if you'd like, but it's --
23 under the new law you now -- any party that
24 wanted to -- or any person that wanted to appeal

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1 a favorable decision or for that matter an
2 unfavorable decision would have 90 days to do so
3 and then this new law also provides that the --
4 the appeal process to go to the circuit court,
5 it would be what's called a trial de novo, so
6 the whole process would start over and if that
7 were to occur and we certainly hope it does not,
8 but if that were to occur we could be involved
9 in litigation certainly beyond a year over this

10 -- over this project and that doesn't even
11 include if it were to be appealed from the
12 circuit court of Jo Daviess County to an
13 appellate court higher up. So the other issues
14 as you've seen this long matrix of -- as
15 Mr. Iwanski -- the evidence that he provided
16 last night, there's so many permits that we're
17 going to have to obtain before we -- before we
18 can go online, before -- some of it even before
19 we can do substantial construction of the
20 structure itself, so it is a problem. It
21 certainly is within the realm of real
22 possibility that -- that we could not be able to
23 start construction if something held us up in
24 our permits or if a lawsuit occurred. What we

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1 now have as a plant that is already there, we're
2 not asking, you know, if this plant were not
3 there and we're coming in from out of state and
4 saying we're going to build this plant and --

5 you already know we're there, it's our intention
6 to convert it to the new system, but we're going
7 to need a longer period of time than a year if
8 things go south on us as far as permitting
9 and/or a lawsuit.

10 MR. JANSEN: Is that why you're using five
11 years? It seems like a long time, but --

12 MR. HEATON: Well, we talked about it
13 today and we think that we'd be safe to say that
14 we would have construction started within a
15 three-year period. Again, if there's no lawsuit
16 and the air permit you hope to have this summer?

17 MR. IWANSKI: Second quarter.

18 MR. HEATON: Second quarter and if those
19 fall in place then it's all -- in all
20 likelihood, as John indicated -- John Diesch
21 last night, we'd start moving dirt this summer
22 and front end engineering design is --

23 MR. DIESCH: Completion is September.

24 MR. HEATON: So the problem is though in

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1 the event of a lawsuit and --

2 MR. JANSEN: So you're saying five years
3 would take care of an appeal at the appellate
4 district and then on to the supreme court if
5 necessary?

6 MR. HEATON: I think it would and I mean
7 -- five years would definitely take care of it.
8 We would start construction within that time,
9 but again, these things are out of our control.

10 MR. ZIBART: Mr. Chairman?

11 MR. GRATTON: Yeah, could I ask Chris to
12 weigh in on when the clock starts ticking and
13 what our options might be on it?

14 MR. ZIBART: I do agree with Mr. Heaton on
15 the issue of when construction starts. The
16 zoning ordinance talks about the construction of
17 a building or the construction of a structure
18 and I'm not clear that moving dirt around as
19 they say would necessarily trigger that and
20 obviously it's not a typical project, it's not a
21 typical Special Use and if they're not going to
22 finish their engineering until late in the year

23 it would be pretty -- you know, that doesn't
24 leave them a lot of leeway in terms of that, so

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1 I think extending the time does make sense just
2 for that reason alone and if that's two or three
3 years or whatever I think that's -- you know,
4 whatever the board is comfortable with. I'm not
5 sure I share Mr. Heaton's concern about the
6 lawsuits. A lawsuit typically would not I think
7 automatically stay the -- the construction, but
8 a judge certainly could stay it and I would
9 think that the -- you know, the stay would stay
10 the -- the implementation -- you know, the stay
11 would sort of stay everything and when the
12 lawsuit was over then the rest of the time could
13 run, so I'm not sure I -- I share that same
14 concern about the lawsuit and the way the new
15 law would be applied, but I don't think staff
16 has a specific problem with some kind of a
17 reasonable extension. Five years does -- as one

18 of the members said, five years seems a little
19 long, but you know, whatever the board is
20 comfortable with. I guess in part the -- sort
21 of combination of the -- the transferability to
22 another owner and the -- the extension of the
23 time to start and then possibly, you know, one
24 of the things we'll probably discuss coming up

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1 is the approval of all the phases all together.
2 I think the -- the concern is that it starts to
3 get a little bit fuzzy as to, gee, it might not
4 be Rentech and it might be somebody else, they
5 got five years, they got these various phases
6 that aren't so well-defined and it starts
7 getting away from the concept of a Special Use
8 permit for a specific project for, you know, a
9 specific use, so anyway that's -- that's the --
10 the gist of our concern.

11 MR. JANSEN: If we had a three-year start

12 window as opposed to five and something did
13 happen they could come back?

14 MR. ZIBART: They could. Under the
15 ordinance they can specifically come in for an
16 extension, that's true.

17 MR. HEATON: What if we -- what if we said
18 -- instead of five years what if we propose
19 this: How about a three-year start on
20 construction, so that cuts it back two years,
21 but the three years is tolled if we get into a
22 situation on a lawsuit or some unusual
23 permitting thing.

24 MR. JANSEN: That makes sense.

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1 MR. HEATON: I think we could live with
2 that.

3 MR. GRATTON: Now, quite often people --

4 MR. HEATON: Is that all right with you,
5 John?

6 MR. DIESCH: Yes.

7 MR. GRATTON: Now, it's been our
8 experience that people do come back and ask for
9 extensions and, you know, if there's no
10 unforeseen circumstances that arise quite often
11 we grant those extensions if you have a
12 legitimate reason to -- you know, why it didn't
13 begin, so yeah, I think, you know, that's also
14 an option for us to keep in mind. I think five
15 years does personally -- it puts it way out into
16 the future. I don't think it's necessary.

17 MR. DIESCH: I think John just said three
18 years as long as that three years would be
19 tolled if we get into a permitting problem or a
20 lawsuit. I think we could live with that.

21 MR. JANSEN: I think that's reasonable.

22 MR. TRANEL: Agreed.

23 MR. GRATTON: Okay. Let the record
24 indicate then that the ZBA Board is favoring

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1 this Special Use for a three-year time period to
2 commence. Okay.

3 There was also some ambiguity I guess as
4 far as the different phasing and what might
5 happen and when and in Phase 2 especially and we
6 don't have a lot of detail and it's not
7 available to you, so it's not available to us
8 regarding the Phase 2 portion of this, and since
9 we do know that Phase 2 will be a second
10 gasifier to expand capacity to the
11 Fischer-Tropsch fuels is it appropriate to
12 approve Phase 2 now on the information we have
13 or should Rentech come back when it knows more
14 details and how does not having Phase 2 approval
15 impact Rentech's ability to get financing to
16 build Phase 1.

17 MR. HEATON: Fine question. John Diesch,
18 why don't you, first of all, explain further
19 what Phase 2 is, is it a whole other plant or
20 just another gasifier? Let's talk about that
21 and would it still be within the thumbprint that
22 we showed in your slide show?

23 MR. DIESCH: Yes, there would be no
24 expansion in property for the Phase 2. What's

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1 shown there is the property we'll need for both
2 phases. Phase 1 and 1A is a full gasification
3 train which means the full length -- I mean,
4 from the beginning all the way through heat
5 recovery. That's where we produce the steam up
6 to where we call -- what's called acid gas
7 removal where we remove the carbon dioxide and
8 do the gas stream cleanups. In addition to that
9 part of Phase 1 is a spare gasifier which
10 includes the gasification in a large vessel, the
11 filters, the solid filter system and the heat
12 recovery, a steam generation system. The back
13 end of the -- of that part of the plant which is
14 the -- the gas cleanup will only be one of
15 those, so what it allows us to do is to swap
16 them back and forth. Typically you have to take
17 them down to do maintenance on them about once
18 every six months and for us to take the entire
19 complex down is a problem because it's so

20 expensive to bring them down and bring them back
21 up, so we want to be able to swap them kind of
22 online, so that's what Phase 1 is. Phase 1A is
23 the first Fischer-Tropsch -- that's the
24 Fischer-Tropsch plant which is a reactor and

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1 then conversion where we convert the wax coming
2 off the unit into actual fuels which involves a
3 hydrotreater and hydrocracking part of that.
4 That's Phase 1A. Now, Phase 2 would be another
5 full gasification train front to back, so we
6 could operate two gasifiers and have a spare to
7 be able to move through between the three so
8 there will be two running gasification trains
9 and a full gasifier to allow us to swap back and
10 forth and then in addition Fischer-Tropsch
11 production, so all the synthesis coming off that
12 second gasifier would go to fuel, so that's the
13 difference in the units and the way we have the

14 property set up is -- is in anticipation of the
15 future so we have the land available and we
16 won't have to come back and get additional
17 properties, so we're not changing the property
18 boundaries in order to do that, so hopefully
19 that explains it okay.

20 MR. HEATON: I think today when you and I
21 discussed this it was my understanding if we go
22 to the concept plan, the footprint of the new
23 plant, this is in the red area, right?

24 MR. DIESCH: Yeah, these are indicating

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1 the roads that would be access roads around the
2 facility. The gasification would sit -- and I'd
3 have to -- Mark can tell you exactly -- you
4 know, more about the detail and how --

5 MR. IBSEN: Well, yeah, there's a road in
6 the plant -- let me just orient myself -- that
7 kind of runs right down here, this road. It's
8 an existing plant road and it would get extended

9 on down just as you can kind of see in here.
10 Then just beyond here there would be -- the
11 gasification trains will be set up just in this
12 area right in here and that's everything from
13 the feed system of the coal where it's made into
14 a slurry and then you go into the gasifier, then
15 you have the heat recovery to make steam, you
16 have to clean up that gas and then go down to
17 acid gas removal and then on to the by-product,
18 sulfuric acid production. From that all of
19 those units have to be put -- and we have to
20 allow plot space at this point in time for those
21 units so when they're integrated and the extra
22 gasifier we have in Phase 1 can then be a spare
23 for Phase 2. They have to be all in the same
24 plot area. In other words, we could not put one

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1 here and come down here. They would all have to
2 be in this area down in here. We would have

3 power generation and the utilities that would
4 support that area. As we get down -- the flare
5 system is targeted down here and the cooling
6 towers down in this area.

7 MR. DIESCH: So in addition to -- the
8 second phase would have an additional cooling
9 tower structure and --

10 MR. HEIDENREICH: At what point will you
11 shut down the existing facility's job?

12 MR. DIESCH: The existing plant will not
13 shut down. This -- this operation -- what will
14 shut down is the front end part of the ammonia
15 plant where we use natural gas to produce the
16 synthesis gas. A lot of those tie-ins, what we
17 call hookup points, will be installed this --
18 this fall or actually this summer -- coming
19 summer when we have -- we typically bring an
20 entire complex down once every two years for
21 about two to three weeks for maintenance, it's
22 called turnaround and we're going to make a lot
23 of tie-ins at that time so we don't have to
24 affect the existing operation while we're doing

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1 construction. So we can complete the
2 construction, hook everything up and then
3 finally when we make it to the point where we're
4 going to begin the gasification start-up, that's
5 when we'll bring the front end of that plant
6 down and work through that process of going
7 through and beginning the start-up process.

8 That's the way it will work.

9 MR. HEATON: Now, I guess the question I
10 had today is when you go to Phase 2 and add this
11 additional gasifier, it's not like you're going
12 to build a whole new plant?

13 MR. DIESCH: No.

14 MR. HEATON: It's -- I mean, I don't know
15 what the size of a gasifier is, but are we
16 talking a building or --

17 MR. IBSEN: You're talking a large steel
18 structure for the gasifier. It's probably
19 about, you know -- you're probably talking
20 something 75, 50 to -- 70, 75 feet wide square,
21 you know, and a hundred feet tall. That's just

22 the structure to hold the gasifier.

23 MR. HEATON: So what I envisioned when I

24 first got involved with this Phase 1 is it's

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1 going to be a big plant, then you're going to
2 come along later and build a whole other big
3 plant, but that's not what we're talking about.

4 It's like adding two kitchens in the same oven
5 -- or two ovens in the same kitchen, right?

6 MR. IBSEN: Kind of like having your
7 kitchen with an oven built in and then putting
8 another one in the bottom of it. They're the
9 same size and right next to each other, so it's
10 pretty simplistic, but that's the --

11 MS. DAVIS: Excuse me. That's Phase 1A.
12 Then in Phase 2 you're adding another oven?

13 MR. DIESCH: Right, yes.

14 MR. HEATON: I think the key here is,
15 Mr. Chairman, they need to know that although

16 Phase 1 and Phase 1A will stand on its own -- I
17 mean, it will operate on its own and whatnot,
18 but their financing, those people involved in it
19 or other equity partners or investors need to
20 know that down the road they're not going to
21 have to come back and be shut off by another
22 board, maybe you people won't even be here, is
23 that -- that does play a part in the financing.
24 You can explain it better than I can.

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1 MR. DIESCH: There will be other large
2 equity investors in this project which because
3 we're in public company I can't disclose that
4 because those things haven't been settled yet,
5 so there will be some other ownership. That
6 ownership has to have assurances before they put
7 2 or 300 million dollars into the project that
8 this project will go forward and the second
9 phase which is also part of the whole concept
10 will also go forward, so together those equity

11 partners as well as working with the banks that
12 we'll be borrowing roughly 600 million dollars
13 for the first phase have to know that these
14 projects are moving forward.

15 MR. HEATON: And there's growth potential
16 down -- at some time in the future with Phase 2?

17 MR. DIESCH: Yeah, capacity increase,
18 potential growth increase, return on their
19 investment. The first phase is just part of the
20 return on their investment. To get the full
21 return that second phase has got to be a part of
22 it.

23 MR. HEATON: So even though we would
24 expect -- if you said we had to come back and

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1 get Phase 2 approval that's -- that's not going
2 to satisfy these investors and financiers. They
3 have to know that growth potential is there and
4 when you put a contingency out there that

5 potentially could affect that growth potential,
6 that's a problem. That's the way it was
7 explained to me by their legal counsel today as
8 well -- Rentech's out in Denver, so that's about
9 as straightforward and --

10 MR. GRATTON: So the answer is then if I'm
11 hearing you correctly is that it would
12 negatively impact your financial bearing or
13 ability to obtain financing by not having Phase
14 2 approved?

15 MR. HEATON: Yes, that's right.

16 MR. HEIDENREICH: Okay. Are there plans
17 for Phase 2?

18 MR. HEATON: No.

19 MR. HEIDENREICH: So how do we know that
20 Phase 2 is actually Phase 2 and not Phase 3 and
21 4.

22 MR. DIESCH: There are no plans for
23 additional -- at this point in time additional
24 expansion. If there was a Phase 3 or 4 we would

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1 have to have more property. We would have to
2 come back to you because we could not fit it on
3 the existing sight.

4 MR. HEATON: They can only put so much on
5 the 260 acres.

6 MR. DIESCH: So right at this facility we
7 don't have plans to go any further than that at
8 this time.

9 MR. HEATON: And if we do we'd have to
10 come back and ask permission for that.

11 MR. HEIDENREICH: That's what I'm saying.
12 How do we know if we approve something there's
13 no plans for that we're not just giving you
14 unlimited construction forever? How do we know
15 what we're approving?

16 MR. HEATON: Well, I mean, it's our good
17 faith. This is what they're telling you and,
18 you know, I don't know how better that we can
19 say that. That's what their plans are.

20 MR. GRATTON: Well, Phase 2 could be
21 defined as to what that would be. In other
22 words, you don't have to have all the -- you
23 know, you could at least in writing define what

24 Phase 2 will consist of so we do know that.

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1 MR. HEIDENREICH: Yeah, we need to know.

2 MR. HEATON: I don't think that -- that

3 wouldn't be a problem, would it?

4 MR. DIESCH: I'm sorry?

5 MR. HEATON: To generally describe what

6 Phase 2 entails, we don't have a problem

7 describing that?

8 MR. DIESCH: Well, I just did.

9 MR. GRATTON: Right, so you can reduce it

10 to writing?

11 MR. DIESCH: Oh, okay, you want it in

12 writing, yeah, absolutely we'd do that.

13 MR. GRATTON: In other words, then we're

14 not deciding on something nebulous out there

15 that none of us understand in the future.

16 MR. HEATON: And we're willing to reduce

17 that to writing.

18 MR. JANSEN: Yeah. John, do you have any
19 idea when Phase 2 is -- nobody has got even a --

20 MR. DIESCH: No. You know, there are a
21 lot of things that have bearing in it. In order
22 to finance a project this size you have to have
23 long-term off-take agreements, long-term
24 contracts for the product plus you have to have

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1 long-term contracts for raw material coal.
2 We're very close to securing long-term coal
3 supply agreements. That's almost complete. At
4 the same time we have to have long-term off-take
5 agreements. The fact that we have an existing
6 fertilizer plant and we have customer base
7 already there, that helps the whole situation
8 because that plant has been there for 40 years,
9 it continues to operate and we have customers,
10 so that helps us finance the project. What we
11 don't have yet and we have to develop is the
12 off-takes for the fuels. That we don't have in

13 place and so that's why this first phase the
14 financing is dependent on the fertilizer plant.
15 That's what's giving the value to allow us to
16 finance this project and it gives us the time to
17 continue to work on the development of the fuel
18 side of it and construct that fuel side and then
19 develop the marketplace for that fuel because
20 this will be the first commercial size
21 Fischer-Tropsch plant. The market hasn't been
22 developed yet, but a lot of interested parties
23 including, as I mentioned, the Department of
24 Defense as a jet fuel, but those markets still

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1 haven't been developed, so that will take some
2 time. So to answer your question how long, it's
3 -- I just can't answer that. There's -- a lot
4 of things can change over time and it -- I just
5 can't answer that question.

6 MR. GRATTON: Okay. Just to kind of

7 follow on here regarding Phase 1, 1A and Phase
8 2, yesterday we talked considerably about the
9 type of air permit that may be required and it
10 does make a difference whether we classify this
11 or -- or I guess whether IEPA classifies it as a
12 minor modification or a new major source.

13 MS. DAVIS: Excuse me, Mel, do we need to
14 -- before we -- I think you're going on to 4 --

15 MR. GRATTON: I'm on 4.

16 MS. DAVIS: Does she need a break? We
17 went without a break last night.

18 MR. GRATTON: Okay. Susie is asking
19 whether the reporter needs a break.

20 THE REPORTER: I do need to change my
21 paper. Thank you.

22 (A recess was taken at 7:39 p.m.
23 and proceedings resumed at 7:42
24 p.m.)

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1 MR. GRATTON: I think we'll resume our

2 efforts here. Okay. During our brief recess
3 there I think my fellow members here helped
4 remind me that we probably haven't concluded
5 No. 3 yet, so I think the consensus was that the
6 answer to that was yes and that we would try to
7 work to include Phase 2 in the process of the
8 Special Use. However, the reason I jumped to
9 No. 4 is there was still some unanswered
10 questions regarding Phase 2, so let's go on down
11 to No. 4 on our items here and this is the type
12 of air permit that's required for different
13 designations. Now, there's the minor
14 modification and then there's the new major
15 source application and I'm going to read this
16 and then we'll discuss it a little more. It
17 says if Rentech succeeds in getting approval
18 from the IEPA for Phase 1 and 1A as a minor
19 modification the plant will be restricted to low
20 levels of air pollutants including ones that
21 affect the County directly. If Rentech's minor
22 modification permit is denied it may apply for a
23 new major source permit instead and while that
24 would be more burdensome for Rentech, if granted

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1 the major source permit could allow
2 significantly more pollution than the minor
3 modification currently under consideration.
4 When evaluating a new major source the State's
5 focus is more statewide and regional and not
6 local. Now, I understand that you have made
7 application for the minor permit and that's for
8 Phase 1 and 1A; is that correct.

9 MR. IWANSKI: That's correct.

10 MR. GRATTON: Not knowing and because
11 Phase 2 is still out there, we don't know at
12 this time which request would be required for
13 Phase 2; is that correct?

14 MR. IWANSKI: That's correct.

15 MR. GRATTON: Okay, so as we consider this
16 we're not sure -- at this point it looks as if
17 we're looking at the minor modification at least
18 for 1 and 1A, but it's unknown as far as Phase
19 2; is that right?

20 MR. IWANSKI: That's correct.
21 MR. GRATTON: Okay. I'm going to defer to
22 our consultants from URS. Do you want to expand
23 on any of the information or I think you've
24 helped us already?

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1 DR. DUMDEI: I think you have the point
2 down and that the difference between the two
3 decisions in front of you is -- one is is it
4 important that it is a minor source to get your
5 approval or is the fact that it might not be a
6 minor source in the end critical to that
7 decision?

8 MR. IWANSKI: Could I make some additional
9 comments? I want to -- I want to just try to
10 put a little -- shed a little more light on --
11 this is the graph John Diesch showed last night
12 and this is -- this blue revised facility
13 represents 1 and 1A. That's what was
14 represented in the permit application that I

15 showed everybody last evening. The other point
16 for the record that I want to make sure it's
17 understood that the choice here is not minor
18 modification or new major source. We already
19 have a major source here. We're not going to
20 build a new major source. We're either going to
21 have the opportunity to permit this as a minor
22 modification or a major modification to an
23 existing major source. These emissions are
24 what's occurring today at this facility, okay?

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1 That's just for a point of record for that note
2 that was read. Here's the -- I do not have any
3 data to be able to permit Phase 2 at this time,
4 but all I'm going to do is I'm going to look at
5 John's sheet that he put up here and on Page 21
6 -- I believe that's going to be three slides
7 prior, go three slides prior to this -- you're
8 going to see -- a very simplistic way to

9 potentially predict emissions under Phase 2
10 would be to look at the primary feedstock would
11 double from 2600 tons per day of coal to
12 5200 tons per day of coal, okay? So it's going
13 to double, so let's go back to 24. So in other
14 words, this overall -- this is the aggregate.
15 This would double. All things being equal, when
16 we double the coal feedstock we're going to
17 double the overall Phase 1, 1A and 2 emissions.
18 Notice we are still reducing from the existing
19 source. Now, here's where you're all going to
20 get a little -- I teach courses on air quality
21 and I'm going to do my best to try to make this
22 understandable. If this is a major modification
23 that does not mean for every pollutant we emit
24 we have to approach the permitting process

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1 differently. We would only approach the
2 permitting process differently for those
3 pollutants that have a significant increase.

4 Well, you can look on this chart and notice that
5 we're never going to have to address a major
6 modification for VOM or for NOx because there's
7 such huge decreases already from those
8 facilities.

9 MR. HEATON: What's VOM and NOx?

10 MR. IWANSKI: Volatile organic material,
11 nitrogen oxides. These are regulated air
12 pollutants. This is what we file an air permit
13 application for. This is particulate matter
14 less than 10 microns, carbon monoxide, sulfur
15 dioxide, okay? So let's just presume now Phase
16 2 is going to -- we're going to use the
17 5200 tons per day. We have an opportunity to
18 have higher emissions certainly of CO and higher
19 of SO2. If the CO emission increase is more
20 than a hundred tons for Phase 2 we would have to
21 go through major modification procedures for
22 carbon monoxide-emitting sources. If the
23 emissions increase of Phase 2 for SO2 is more
24 than 40 tons, notice all the numbers aren't the

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1 same for various pollutants, the -- the amount
2 of increase that's significant kind of gives you
3 the relative health impact of the pollutant, by
4 the way. If this one is more than 40 tons we
5 would have to go through major modification
6 procedures. Now, this is -- this is where we're
7 -- it sounded almost last evening that we could
8 emit infinitum those pollutants and well, we
9 can't. Major modification permitting involves
10 an evaluation of controlled technology.
11 Something called best available controlled
12 technology has to be employed on every source of
13 that new Phase 2 that emits CO and every source
14 that emits SO₂, so we'd have to go through this
15 additional analysis. So -- so even though, yes,
16 we potentially could emit more, that analysis is
17 going to require us to control those emissions
18 to the best available technology. That's only
19 the first safeguard under major permitting. If
20 Phase 2 was a major modification we would have
21 to go through an air quality analysis that said

22 that your emissions of CO and SO2 will not cause
23 or contribute to an attainment problem in
24 Jo Daviess County. That -- that's another

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1 safeguard. We couldn't emit as much as we
2 wanted to. We could only emit to the point
3 where we say we're not threatening any air
4 quality standards and we also have best
5 available technology on all those sources, so if
6 Phase 2 comes along and is a major modification
7 the permitting process in the State of Illinois,
8 it's a state-run program, there are no
9 individual counties that have their own
10 authority -- delegated authority to issue air
11 permits, so Jo Daviess County as all the other
12 counties in Illinois relies on the Illinois EPA
13 to go through this major modification process
14 and make sure that if these two pollutants were
15 to trigger a significant increase in Phase 2 we
16 would have to go do the necessary analysis. We

17 don't feel we can permit Phase 2 because I don't
18 have any engineering to say what the emissions
19 are going to be or what am I going to control to
20 best available because I don't know where the
21 emissions are going to be coming out of, so
22 that's why we filed Phase 1 and 1A. There's no
23 indication of any kind of breaking this project
24 up so we get optimal permitting capabilities.

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1 It's the ability for us to permit it now based
2 on what we know, what we have to get started and
3 then if we have another project we're going to
4 have to address those pollutant emission
5 increases per those procedures. What I don't
6 want to lose sight of the fact here is that this
7 is the way this plant is emitting today. That's
8 the reality. This overall -- even if there is a
9 Phase 2, the overall total is going to be less.
10 I'm open to any questions if you need more

11 explanation, but this is into the nitty-gritty
12 of air permitting and why it is such a
13 challenging topic.

14 MR. GRATTON: Yell, Phase 2 is going to be
15 another gasifier, isn't it?

16 MR. DIESCH: Right.

17 MR. GRATTON: And probably of equal size?

18 MR. DIESCH: Yeah, duplicate, so what he's
19 saying is a good assumption because we're
20 doubling the size.

21 MR. GRATTON: So we can extrapolate that
22 the doubling --

23 MR. IWANSKI: It's probably a fair
24 assessment. Now, there's nothing to say that

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1 Rentech can't go in and say I want to go control
2 some of my existing plant even more as part of
3 this process.

4 MR. DIESCH: Or technology may change.
5 Where we don't have that technology today, it

6 may change. Technology moves very rapidly, so
7 in two, three, four years from now the
8 technology may allow us to improve on our
9 control systems and lower say CO somewhere else
10 in the facility to allow us to, you know, meet
11 the -- this minor source.

12 MR. IWANSKI: There's options that are
13 available.

14 MR. HEIDENREICH: The sulfur dioxide
15 emissions, if you didn't burn coal would there
16 be any?

17 MR. DIESCH: Well --

18 MR. IWANSKI: There's no emissions of
19 sulfur dioxide now from this facility and --

20 MR. DIESCH: There will be some because
21 we're handling sulfur that comes out of the
22 coal. We're moving the sulfur in the coal.
23 There's some fugitives that we have to quantify.

24 MR. HEIDENREICH: Talk to me about coal,

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1 is Illinois coal higher in sulfur than Montana
2 coal or --
3 MR. IBSEN: I know Montana coal per se --
4 the Illinois coal that we're looking at is 3 to
5 4 percent sulfur. That's the design range for
6 the coal that we're looking at. I would say the
7 Wyoming coal that's burned in a furnace, you
8 know, on some of the boilers to help minimize
9 their strudder (phonetic) technologies they
10 would use a Wyoming coal that might be half a
11 percent sulfur or lower percent sulfur, probably
12 even a quarter percent, but I think the one
13 thing to emphasize here is the coal is not being
14 combusted, it's being oxidized. Now we're
15 getting into the technical part. It's entirely
16 done at pressure and contained and the goal
17 there is to keep the sulfur contaminants in the
18 gas stream where then we can use technologies
19 like in this case Rectasol (phonetic) which is a
20 methanal column to remove the sulfur and the CO₂
21 out and then we take the sulfur and make a
22 beneficial product out of it from the sulfuric
23 acid and yes, the two emissions that you're

24 seeing there are out of the back end of the

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1 sulfuric acid plant.

2 MR. HEIDENREICH: But as your plant
3 operates today you don't emit any sulfur
4 dioxide?

5 MR. IWANSKI: A negligible quantity of
6 sulfur dioxide.

7 MS. DAVIS: In your total emissions now
8 how -- are you on the high end of the allowable
9 emissions or where are you?

10 MR. IWANSKI: The fact that in many cases
11 this facility when it was built there weren't a
12 whole lot of permitting procedures that we have
13 today. When we're talking major and minor,
14 those criteria didn't exist at that time. Those
15 criteria only came about in 1980, so this
16 facility has an operating permit that has
17 specific limits for pieces of equipment that
18 have been built or modified since the plant

19 started, but that's only on a very specific
20 basis. So when you say are we within our
21 allowables, yes, but our allowables -- I'd have
22 to put a lot bigger bar graph here to show you
23 what the allowable emissions could be from this
24 facility because it is much higher than 3,000

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1 tons per year aggregate.

2 MR. GRATTON: Are the totals on the total
3 column a composite or an aggregate of all of the
4 other matter that's on here?

5 MR. IWANSKI: This is the summation of
6 particulates, volatile organic material, carbon
7 monoxide, hydrogen dioxide, sulfur dioxide. It
8 is the regulated pollutant emissions.

9 MR. GRATTON: What about things like
10 mercury and stuff like that?

11 MR. IWANSKI: Mercury is a hazardous air
12 pollutant. You can check our application. The

13 emissions of mercury are .000. I mean, they're
14 very small, they're very small, so they do not
15 add anything. There is -- Mark mentioned the
16 Rectasol column, we'll use methanal, methanal is
17 a volatile organic material so that's already
18 been counted in there as well. There really
19 aren't -- outside of these pollutant emissions
20 or sulfur-based emissions there aren't huge
21 quantities of regulated air pollutants that I
22 don't show you here.

23 MR. GRATTON: Bruce or --

24 DR. DUMDEI: Yeah, I think it's important

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1 what John just mentioned that -- to tell the
2 board what the other case might be in case it
3 didn't stay a minor modification and how much it
4 potentially goes up. I pretty much agree with
5 everything he said under the context that he
6 gave those additional increases based on a
7 design of what they expect Phase 2 to be and the

8 previous comment you're trying to define what
9 Phase 2 is so it can't just be anything, because
10 if it could be anything then the emissions could
11 be anything, so the two kind of go hand in hand.
12 By carefully defining what Phase 2 is you're
13 also kind of de facto defining how much the
14 emissions at worst case could go up then.

15 MR. HEATON: And that's the thought that
16 we would put in writing what Phase 2 is.

17 DR. DUMDEI: It would have to have some
18 kind of operational limits that would confine
19 the project that would then confine the
20 emissions as a result.

21 MR. GRATTON: In your opinion that would
22 be an adequate provision then to protect this
23 County from any air quality problems?

24 DR. DUMDEI: Well, it would -- it's a

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1 different kind of determination. A lot of the

2 witnesses said, well, the emissions are going to
3 go down and as John was saying some go up, some
4 go down, overall they go down, some are more
5 toxic than others, so you know, it's a different
6 thing for the board to weigh in their decision
7 rather than just assuming, okay, everything is
8 fine, everything is insignificant under Phase 1
9 and just to make that, you know, apparent to the
10 board so you can make your own decisions on that
11 basis. Will they have to meet all the
12 requirements even if it's a major modification?
13 Absolutely. Are those criteria well established
14 in what they have to do? Absolutely. And are
15 the criteria based on State requirements and
16 federal requirements and what is adequate on
17 those kinds of determinations? Yes. They
18 weren't decided by the board what those ambient
19 levels should be and the zoning is -- is not the
20 same as getting an air permit, so it's still on
21 your -- on your shoulders, in other words.

22 MR. GRATTON: Any additional thoughts?

23 MR. HEIDENREICH: Are we just talking
24 about air pollutants?

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1 MR. IWANSKI: This is just air.
2 MR. HEIDENREICH: What about water
3 pollutants, are there any?
4 MR. IWANSKI: Water pollutants will be
5 regulated just as air is. Water pollutants are
6 much easier to track and quantify because water
7 is easier to monitor. So the water permit that
8 we have now we monitor on a regular basis.
9 There probably will be some additional
10 constituent, but the facility is also planning
11 on significantly upgrading their waste treatment
12 facility from what we have now, so that's going
13 to result in probably better water effluent
14 discharge to the Mississippi River than even
15 what we have now and that's part of the process,
16 so -- but we will go through the same -- the
17 water permitting process is different, but
18 again, water is easier to quantify and measure
19 to make sure you're complying and we have
20 accurate data associated with it. Air is more

21 nebulous to try to measure these emissions
22 without putting on continuous equipment all the
23 time which is -- even that is not practical for
24 some of these pollutants.

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1 MR. GRATTON: Okay. To move this along
2 just a little bit, we are in Item No. 3 here.
3 We're going to identify what Phase 2 is which
4 will help give us a hand or get a handle on what
5 we're trying to accomplish as far as air
6 emissions with Phase 2. Bruce, Mike or
7 Patricia, could you provide us the -- as we
8 develop the findings of fact the language which
9 includes the air quality standards and all the
10 applicable regulations and permitting and stuff
11 that has to be provided?

12 STAFF MEMBER: Yes.

13 MR. GRATTON: And we're going to rely on
14 them to draft that. I think the direction we

15 will give you and I think what I'm hearing you
16 say is that whether this is a minor or major
17 modification the County is protected to an
18 acceptable level as far as air quality if all of
19 the regulatory processes are followed; is that a
20 safe statement?

21 DR. DUMDEI: And the project as presented
22 is restricted to that, right?

23 MR. GRATTON: Do we need more discussion
24 on air permitting?

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1 MR. HEIDENREICH: I just need to clarify
2 something on not necessarily the permitting, but
3 let's do a what if it doesn't -- what if they
4 exceed then what's the County's exposure? I
5 mean, if we pass the Special Use and they're
6 constantly out of compliance or, you know,
7 there's a problem then is the County liable or
8 is Rentech liable or, you know, who bears the
9 burden of that?

10 MR. GRATTON: John is responsible.

11 MR. DIESCH: I bear the burden.

12 DR. DUMDEI: I'm not a lawyer, but I'll
13 give the regulatory answer and Chris can correct
14 me. The burden falls on the source that
15 violates the standard that's in its permit or in
16 its underlying applicable requirement and they
17 have to go through and either correct that or
18 face the consequences of an enforcement action
19 for violating that -- that permit condition or
20 underlying standard.

21 MR. ZIBART: Right, so the answer is they
22 have a problem with the State.

23 MR. HEIDENREICH: So no one could ever
24 come back on the County and say this happened

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1 and you're responsible because you issued the
2 Special Use permit?

3 MR. ZIBART: No. The permit that they

4 would ultimately be getting, the air permit
5 we're talking about is basically a federal air
6 permit that's done under a State program, State
7 delegation and so that's ultimately between them
8 and the State as to enforcement and punishment
9 if they're out of compliance.

10 MR. HEIDENREICH: Okay. The County is not
11 involved.

12 MR. SANDERS: Chris, if I may, I think
13 there's a provision of the Tort Immunity Act
14 that governs this situation too, so I don't
15 think the County as a municipal corporation
16 would be liable under any circumstances here. I
17 can't give you book, chapter and verse off the
18 top of my head.

19 MR. HEATON: It's called the Tort Immunity
20 Act.

21 MR. GRATTON: Okay. I think then we're
22 directing staff to include in the finding of
23 facts under air quality that all the proper
24 permitting and the receiving of those documents

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1 will be in order as a part of this Special Use.

2 Is that adequate and correct?

3 (All members simultaneously

4 responded affirmatively.)

5 MR. GRATTON: Let's move on -- let's move

6 on to noise. We talked a little bit about that

7 last night and this evening. Regulations are a

8 little bit, I don't know, nonexistent in some

9 ways, but there are standards out there if I

10 understand it correctly and we've heard

11 testimony this evening that this should not be

12 an issue with the distance to the neighbors. Is

13 there any need for any additional study on noise

14 or any additional information? It's just a

15 question I'm asking.

16 MR. JANSEN: Just a question -- I forgot

17 everybody's name already, but last night we

18 heard that -- I thought he said at the fence,

19 but maybe not, that it would go from like

20 70 decibels up to 77, that there might be up to

21 a 10 percent increase. Is that still applicable

22 or not?

23 MR. IBSEN: No, I don't think we said
24 that. We said that we would -- we would have it

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1 be 70 decibels at the fence line is what we said
2 last night.

3 MR. JANSEN: If it was -- I know I wrote
4 it down here, so I don't know where all of that
5 comes from, but it seemed to me that there was
6 an issue there and then we came back to 70, so
7 if you're at 77 or some 10 percent increase is
8 there -- is there something in a statute that
9 allows for up to a 10 percent variance or better
10 yet -- well, let's answer that question first.
11 We got to 77 someplace along the line.

12 MR. IBSEN: I'm not aware of anything like
13 that, no. I mean, I remember talking about the
14 85-decibel limit inside for personnel exposure
15 and the 70-decibel limit at the fence line and I
16 don't mean to be argumentative, but I don't

17 remember talking about a 77.

18 MR. JANSEN: And I may have misheard, but
19 I was under the impression that that's an issue
20 and it's issue with the neighbor as was raised
21 last night and we would hope that we could hold
22 that at the current standards. I mean, yes, the
23 plant was there before he was and all those
24 arguments are -- that are prevalent, but it

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1 would seem to me that if there was something
2 more than 70 then we've got something to deal
3 with and if there's not, we don't and you're
4 telling me that we don't.

5 MR. IBSEN: Well, yeah. I guess I'm
6 saying that we're saying that with the
7 modifications at the fence line we would ensure
8 that it was 70 decibels.

9 MR. JANSEN: Okay.

10 MR. GRATTON: Okay.

11 MR. ZIBART: Mr. Chairman, if I could just

12 explain a little bit about what staff is
13 thinking on this. We had a discussion last
14 night about noise and you may remember some of
15 it and Dr. Dumdei was talking about what the
16 Illinois regulations are on noise and there's
17 different decibels at different frequencies and
18 I think Mr. Ibsen said, well, you know, the
19 regulations are what they are and Rentech will
20 comply with them, you know, whatever they are
21 and that's -- I think the staff is fine with
22 that. We're not suggesting that the board adopt
23 some different standards other than what the
24 State has. I guess especially in light of

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1 tonight's presentation which they talked some
2 more about noise and showed how much buffer
3 there is and how much the noise may dissipate
4 before it reaches any of the receptors. Whether
5 there's some thought that some additional study

6 is necessary or whether the board is really not
7 concerned with noise at this point. Our thought
8 was, you know, one possibility in terms of study
9 would be some kind of a study after the plant is
10 in operation just to sort of confirm that what
11 we had all hoped is, in fact, true and that
12 noise levels are under the regulatory standards.
13 You know, our thought was that, you know, you
14 can make these predictions based on how far it
15 is and so on, but you don't necessarily know
16 until the plant is in operation, so just -- you
17 know, one possibility would be a -- I'll borrow
18 one of Ronald Reagan's famous Russian proverbs,
19 doverya no proverya, which is trust but verify.
20 You know, they say that it's going to be below a
21 certain limit and that's fine, that's
22 acceptable, but maybe we ought to have them take
23 a look. There's no agency that goes around and
24 checks to see if you're in compliance the way

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1 they do with an air permit, for example, where
2 they check and if you're out of compliance
3 you're in trouble. So maybe somebody could go
4 out and check, you know, once a year for the
5 first couple of years that they're in operation
6 and make sure it's okay and they don't need to
7 make any modifications. So we're just throwing
8 that out, but you know, it's up to the board to
9 say whether this is an item of concern or not.

10 MR. GRATTON: I believe the standards are
11 in place and I think they're set by -- if I
12 remember the testimony, the Illinois Control
13 Board Environmental Regulations set those
14 standards?

15 DR. DUMDEI: Yes, the Illinois Pollution
16 Control Board.

17 MR. GRATTON: Okay. If those standards
18 are out there and if Rentech says they will
19 adhere to those standards and have it below
20 those levels as part of our Special Use I would
21 suggest that we use those standards as the
22 acceptable limit for noise and then if a
23 question does arise we will at least have a base
24 number to work from. Does that make sense to

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1 anybody?

2 MR. JANSEN: In all of the -- I'm sorry --
3 in all the applications that we've seen listed
4 there was reference last night to ambient noise
5 -- I think what you called the Ambient Noise Act
6 or something to that effect.

7 DR. DUMDEI: Yeah, it's actually just the
8 regulations, administrative code.

9 MR. JANSEN: And it wasn't mentioned in
10 any of those -- in the application,
11 Mr. Chairman, as having been dealt with, so I
12 would think that what the counselor has
13 recommended makes a lot of sense and I would
14 think the first year or two would be
15 appropriate. It probably wouldn't change and it
16 might change if you got into a Phase 2, is there
17 going to be even more noise and I mean, that's
18 -- and how are you going to control that? I

19 don't know and you don't know because we don't
20 even know what you're building yet so -- in
21 Phase 2.

22 MR. HEATON: I think the -- what -- I
23 think what the goal of the regs are is that --
24 is that what is the decibel level at a certain

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1 frequency for what we call a receptor. I didn't
2 know what that term meant until I asked these
3 gentlemen today. A receptor can be a tree and
4 we're talking about humans over in Galena
5 Estates Subdivision and I don't think we'd have
6 a problem, would we, John, on some basis after
7 the plant got up and going to have some
8 monitoring over along the property line at the
9 Galena Estates Subdivision? If what Mark
10 mentioned tonight holds true even at a
11 70-decibel level at the fence line every
12 500 feet it's -- I mean, he said it would go
13 down to I think --

14 MR. IBSEN: Less than 30 decibels.

15 MR. HEATON: Less than 30, so we go

16 another 500 feet and I think it's 3300 feet

17 Melissa said from the thumbprint over to the

18 closest lot, it may be down to zip, but I don't

19 think we'd have a problem in doing some

20 monitoring over there after it got up and going.

21 MR. REESE: Chris, as I understand the

22 Pollution Control Board's noise regulations it's

23 a thing where it's available for any agency or

24 person to enforce, that is if there's a --

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1 somebody believes that there's a violation that

2 I could file a lawsuit, for example, to abate

3 that; isn't that right?

4 MR. ZIBART: File a complaint with the

5 Pollution Control Board.

6 MR. REESE: Right, and isn't that the

7 remedy that would be available? Why would there

8 even be a need to put it into the Special Use
9 permit? That's like saying, you know, we'll put
10 in it in your Special Use permit that you'll
11 comply with all laws and well, you got to comply
12 with laws, so why add it as a permit condition
13 that they have to comply with laws and in this
14 situation too, you know, with these noise
15 regulations, you know, it takes fairly
16 sophisticated equipment to monitor that and I
17 doubt that the County has it. Do you? I mean,
18 I don't know.

19 MR. ZIBART: I think that's probably true,
20 yeah.

21 MR. REESE: And usually I would think that
22 probably what happens is that -- in situations
23 like this at least it's been -- what I've
24 observed is that if there's a complaint that the

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1 Pollution Control Board might send someone out
2 to do a monitoring situation on that using their

3 equipment. Is that the way you understand it
4 too, Doctor, that they --

5 DR. DUMDEI: Currently they don't dedicate
6 any enforcement agency.

7 MR. REESE: Well, probably not now they
8 don't, yeah.

9 DR. DUMDEI: They kind of allow other
10 enforcement agencies to do it and usually those
11 agencies are local. They depend on the locals
12 actually to do the enforcements.

13 MR. GRATTON: So Chris, is it redundant to
14 put it in the Special Use language and necessary
15 or not in your opinion?

16 MR. ZIBART: You know, is it redundant?
17 Maybe. You know, it depends on whether you want
18 to trust or trust and verify. You know, I'm
19 just saying there's -- my point was you can't
20 count on somebody -- on the noise police to come
21 around and check, but maybe you can count on a
22 local resident who can't sleep to call up
23 somebody and say, hey, I got a problem, so --

24 MR. HEATON: So somebody that lives over

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1 there, if they think it's too loud they
2 certainly have every right to go to the
3 enforcing authorities and say, hey, you got to
4 come out and check this.

5 MR. ZIBART: True.

6 MR. SANDERS: They also have a possibility
7 of a common law nuisance case if that comes to
8 pass.

9 MR. ZIBART: True.

10 MR. GRATTON: And if that becomes part of
11 the Special Use what does that do to the Special
12 Use if it's in violation?

13 MR. ZIBART: Well, they would need to take
14 some remedial measure I suspect.

15 MR. HEATON: That's one thing we -- we
16 haven't really discussed, but let's assume that
17 we get out of whack with one of our permits that
18 -- three years from now because something
19 happens that we may not even have any control
20 over. There are remediation measures that you

21 work with with the permitting agencies and they
22 come in and they may fine you and they may say
23 you got so many days to do this and that, so
24 it's not a situation where they come in and go,

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1 well, there is a violation, we're going to cut
2 you off tomorrow. There's a process that
3 everybody works through.

4 MR. ZIBART: Right, I certainly wasn't
5 suggesting that the plant shut down if they're
6 found to be a decibel over. I was thinking much
7 more along the lines of it looks like you're a
8 little loud, maybe you ought to do something to
9 -- you know, cover something up or, you know, do
10 whatever.

11 MR. GRATTON: Our experience has been if
12 you provide standards that are measurable then
13 enforcement becomes something that's possible.
14 Otherwise it sounds like it's not unless you go
15 through the rest of the process which probably

16 works the same way, so I'll defer to anybody
17 else's judgment on this. I don't have the
18 answer.

19 MR. JANSEN: I'm struggling with it a
20 little bit because it wasn't mentioned
21 specifically in their listing, unless it's under
22 another title that -- for application purposes,
23 but if we look at the Special Use standards,
24 Mr. Chairman, it does talk about detrimental to

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1 or endanger public health, safety, morals or
2 general welfare and we could probably have a
3 good argument about whether that falls in there
4 or not. What it does in my book is mitigates
5 any argument from neighbors and why wouldn't it
6 be good to do even a one-year maybe, just test
7 it once to cover yourself and we can say we've
8 done our job and if it comes back the way we
9 anticipate based on what we've been told then

10 it's not an issue and we can make it go away
11 because we've addressed it and maybe the
12 Commission doesn't want to do that, I don't
13 know, but it would seem to me to be something
14 that could be done once or twice with relative
15 ease, it's measurable. It probably would be in
16 the best interests of Rentech to know whether
17 they're good neighbors. I don't know how the
18 rest of you feel.

19 MR. GRATTON: I personally think we're
20 spending too much time on it, because I don't
21 think it will be an issue and I think to just
22 put language in there that allows it to be
23 enforced and have a reasonable standard is -- is
24 not a problem. If what you've testified to as

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1 far as what happens to noise as it's transmitted
2 and looking at the topography and distance, I
3 can't believe unless it's an extreme violation
4 that it's going to be a problem with anybody.

5 MR. TRANEL: I agree.

6 MR. GRATTON: So I don't really see the
7 harm in putting it in there.

8 MS. DAVIS: I think when we went through
9 our wind turbines we did tons of noise analogy,
10 tons and a gentleman, wherever he was, I think
11 it was Rob at that time too, it takes
12 sophisticated equipment to really measure
13 properly, so I just can't believe that.

14 MR. GRATTON: We spent a great deal of
15 time on it and that was at much lower decibel
16 ratings than what we're taking about here.

17 MR. DIESCH: Just a concern about boundary
18 levels -- the boundary of Galena Estates. Can
19 you determine where the sound is coming from?
20 What if it's not from us? What if it's from
21 somewhere else? That would be a concern and
22 then, okay, if someone complains could you then
23 revoke -- what if we weren't the problem but you
24 could -- could that still revoke and shut us

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1 down? That would be our --

2 MR. GRATTON: I think that would be
3 extreme. I don't think shutting down is the
4 issue here. You know, first of all, you'd get a
5 phone call from somebody and someone would say,
6 you know, there's a problem, maybe we need to
7 investigate, maybe we need to measure, maybe you
8 need to reposition something, maybe it's not
9 coming from you and maybe it can be shown that
10 it's a different source, but if it is you then
11 you're responsible for it.

12 MR. DIESCH: Absolutely.

13 MR. TRANEL: I think a test at the
14 boundary line would detect whether it's you or
15 the neighbor.

16 MR. GRATTON: And then we're looking, you
17 know, next door on ag land and we're looking at
18 Class C.

19 MR. TRANEL: If you're below 70 decibels
20 it's highly unlikely that somebody in Galena
21 Estates is hearing your noise.

22 MR. GRATTON: Let's reach a consensus on

23 this. We have a lot of things to do yet.

24 MR. JANSEN: I'll concur with the feeling

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1 of the rest of the Commission. Having been
2 happy to raise the issue and have it fully
3 discussed for the sake of any neighbor I feel
4 that we've at least addressed the issue and come
5 to some conclusion.

6 MR. HEIDENREICH: I think the issue of
7 noise ultimately goes to property values. If
8 the noise exceeds they're not just complaining,
9 you know, hey, you're noisy, hey, I can't stand
10 to live here you're so noisy and then you
11 diminish property values, so I think it behooves
12 us to put some language in it that assures those
13 residents that we've at least addressed it.

14 MR. JANSEN: And I'm comfortable with that
15 as long as we've had this discussion so that if
16 any neighbor comes and says you guys didn't even
17 deal with this, there's a lot of evidence that

18 we did.

19 MR. HEIDENREICH: But the truth is that no
20 one testified that I'm concerned about noise and
21 we've seen hearings where a hundred people
22 testify about I'm concerned about this and I
23 didn't see anyone.

24 MR. JANSEN: Well, we had testimony last

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1 night.

2 MR. HEIDENREICH: So we're spending too
3 much time being concerned on their behalf.

4 MR. JANSEN: I understand. We had
5 testimony last night from one individual. I'm
6 satisfied that we've dealt with it.

7 MR. HEATON: I thought that was with
8 regard to the train that Mr. Shimak was upset
9 about.

10 MR. GRATTON: Yeah, and the train is not
11 John or Rentech's unless it's on the spur track

12 and then your property is doing that and then it
13 may be an issue. I think this protects you
14 going forward and it helps us as we look at
15 those Special Use provisions in there to protect
16 the -- the enjoyment of people's property and
17 things like that by adding provisions like that.
18 I think it helps us get to that point that we're
19 able to do that.

20 MR. HEATON: So you're not going to create
21 these -- you're not going to put in the Special
22 Use permit should you grant it, you know, the
23 decibel levels and have charts and whatnot?

24 MR. GRATTON: No.

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1 MR. HEATON: You're just going to say that
2 we have to comply with existing noise law
3 regulations?

4 MR. JANSEN: Correct.

5 MR. GRATTON: Illinois Pollution Control
6 Board Standards, that's what I've suggested.

7 MS. DAVIS: I agree.

8 MR. HEIDENREICH: You have to do that
9 anyway.

10 MR. GRATTON: I don't think to put it --
11 truthfully either way you're going to have to
12 whether we put it in or not. It just helps us,
13 I think, meet the standards for approving the
14 request ultimately.

15 MR. SANDERS: I understand, but what
16 happens in the event of a violation I think is
17 the more salient question?

18 MR. GRATTON: Then it's corrected or else
19 you can get in trouble if the violation is
20 ongoing.

21 MR. HEATON: And there are enforcement
22 authorities for that, so --

23 MR. GRATTON: We're just reiterating what
24 Illinois Pollution Control Board is saying and

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1 we're not asking for anything more than that.

2 MR. JANSEN: That's fine.

3 MS. DAVIS: Are you -- you're questioning
4 that? You're not satisfied with that?

5 MR. HEATON: Me?

6 MS. DAVIS: No. You.

7 MR. REESE: Well, I guess I thought that
8 if there was an -- if you're looking at
9 something like that that if Rentech does have --
10 and I'll talk to you about this later, Chris,
11 but maybe include some language perhaps that
12 said that any detected violation would be
13 referred to the Pollution Control Board for
14 appropriate remediation but would not be cause
15 for revocation of the permit. Would something
16 like that be satisfactory? Because I could see
17 that that could create a problem with financing
18 or something -- I mean, I don't know, I'm just
19 saying it possibly could.

20 MR. DIESCH: That could be a financing
21 problem.

22 MR. HEATON: You could live with that type
23 of language, Chris?

24 MR. ZIBART: Absolutely. We think a

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1 Special Use permit is for keeps. It doesn't
2 expire and it doesn't --

3 MR. JANSEN: It runs with the land.

4 MR. GRATTON: Does staff have adequate
5 language for that then? You can work that out?
6 Good. I have another -- before we leave noise I
7 have something else that I don't think you've
8 addressed yet and that is noise during the
9 construction process and there will be noise
10 during the construction process, heavy equipment
11 and things like that. Typically we've looked
12 at, you know, what kind of barriers can there be
13 to possibly -- things like hours of operation.
14 What can help alleviate that, you know, this may
15 be above and beyond what the normal operational
16 noise might be, so I think that could be a
17 concern and since this is a construction process
18 that might take two or three years or more, I
19 think it could be a concern to the neighbors.

20 MR. DIESCH: What do you do now like, I
21 mean, if they're building a hospital here in
22 Galena or --
23 MR. GRATTON: It's not under our
24 jurisdiction, so it's not a good example, but

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1 we --

2 MR. HEIDENREICH: We don't deal with it.

3 MR. GRATTON: What we do oftentimes is,
4 you know, the peak noises probably we would ask
5 that you do those during the daytime hours not
6 -- and not all night, you know, to the detriment
7 of the neighbors. I think that's a reasonable
8 request. That's the type of thing we -- so you
9 know, hours like 6 to 6 versus on into the
10 night. That's just a number I threw out, it's
11 not cast in stone.

12 MR. HEIDENREICH: Were you planning
13 nighttime construction?

14 MR. IBSEN: I mean, you know, initially
15 you don't want to have to do night construction,
16 productivity is slightly lower at night because
17 you have to supply light and things like that.
18 The schedules will often dictate how that will
19 be, but anticipated right now it's to be five to
20 six days a week only during the day. That's the
21 schedule, so probably ten-hour days.

22 MR. GRATTON: Will there be some peak
23 noise type activities that could produce
24 obnoxious noise during construction?

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1 MR. IBSEN: Yeah, I'm sure there's going
2 to be some drilling to set, you know, pylons,
3 foundations. That drilling can be noisy. Those
4 are typically done during the day. Some of the
5 crane work -- well, you don't want it to be
6 noisy because usually that means something fell,
7 so you know, yes, there will be some,
8 jackhammers, lots of things like that that will

9 be going on that will cause some noise, but you
10 know, it would be primarily targeted to the day,
11 but you know, maintenance is occurring at the
12 facility right now when there's a shutdown, you
13 know, around the clock as well, so it's not
14 something that's different from what's happening
15 right now and when the plant currently goes into
16 a turnaround the same types of activities occur
17 and those activities are 24/7. You know, when
18 an operating plant is shut down it's losing
19 money, so you try to get it turned around as
20 quickly as possible.

21 MR. DIESCH: When we go into maintenance
22 we work around the clock.

23 MR. GRATTON: I understand that, but if
24 you're, like he said, driving pylons and stuff

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1 for new construction we don't want that day and
2 night. I wouldn't want it if I were a neighbor.

3 MR. DIESCH: No, we'd do welding and
4 grinding and things like that and --

5 MR. GRATTON: Yeah, I understand. I'll --
6 Chris or somebody, is there a good way to define
7 what we're asking for without -- I mean, how do
8 we define those peak noise events without
9 getting into -- you know, we don't want to spend
10 the next hour trying to define them.

11 MR. ZIBART: We'll have to think about
12 that.

13 MR. GRATTON: Bruce or somebody, could
14 you --

15 DR. DUMDEI: There's no difference in the
16 standards --

17 MR. ZIBART: No, there isn't.

18 DR. DUMDEI: -- whether it's construction
19 or an ongoing operation, so they have to be at
20 the same limits at the fence line either way.

21 MR. IWANSKI: You need to look at that
22 very closely, because there are some exemptions
23 for construction activities.

24 DR. DUMDEI: Yeah, again, for certain

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1 decibels that impact kinds of things.

2 MR. IWANSKI: There are some -- there's a
3 section in the code for exceptions, 901.107 and
4 just glancing at that this afternoon,
5 construction activities, there is a -- there is
6 a section under there, so I think we --

7 DR. DUMDEI: Certain kinds of impact
8 noise, right, but it's not just different during
9 construction periods, there's very specific
10 provisions.

11 MR. IWANSKI: There is some language in
12 there, so we want to make sure that anything we
13 write as a requirement during the construction
14 is consistent with the exemption that's allowed
15 in the code.

16 MR. GRATTON: Could you research that?

17 DR. DUMDEI: The exemptions -- like there
18 might be exemptions from it just because of the
19 physics of what happens it makes that much noise
20 and you can't do anything about it, but that
21 might be the appropriate thing to restrict

22 during nighttime hours by the zoning commission
23 rather than the noise regulations.

24 MR. GRATTON: Our intent it to take those

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1 peak noises and put them during normal operating
2 hours, okay? Does everybody concur?

3 (All members simultaneously
4 responded affirmatively.)

5 MR. HEIDENREICH: Yeah, while we're on the
6 subject of construction did we talk any about
7 traffic during the construction period? We
8 talked a lot about the traffic -- products in
9 and out, trains in and trucks out, you know,
10 when the plant is in operation, but did we talk
11 any about traffic during the construction phase?

12 MR. IBSEN: We talked about that we were
13 looking at a peak load of people from 750 to a
14 thousand workers.

15 MR. HEATON: Can you come over here so

16 they can hear you over there?

17 MR. IBSEN: We talked yesterday that there
18 would be a peak load of, you know, 750 to a
19 thousand workers and we estimated around 450
20 cars -- or vehicles coming in and out a day that
21 would be coming down the main road and going on
22 off to a separate construction type parking lot.
23 That was -- I believe that was -- most of the
24 extent of the discussion that we had on it

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1 yesterday.

2 MR. HEIDENREICH: You're going to have a
3 cement truck or two and a gravel truck or two?

4 MR. IBSEN: There will be also trucks
5 bringing in products and bringing in backfill
6 and things like that. The goal of the
7 construction schedule and how you grade things
8 is to -- to use the existing topography to your
9 benefit as much as you can, so where you might
10 have to cut one place, you can use that soil in

11 another place. So your goal is to not be
12 moving, you know, a lot of dirt in and out of
13 the facility in that way.

14 MR. HEIDENREICH: So have you let those
15 bids yet? Probably not. You don't know where
16 your concrete is coming from, you don't know
17 where your rock is --

18 MR. IBSEN: No, we are just now in the
19 process of taking the first shot at the
20 topography and trying to minimize what's called
21 the cut and the fill, so we're using the
22 topography as best as we possibly can.

23 MR. HEIDENREICH: So all the highway
24 transportation won't get anything --

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1 MR. IBSEN: You mean for the material?

2 MR. HEIDENREICH: Yeah.

3 MR. IBSEN: Yeah, I mean, it's -- for cut
4 and fill I don't know, you know, we don't know

5 where it's coming from. Vessels and equipment,
6 that's going to come down the highway or up the
7 river on a barge and then have to be brought in
8 on the highway, that's correct, yes.

9 MR. JANSEN: Is this large enough to set
10 up like a portable concrete mixer plant?

11 Probably.

12 MR. IBSEN: I doubt it, but I honestly --
13 I don't know, I don't think they've determined
14 how many cubic yards of concrete are going to be
15 poured and there's going to be laydown yards set
16 aside so material can be brought in on a
17 consistent basis versus huge dumps of, you know,
18 material, so it will be brought in over time and
19 laid down and it will be ready there for
20 construction so when construction occurs they
21 can go get it from the yard and they're not
22 waiting for a truck to come in with a thousand
23 feet of pipe or something like that.

24 MR. HEIDENREICH: So you'll stockpile a

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1 certain amount of stuff?

2 MR. IBSEN: There will be reserves and
3 stockpiles that will be built up over time and
4 kept on the site.

5 MR. HEIDENREICH: My concern was if you
6 need 200 trucks of something before 10 o'clock
7 and you'll plug the highway up and --

8 MR. IBSEN: I don't think we'd be -- we
9 would be scheduling things to minimize -- along
10 with the traffic study, to make sure that how
11 those products come in is minimizing any impact
12 that we have to the surrounding roads and the
13 highway itself.

14 MR. GRATTON: While we're talking about
15 traffic, I think you indicated that you were
16 working with IDOT on the scheduling and all of
17 those things.

18 MR. DIESCH: Yes, we're going to do a
19 traffic study. In fact, they have a certified
20 traffic -- what do you call them --

21 MR. BOYER: Traffic engineer who will be
22 qualified with the IDOT --

23 MR. DIESCH: -- who will do the study

24 then.

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1 MR. GRATTON: Can we make as part of the
2 Special Use that that study will be done and
3 that you will coordinate with IDOT and seek
4 their approval for all permits necessary from
5 the Department of Transportation?

6 MR. DIESCH: That's what we're going to
7 do, yeah.

8 MR. GRATTON: I think that's a given, but
9 okay, let that be part of the findings as far as
10 traffic. Is there other areas -- or are there
11 other areas regarding traffic that we should
12 address?

13 MS. DAVIS: I just had a note of also a
14 rail study. Was that something you were
15 concerned about? I thought that was pretty well
16 answered how many cars and trains would be.

17 MR. DIESCH: It's infinitesimally small

18 compared to what's going on on that rail.

19 MS. DAVIS: Okay.

20 MR. GRATTON: We need to probably talk a

21 little bit about water usage and particularly,

22 you know, what -- I think you indicated the

23 capacity of your present wells probably would

24 not suffice --

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1 MR. IBSEN: That's correct.

2 MR. GRATTON: -- for the new project, so I

3 think you testified that you would either use

4 new wells or possibly the Mississippi as an

5 alternative?

6 MR. IBSEN: That's correct.

7 MR. GRATTON: If you're to do new wells

8 this could be a potential drawdown on the water

9 table with that kind of usage. Can we provide

10 some kind of language which might protect

11 neighboring wells if -- if there's a problem?

12 MR. IBSEN: I mean, I don't think you're

13 going to get a well permit if -- you're not
14 going to get the well permit if you're going to
15 affect another well, because there's -- you
16 know, we're still going to have to apply for the
17 well permits to drill the wells and that goes
18 through the County, so that's already in place
19 and we have to get permits to put those wells in
20 anyway, so I think -- I personally think that
21 there's already methods in place to protect any
22 of the other surrounding wells to keep them from
23 being, you know, drawn down or for any impact
24 against these other wells.

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1 MR. GRATTON: I'm going to guess that
2 there's nobody that has experience locally or
3 even around that could tell you what might
4 happen to the water table pumping the amount of
5 gallonage that you're talking about.

6 MR. IBSEN: We're going to be using a

7 hydrogeologist to take a look at the groundwater
8 and we'll be putting in test wells, so we'll be
9 understanding what the underground aquifers are
10 doing before we ever put those wells in. So
11 it's to our benefit to not put them in where
12 they're going to be affecting negatively over
13 time. Their existing wells are pumping about
14 1800 to 2,000 gallons of water right now and
15 they've been doing that for about 40 years.
16 We're targeting a similar area for the new
17 wells.

18 MR. HEIDENREICH: What's the depth of
19 their existing wells?

20 MR. IBSEN: They're shallow wells,
21 250 feet.

22 MR. DIESCH: We're right on the river.

23 MR. HEIDENREICH: Well, yeah, but --

24 MR. GRATTON: Does that water table vary

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1 -- are you aware of changes as you pump -- or

2 you probably never shut them off?

3 MR. DIESCH: Well, yeah, I mean, we have
4 to periodically rehabilitate the wells and
5 that's just because the screens, you know, get
6 sand and stuff in them and we have to
7 rehabilitate them, but as far as affecting the
8 water table, I've never heard of any degradation
9 to that water table as far as -- and you can
10 measure that by the drawdown.

11 MS. DAIS: You have a consulting firm,
12 right, that that's going to --

13 MR. DIESCH: Yeah.

14 MR. IBSEN: We have
15 hydrogeological/geological group that we're
16 getting a contract with to start working on this
17 and they'll start making some geological studies
18 and then we have to move on to look at some test
19 wells and make sure that we are protecting what
20 we've got and then getting something that's
21 going to meet our needs long-term.

22 MR. HEIDENREICH: And they just submit
23 those studies to the County?

24 MR. GRATTON: Yeah, I think we're going to

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1 ask for those studies.

2 MR. DIESCH: I think we have to -- it's

3 got to go through the County's --

4 MR. GRATTON: If anybody in the

5 neighborhood were negatively impacted by the

6 changing water table and not naturally but

7 because of the pumping activities would there be

8 a source of mitigation that they could --

9 MR. IBSEN: You mean --

10 MR. GRATTON: What happens, Heather, can

11 you help us?

12 STAFF MEMBER: There's a contamination

13 clause in the state code, but I would have to do

14 some more background checking.

15 MR. HEATON: I think you're more worried

16 about --

17 MR. GRATTON: I'm talking about whether

18 someone's well, you know, isn't sufficient

19 because of the drawdown in the water table.

20 STAFF MEMBER: I'd have to check out the
21 state code.
22 MR. DIESCH: Does anyone know the closest
23 well to that -- our wells are here, right in
24 here. Yeah, can you move it down?

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1 MR. GRATTON: But you don't know where the
2 new wells might be located?

3 MR. DIESCH: No, not until we do a
4 geological survey. That's what we look at
5 first, because --

6 MR. IBSEN: We're looking at the current
7 area that we're at because we do have additional
8 permits.

9 MR. DIESCH: Here's our wells, so road,
10 access road located there. Well, I'm not -- I
11 don't know if there's anything else real close
12 by that it would affect.

13 MR. HEATON: I went down there and it's
14 kind of Mississippi bottom there or something.

15 MR. DIESCH: Yeah, it's in a floodplain.

16 Our wells sit up -- oh, I don't know.

17 MR. IBSEN: 5, 10 feet.

18 MR. DIESCH: More than that. That island

19 that's built out there, that's probably up about

20 20 feet above the floodplain.

21 MR. HEATON: That's probably a mile and a

22 half away from certainly Galena Estates.

23 MR. GRATTON: Some of this information is

24 taken off of some of what was provided by our

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1 consultants and some suggestions. Do you have

2 anything you'd like to add?

3 STAFF MEMBER: Well, Chris, maybe you want

4 to go through -- I thought maybe you wanted to

5 talk about the --

6 MR. DIESCH: Does Galena Estates have

7 their own well system?

8 STAFF MEMBER: Yes.

9 MR. GRATTON: Individual or --
10 STAFF MEMBER: Individual private wells.
11 MR. GRATTON: Did anybody have something?
12 MR. DAVIS: Well, it says here any new
13 wells need to be permitted by the Corps of
14 Engineers.
15 MR. GRATTON: Corps of Engineers and
16 Jo Daviess County Health Department, correct?
17 STAFF MEMBER: Correct.
18 MR. GRATTON: Beyond that do we need any
19 safeguards?
20 STAFF MEMBER: The permitting process
21 should --
22 MR. GRATTON: Okay. We're going to ask
23 for those two things and --
24 MR. DIESCH: Larry knows where the closest

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1 well is. He says it's up on Highway 20 about a
2 mile.
3 MR. BOYER: We'll have to get our

4 measuring stick out. Try right here, there.

5 MS. SOPPE: 3300 feet.

6 MR BOYER: 3300.

7 MR. DIESCH: It also depends on what

8 aquifer they're in. It may not be related at

9 all.

10 MR. GRATTON: But we don't know that,

11 so --

12 MR. DIESCH: So until we do our studies --

13 I'm sure they'll identify those though as part

14 of the study.

15 MR. GRATTON: Any other language for

16 water? Other members, do you have some other

17 concerns that we might address here? I think as

18 part of the Special Use requirements we were

19 going to ask staff and you are asked to make all

20 the permitting requirements to make sure that

21 every one -- I mean, there's a substantial

22 number, that all of those be included in the

23 finding of facts and be identified as part of

24 the findings. Which ones will be required and

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1 which ones we -- I mean, that's just part of
2 this process, so because we defer to those
3 agencies we will mention those in our findings;
4 is that correct?

5 MR. ZIBART: That's fine.

6 MS. DAVIS: Somewhere along the way it was
7 mentioned that all the permits be in place
8 before anything gets started?

9 MR. HEATON: That would be a problem. We
10 talked about that.

11 MS. DAVIS: Oh, you talked about that?

12 MR. HEATON: Some of these permits won't
13 come for quite some period.

14 MS. DAVIS: Okay.

15 STAFF MEMBER: Disregard that.

16 MR. GRATTON: You can direct the
17 sequencing of those and language that would
18 allow for that then?

19 MS. DAVIS: You addressed the fog and
20 icing issue. It was -- there's no public road
21 close -- close to that at all.

22 MR. HEATON: Right, I think URS felt that
23 way today.

24 STAFF MEMBER: We do a site visit down

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1 there and again, it would be nice for them to
2 just put -- like they did today with the noise,
3 a simple quantitation on that in simple terms
4 just to get it down on the record as fact, but
5 we agree that where their position is there
6 shouldn't be an issue on the major roads.

7 MR. JANSEN: Are you seeking any tax
8 abatements?

9 MR. HEATON: I'm not aware of any.

10 MR. DIESCH: We're in an enterprise zone.
11 I don't know, Bob, maybe can you comment on
12 that? I'm not certain of all the --

13 MR. SKURLA: Being annexed into the
14 enterprise zone gives it abatements for those
15 taxing bodies that were already signed on. The
16 ones that have been signed on are Jo Daviess

17 County and Highland Community College would be
18 the only two that are automatic abatements.
19 They do not have to seek anything to qualify for
20 that, it would be an automatic. Any other
21 taxing body can choose to participate but they
22 are not approaching anybody and nobody is
23 volunteering.
24 MR. JANSEN: I would think not.

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1 MR. SKURLA: A question was just raised
2 also about sales tax abatement. Part of the
3 enterprise zone benefits there -- and one of the
4 significant benefits of being annexed into the
5 zone is that sales tax for all building
6 materials is waived and that's at the State
7 level, so regardless of where they're buying it
8 in the State all sales tax including the local
9 portion is waived for any building materials.
10 MR. JANSEN: So that would preclude you

11 from buying out of state?

12 MR. SKURLA: They can buy from out of

13 state too.

14 MR. JANSEN: But then they don't get the

15 abatement?

16 MR. SKURLA: Well, it's the final point of

17 sale, the final point of sale is here and there

18 are some foreign vendors from outside the State

19 that refuse to honor that. There are methods

20 for them to utilize a separate final point of

21 sale somewhere in the State to accommodate the

22 same thing.

23 MR. JANSEN: What's the current assessed

24 valuation of the plant, John?

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1 MR. DIESCH: I don't have that number. I

2 don't know.

3 MR. HEATON: We don't have that with us.

4 We know what we pay in County taxes, but I guess

5 we can figure it back if we knew what the rate

6 was last year.

7 MR. DIESCH: Property tax is somewhere
8 around 450,000 a year.

9 MR. JANSEN: I think it said 253 went to
10 the East Dubuque school.

11 MR. REESE: 416.

12 MR. JANSEN: Something like that.

13 MR. HEATON: What's your rate here in
14 Jo Daviess, does anyone know the rate? Melissa,
15 do you know that? You're so good.

16 MR. JANSEN: Too high.

17 MR. HEATON: Too high? Yeah.

18 MR. JANSEN: I'm just trying to get a
19 sense of the new addition and the impact it
20 would have on the taxing bodies that are --

21 MR. HEATON: How the assessment would
22 change?

23 MR. JANSEN: Yes, that's what I'm asking.

24 MR. HEATON: That I don't know. I think

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1 the tax assessor is definitely going to want to
2 take a close look at it.

3 MR. JANSEN: Yeah, I'm sure he will.

4 MR. SKURLA: The one thing that's brought
5 up is that the only thing that's coming down is
6 a piece of equipment which is probably not on
7 the tax rolls anyway, so everything being added
8 is brand-new property tax or any buildings or
9 additions to it, so what you have there will be
10 built upon.

11 MR. JANSEN: So if you got a \$810,000,000
12 addition, you take a third of that times the tax
13 rate, is that what you're saying?

14 MR. REESE: I doubt that that's all going
15 to be considered --

16 MR. JANSEN: Okay.

17 MR. REESE: They only assess the part that
18 includes the real estate or what's considered
19 permanent improvements to the real estate and
20 there's no way to quantify that at the present
21 time because it depends upon the -- what's the
22 value assessed by the assessor for the permanent
23 buildings and those kind of structures. Most of

24 the piping and things that are there will

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1 probably not be part of the real estate, but
2 there's bound to be a substantial increase in
3 the assessed valuation from this improvement
4 simply because they're going to be adding so
5 many buildings and permanent structures that are
6 there on the ground.

7 MR. GRATTON: What's the reason for the
8 question, Dave, is there --

9 MR. JANSEN: Nosy.

10 MR. GRATTON: Okay. I was just wondering
11 if there was something --

12 MR. JANSEN: No, I'm just thinking of the
13 school districts and the advantage it would be
14 to them especially. Most of them are struggling
15 in this County.

16 MR. GRATTON: Let's see if we can continue
17 then on the issues that need to be put in the
18 findings of fact for this request. Are there

19 others?

20 MS. DAVIS: I have a notation on a
21 fugitive dust plan. Do you have one or do we
22 need to have --

23 MR. DIESCH: It's part of our permitting
24 process.

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1 MS. DAVIS: It's part of the permitting
2 process?

3 MR. IWANSKI: It will be required as a
4 condition in our construction permit.

5 MR. GRATTON: Part of your air quality?

6 MR. IWANSKI: Yes, for Phase 1A.

7 MR. GRATTON: Does that include things
8 like road dust and construction --

9 MR. IWANSKI: On our property, on our
10 stationary source up to our boundary. That's
11 what we're responsible for.

12 MR. GRATTON: So like on your construction

13 road, you'll control the dust on that -- if it's

14 not hard-surfaced you'll do that, right?

15 MR. IWANSKI: Yes.

16 MR. GRATTON: Your other roads will be

17 hard-surfaced, right?

18 MS. DAVIS: I have a notation on retention

19 ponds. Do we have a problem with that?

20 MR. GRATTON: For stormwater or erosion

21 control or both?

22 MS. DAVIS: I just had retention ponds.

23 MR. GRATTON: Why don't we address -- I

24 think there's -- one of our requirements

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1 typically is, you know, the proper erosion

2 control plans and that will be a part of the

3 permitting I'm sure.

4 MR. HEATON: Do you have a stormwater

5 management ordinance now here, Linda, that -- a

6 lot of counties have adopted --

7 MS. DELVAUX: We don't have one officially

8 adopted, no.

9 MR. HEATON: So it was mentioned by

10 Mark Ibsen -- where did he go?

11 MR. IBSEN: I'm here. Don't ask me to

12 stand up, it won't help you see me.

13 MR. HEATON: You indicated last night that

14 as part of our permitting -- the permits we will

15 need will have to take care of the stormwater

16 and other erosion control. We definitely have

17 to do that even though you don't have an

18 ordinance here.

19 MR. GRATTON: Right, so I'm just making

20 mention that that be included in our findings

21 that those will be applied for and they are in

22 place, because oftentimes we require that, but

23 in this case it will be provided.

24 MR. HEATON: Yeah, I think some language

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1 that Chris or somebody came up with was that

2 your Special Use -- should the County grant us a
3 Special Use it does not relieve Rentech from
4 obtaining other permits that are necessary so it
5 can construct the thing. It's kind of catch-all
6 phrase, but we don't have a problem with that
7 type of language at all.

8 MR. GRATTON: Speaking of that language we
9 do want to include that. Is everybody familiar
10 with what I'm talking about? I think it was on
11 Page 11 of the report. So let the record
12 indicate that we would include that type of
13 language.

14 MR. ZIBART: Yeah, just so we're clear, I
15 think we were intending to amend that slightly
16 after our discussion with Rentech, so it's
17 really just the first -- I don't know, sort of
18 the first sentence -- or the first clause which
19 is similar to what Jock just said, not relieving
20 them from having to file all the necessary
21 permits. The part that Rentech was struggling
22 with and we understand that and agree with it
23 was this idea that somehow the Special Use
24 permit would almost be held up while they were

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1 going and getting those other permits. That
2 could hold them up for months and that wasn't
3 our intention.

4 MR. HEATON: So we have no problem with
5 language that says that, you know, just because
6 you're granting it we still are not relieved of
7 our obligations to obtain necessary permits and
8 whatnot to construct the project, whether it's
9 wetland -- you know, I mean, that includes
10 everything we've talked about.

11 MR. GRATTON: So we will include that
12 language.

13 MR. HEATON: Yep.

14 MR. GRATTON: Okay. Other concerns?

15 MS. DAVIS: I just have a notation on
16 supplying the certification for the last three
17 years -- certification records. I don't know if
18 that wants to be part of the Special Use or if
19 that was --

20 MR. HEATON: I think we brought those.

21 MR. JANSEN: Yeah, he said he'd make them
22 available.

23 MR. HEATON: We'll get those to the Doctor
24 or --

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1 DR. DUMDEI: : I'll look at them.

2 MR. GRATTON: Okay.

3 MR. HEIDENREICH: Are you done with --

4 MR. GRATTON: I'm done with those. Do you
5 have others that --

6 MR. HEIDENREICH: I don't have other
7 concerns. Often times we put in our motion how
8 it complies with our Comprehensive Plan and I
9 think that that's a necessary thing to do --

10 MR. GRATTON: Okay.

11 MR. HEIDENREICH: -- in this case.

12 MR. GRATTON: If we could, Tom, maybe if
13 we could get all this information condensed into
14 our findings -- we're certainly going to have a

15 discussion on it as to whether it meets all of
16 the standards for Special Uses and I don't know
17 if we want to have that discussion on the
18 Comprehensive Plan this evening, our time is
19 somewhat limited. Once we have all that in
20 place though we certainly want to address all of
21 those issues in reference to our Comprehensive
22 Plan --

23 MR. HEIDENREICH: Okay.

24 MR. GRATTON: -- as part of our final

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1 decision, so I'm not putting you off on that.

2 MR. HEIDENREICH: I understand.

3 MR. GRATTON: I'm looking at the clock and
4 trying to expedite this thing.

5 MR. HEATON: There's a lot of language in
6 that Comprehensive Plan that lends itself to
7 industrial growth and you know --

8 MR. GRATTON: And we will address that
9 when we make our final determination I believe.

10 So has everybody gone down their list and have
11 everything? We didn't talk too much about
12 flaring. I think -- is flaring an issue with
13 this operation?

14 MR. IBSEN: There will be a flare. There
15 will be a new flare installed for the
16 gasification unit as well as there's the
17 existing one for the ammonia plant. Both will
18 be maintained. You know, if there are problems
19 with the gasifier, you know, the gases will be
20 flared to take care of them so that they're
21 vented in a safe manner versus just to the
22 atmosphere. We'll be doing -- there will be no
23 start-up or shutdown or anything scheduled where
24 gases are purposely flared that may contain

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1 sulfur-containing components. We start it in
2 such a way that we're not flaring large
3 quantities of SO₂. That would only occur on an

4 unexpected malfunction trip or when a device in
5 the plant that is designed to protect the
6 equipment were used. It's what we call the
7 safety device. That would be the only time it
8 would happen. Our start-up and shutdown
9 procedures are such that that wouldn't be used.
10 So I mean, there will be flares in places.
11 That's the only way to handle these highly
12 combustible gases and we'll make sure that it's
13 a smokeless flare, we'll do what's required, so
14 if there is steam injection required we're not
15 going to be -- hydrogen unfortunately is fairly
16 easy to combust and, in fact, a hydrogen flare
17 during the day is usually not visible. At night
18 it's a light blue flame, but there's no
19 guarantee that it will always be that color
20 because the hydrocarbons from the FT unit which
21 will feed in there and they could produce a
22 little more --
23 MR. GRATTON: So that will be a normal
24 part of the process and how often would you

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1 expect those events to take place?

2 MR. IBSEN: Well, what we've asked for in
3 the permit is for two start-up/shutdown periods
4 or 50 hours worth of start-up and shutdown
5 periods per month. That doesn't mean that it's
6 going to be a month, but that's just the way
7 it's built into the permit. Ideally we'd be
8 switching gasifiers on a frequency of, you know,
9 90 to 180 days depending upon how the
10 maintenance on the refractory goes and those
11 would be such that we would try to do those
12 without flaring events, but there will be, you
13 know, a few times a year that that will happen.
14 The first year there will probably be a few more
15 just by the nature of the initial start-up
16 of a facility. That's always more time
17 consuming and necessary than once it's in normal
18 operation and the operators have learned how to
19 run it, learned how to start it up. There's a
20 training period there.

21 MS. DAVIS: So that is something that's
22 pretty fully addressed in the permitting

23 process?

24 MR. IBSEN: The permit has a section on

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1 flaring and the anticipated flaring events --
2 the air permit that we've submitted to the
3 board, yes -- or the State of Illinois, excuse
4 me.

5 MR. GRATTON: John, what plans are in
6 place -- and I'm not sure controls this, but
7 what are -- for unplanned or uncontrolled
8 releases of any kind -- well, what safeguards
9 are in place and do we -- are there other
10 agencies which cover that?

11 MR. DIESCH: Well, we're highly regulated
12 by -- we have, for instance, in the existing
13 facility if we have a release of over a hundred
14 pounds we have to report that to the National
15 Response Center that we had a release over a
16 hundred pounds, so those are in place and there

17 will be a similar type situation and I'm not

18 certain about all the --

19 MR. IBSEN: Well, I mean the methanal

20 reportable quantity is quite a bit higher than

21 that.

22 MR. DIESCH: So it depends on what the

23 particular material is, you have to report that

24 and part of that process is filing a report and

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1 what will you do in the future to prevent a

2 future situation like that. The system is going

3 to be designed to when it -- if you have an

4 emergency shutdown to shut down to what we call

5 fail safe. In other words, shut down so all the

6 contaminant gases will go to the flare and

7 that's the purpose of the flare for emergency

8 shutdowns. Now, there always is a possibility

9 -- and he talked about a relief valve and that's

10 to protect the vessel, a pressurized vessel. If

11 there was an unforeseen circumstance that had an

12 overpressure situation that relief valve would
13 lift and if that lifts and it had a material
14 that has a reportable quantity it's -- we have
15 to report that to the authorities and then we
16 have to say what are we going to mitigate, do an
17 investigation into what caused the incident and
18 that report has to be filed to Emergency
19 Response Center, Illinois EPA, as well as local
20 -- local government agencies, so there's a
21 procedure that we have in place with the
22 existing plant and that will carry over with the
23 new plant as we go forward.
24 DR. DUMDEI: I guess the staff doesn't

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1 have any -- you know, based on the information
2 provided to us any issues with the flaring
3 events for the routine emissions, start-ups,
4 shutdowns, visible -- you know, visibility
5 concerns, view shed concerns, radiation concerns

6 or safety concerns. I think those are all well
7 addressed. We would have preferred the
8 Petitioner to present some kind of quantitative
9 data on a worst case possible scenario or likely
10 scenario from those malfunctions like they did
11 for the noise they did this afternoon, just kind
12 of quantitate it and show how minimal it could
13 be under those scenarios. I believe they have
14 -- already have an R and P program, that's one
15 of the many programs under the Clean Air Act, to
16 kind of talk about those kinds of issues
17 formally and that has been part of the record
18 today.

19 STAFF MEMBER: I was just wondering that
20 since we have this -- the new coal gasification
21 going in that I understand that you probably
22 have emergency responders on their staff right
23 there at Rentech, but is there something that
24 you would be able to provide training to local

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1 responders such as the local fire departments if
2 they're needed for issues like that?

3 MR. DIESCH: We do that now. We train
4 annually with the Menominee-Dunleith Fire
5 Department. We also on occasion will do drills
6 including Grant County as well as the City of
7 Dubuque emergency responders as well as we've
8 done training with them, we've had them over.
9 For instance, we handle ammonia so we did some
10 training with all the emergency responders where
11 we'll bring in a tank car because there's always
12 a potential that a truck will overturn somewhere
13 out in the counties and how you handle that, so
14 we've done some training. We bring in a tank
15 car or a tank wagon and they have cut-aways and
16 you can go inside and see what it looks like and
17 how do you handle those things. We have a kit
18 that goes on relief valves on tank cars, so if
19 there's a leaking relief valve or leaking
20 ammonia in the atmosphere we will respond.
21 We've gone out in the community and responded
22 and I'll pick on John Williams there, he was on
23 the Menominee-Dunleith Fire Department as well
24 as one of our emergency responders and on

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1 numerous occasion we've gone out and actually
2 assisted the County to assist them with a --
3 because we have a hazardous material team, so we
4 work with the County -- you know, all three
5 states actually. We've responded in all three
6 states around here. Actually we've gone down to
7 Ohio and responded before and Indiana. Depends
8 on what the material is and who's the closest --
9 closest responder, but a part of our
10 organization -- company, so we're actively
11 involved with that.

12 STAFF MEMBER: Great. I also had a
13 question posed to me today that I did not have
14 the answer to and I know you did hit on CO2
15 emissions and really what they were wondering is
16 if there's any kind of a -- even though we know
17 they're not regulated such as your discharge
18 permits and such are, but is there any kind of

19 annual reporting that's done on the CO2
20 emissions that you have or potentially have and
21 any kind of reporting that's done on any kind of
22 progress that you're making futuristically as
23 far as sequestration?
24 MR. DIESCH: There's no annual reporting

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1 that is required by the regulating bodies. What
2 we do and we have been doing and we're actually
3 developing as a company a carbon plant which has
4 not been fully developed yet of the direction
5 we're going to go as a corporation to continue
6 to move that forward to try to help the country
7 as a whole come up with a strategy. That's
8 going to involve a significant amount of
9 research and development. Some of that will
10 work. We'll put our own money into it. Some of
11 it is going to be working closely with the
12 government -- federal government, Department of
13 Energy, so on and so forth, but I can't tell you

14 specifically, because it just hasn't been
15 developed -- the company -- the country hasn't
16 -- the United States hasn't developed a specific
17 strategy towards carbon at this point in time,
18 so we're just not there yet.

19 STAFF MEMBER: There was actually another
20 part of this question and maybe URS can chime in
21 on this as well. The question was about the
22 hydrogen and if there's a possibility of
23 hydrogen power ever being produced at this
24 point?

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1 MR. DIESCH: Utilizing the hydrogen we
2 produce for other uses such as -- I mean, you
3 can run an internal combustion engine off
4 hydrogen.

5 MR. ZIBART: For fuel cells.

6 MR. DIESCH: Oh, fuel cells?

7 MR. ZIBART: There's been a lot of

8 discussion in the press about the hydrogen
9 economy and so on and you mentioned in your
10 testimony that the syngas includes hydrogen and
11 carbon monoxide. Is there some possibility in
12 the future perhaps that you could -- the plant
13 could be producing hydrogen to -- for sale in
14 that economy.

15 MR. DIESCH: Yeah, I'm sure that that's a
16 possibility. You know, we're going to work very
17 closely -- you know, we already have a
18 relationship with, say, the Department of
19 Energy. Let me give you an example. The Wabash
20 facility which we talked about which is
21 ConocoPhillips gas. Right next to that facility
22 sitting adjacent is a fuel cell that the
23 Department of Energy has placed in position to
24 utilize part of the hydrogen that's coming off

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1 that unit to do more research and development on
2 a fuel cell and how much power it can produce.

3 When that was installed it was a DOE grant I
4 believe. You know, we're going to work with
5 them, work with the federal government on
6 specific projects like that. That's my
7 visualization, so you know, right now there's
8 nothing in place or no specific plans, but we're
9 open for -- you know, this facility will --
10 we're definitely going to be open for further
11 research working closely with other entities to
12 help carbon issues, sequestration issues,
13 utilizing hydrogen, fuel cell technology, those
14 type of things because we'll have all those raw
15 materials to allow us to do that research. Yes,
16 we will, but there's nothing specific. We're
17 just -- just too early along in the project.

18 STAFF MEMBER: Thank you.

19 MR. GRATTON: Okay. To the best of
20 everybody's knowledge on the board and on the
21 staff are there any other items we want to
22 include in the findings of fact for this
23 request?

24 MR. HEIDENREICH: Did we discuss lighting

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1 of the plant?

2 MR. DIESCH: No, we haven't specifically.

3 MR. HEIDENREICH: In a lot of other
4 requests we typically suggest that the lighting
5 doesn't go up in the air, it's downward lighting
6 and toward the plant as opposed to just light
7 shed -- is there a lighting plan?

8 MR. IBSEN: There will be a lighting plan.
9 No, there's not one that's laid out per se.
10 Once -- you first have to get the plot plan
11 developed and understand where all the equipment
12 is, look at the levels, some of it will be on
13 multiple levels, establish where you need the
14 lighting where the operators are going to be
15 working where their control stations are going
16 to be and then you'll start laying out the
17 lighting plan for the plant, so that's going to
18 include lighting within the structures, within
19 the equipment areas to light pumps, to light
20 reactors, to light vessels and then you're going

21 to have it surrounding on roads. You're going
22 to want to keep the roads lit, you're going to
23 want to keep some security lighting on the
24 periphery of the plant and you're going to want

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1 to keep that. All that is going to be pointing
2 towards the plant. The goal is not to extend
3 that lighting outside of the plant. You know,
4 at the current facility all the lighting is
5 directed at areas to light those areas, the
6 towers, the walkways and there will be a minimum
7 illuminance established at some point so the
8 operators can see everything that they require.
9 I apologize. I can't tell you what that would
10 be right now, but --

11 MR. DIESCH: High-efficiency lighting and
12 those types of things will be part of the
13 project.

14 MR. HEIDENREICH: But they will be
15 downward lighting and pointed towards the plant

16 and will you light up more than the plant? Will
17 you light up your coal tile also? Will there be
18 times when you're going to need that for your
19 train unloading?

20 MR. IBSEN: If we are unloading at night
21 we'll have to have -- the unloading area itself
22 would have to be lit and then any of the
23 conveyors will have to have some lighting on
24 them to see the area where that grizzly might

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1 be, it will have some lighting, but the
2 long-term storage or the coal that might be
3 pushed out I would not expect to have anything
4 other than whatever lighting is carried over
5 from the other areas.

6 MR. GRATTON: So as part of the Special
7 Use, Tom, are you suggesting we include wherever
8 possible and wherever we can do it safely that
9 we would request downward lighting; is that

10 acceptable?

11 MR. DIESCH: Yeah, that will be fine. I

12 don't have a problem with that.

13 MR. GRATTON: Is that what your --

14 MR. HEIDENREICH: Yeah, yeah.

15 MR. GRATTON: Other items that we need to

16 include? Okay. Is there any other testimony by

17 anybody? Anybody want to be heard?

18 STAFF MEMBER: Mr. Chairman, we would like

19 to formally introduce the URS staff report --

20 staff report into the record -- the amended

21 report with the amended suggested language.

22 MR. GRATTON: Okay. Thank you, Katie. We

23 will accept that then into the record.

24 MR. ZIBART: So would that be marked maybe

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1 Staff Exhibit 1 or -- great.

2 (Staff Exhibit No. 1 marked for

3 identification.)

4 MR. GRATTON: Okay. Mark that Exhibit 1

5 -- Staff Exhibit 1. At this point we're going
6 to close this public hearing on this request and
7 I'm going to suggest that the staff work with
8 URS and prepare the findings of fact in a draft
9 form for us and Linda has indicated that the --
10 our next regularly scheduled meeting which is
11 February 28th is a very light meeting and we
12 will have time to culminate this discussion and
13 at that time we will take the findings, we will
14 review them to make sure that they have been
15 presented accurately and according to the --
16 what's been described by this Committee and we
17 will review them, we will review them in context
18 with the County's Comprehensive Plan and we will
19 review them in context with the Special Use
20 provisions to make sure that they meet those
21 requirements and we will make a recommendation
22 at that time and forward that to the County
23 Board. I'm sure we can get that done on that
24 evening. So I'm going to ask that we make a

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1 motion to continue this meeting till February
2 28th at our next regularly scheduled meeting
3 which is at 7 p.m. in the County Board room.

4 MR. JANSEN: So moved.

5 MR. TRANEL: Second.

6 MR. GRATTON: Motion by David and a second
7 by Nick. All those in favor of continuing this
8 until February 28th signify by aye.

9 (All members simultaneously
10 responded aye.)

11 MR. GRATTON: Okay. We will continue
12 then. Thank you everyone.

13 (The hearing was concluded at
14 9:12 p.m.)

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1 Now on this 15th day of February, A.D. 2007, I
2 do signify that the foregoing testimony was given
3 before the Jo Daviess County Zoning Board of
4 Appeals.

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Melvin Gratton, Chairman

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Linda Delvaux,
Zoning Administrator

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