BEFORE THE

ENVIRONMENTAL QUALITY BOARD

OF THE

PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL PROTECTION

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IN RE: BENEFICIAL USE OF COAL ASH

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BEFORE: DAN LAPATO, Chair

Scott Walters, Member

HEARING: Tuesday, December 8, 2009

1:09 p.m.

LOCATION: DEP - Cambria District Office

286 Industrial Park Road

Ebensburg, Pennsylvania

WITNESSES: Dennis Simmers, Van Plocus, Gary Anderson, John Foreman, Randy Francisco, Karen Giles, Robb Piper, Etta Albright, Shawn Simmers, Arthur Rose

Reporter: Richard J. Lipuma

1 I N D E X

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1 E X H I B I T S

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1 P R O C E E D I N G S

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3 CHAIR:

4 I'd like to welcome you to the
5 Environmental Quality Board, the EQB's, public hearing
6 on proposed regulations regarding the beneficial use
7 of coal ash. My name is Dan Lapato. I am the
8 executive policy specialist with the Department of
9 Environmental Protection's policy office in
10 Harrisburg. I am representing the EQB at today's
11 hearing. I officially call this hearing to order at
12 1:10 p.m.

13 The purpose of this hearing is for the
14 EQB to formally accept testimony on the proposed
15 regulations concerning the beneficial use of coal ash.
16 In addition to this hearing, the EQB held a hearing on
17 this proposal yesterday, December 7th, 2009, in
18 Pittsburgh. We will hold hearings tomorrow, December
19 9th, 2009, in Pottsville, and on Thursday, December
20 10th, 2009, in Harrisburg.

21 This proposed rule-making includes
22 amendments to 25 PA Code Chapter 287 and the addition
23 of Chapter 290 for the establishment of standards,
24 procedures, requirements applicable to the beneficial
25 use of coal ash.

1 Provisions of the proposal address the
2 operating requirements necessary for the beneficial
3 use of coal ash, including certification guidelines
4 for the chemical and physical properties of the coal
5 ash, water quality monitoring at sites where coal ash
6 is beneficially reused, requirements for the storage
7 of coal ash in piles and surface impoundments, and
8 improvements in the reporting requirements to track
9 volumes in locations of sites where coal ash is
10 beneficially reused.
11 The Department initiated an extensive
12 outreach in the development of this proposed rule-
13 making, including presenting the rule-making for
14 review and comment to the Solid Waste Advisory
15 Committee on March 2009, and the Mining and
16 Reclamation Advisory Board in April 2009.
17 In order to give everyone an equal
18 opportunity to comment on this proposal, I would like
19 to establish the following ground rules. One, I will
20 first call upon the witness who have preregistered to
21 testify at this hearing. After hearing from these
22 witnesses, I will provide any other interested parties
23 with the opportunity to testify as time allows.
24 Testimony is limited to ten minutes for each witness.
25 Organizations and requested to designate one witness

to present testimony on its behalf.

Each witness is asked to submit three written copies of his or her testimony to aid in the transcribing of the hearing. Please hand me the copies prior to presenting your testimony. Please state your name, address, affiliation for the record prior to presenting your testimony. The EQB would appreciate your help by spelling names and terms that may not be generally familiar so that the transcript can be as accurate as possible.

Because the purpose of the hearing is to receive comments on the proposal, the EQB or DEP staff may question witnesses. However, the witnesses may not question EQB or DEP staff. In addition to or in place of oral testimony presented at today's hearing, interested persons may also submit written comments on this proposal.

All comments must be received by the EQB on or before December 22nd, 2009. Comments should be addressed to the Environmental Quality Board, P.O. Box 8477, Harrisburg, PA, 17105-8477. Comments may also be e-mailed to regcomments@state.pa.us.

All comments received at this hearing, as well as written comments received by December 22nd, 2009, will be considered by the EQB and will be

included in a comment response document which will be prepared by the Department and reviewed by the EQB prior to the Board taking its final action on this regulation.

Anyone interested in receiving a copy of today's transcript of today's hearing may contact the EQB for further information. I would like to call the first witness now. Dennis Simmers.

MR. SIMMERS:

My name is Dennis Simmers, S-I-M-M-E-R-S. I reside at 428 Vetera Road, V-E-T-E-R-A, Ebensburg, Pennsylvania. Good afternoon. My name is Dennis Simmers and I live in Cambria Township, Cambria County. I have read many reports on today's issues and issues related to it, ranging from Earth Justice's Waste Deep to Fate and Transport by ARIPPA and others. I am not here to debate a specific technical detail. I am here to testify, in my opinion, on the wide view of the community's perspective.

I represent the sixth generation of my family to live in central and northern Cambria County. Through three successive generations, and now four with my children, we have been subjected to the hazards and detrimental consequences of discarding waste bituminous coal on the surface of the earth.

1 The effect is well known; acid mine drainage,
2 contaminated surface and ground water, hundreds of
3 acres of unfit property, public nuisances and life
4 threatening terrain, as well as air quality issues.
5 The Revloc waste coal pile, located just
6 three miles from this meeting room, was a perfect all-
7 in-one example to me of these detrimental effects.
8 From my earliest recollection until I was
9 approximately 30 years old, I can clearly recall the
10 acrid rotten egg odor and contaminated water around
11 this pile. I also recall that the pile caught fire a
12 few times resulting in smoke and odors crossing U.S.
13 Route 422.
14 I do not know how large this pile was,
15 but it certainly encompassed many tens of acres. Some
16 of the residents of Revloc bordered within feet of the
17 pile. I understand that at one time or another in the
18 past 150 years, there were approximately 24 different
19 metallurgical and steam coal mines operating in our
20 County. Each of these had a waste coal pile similar
21 to Revloc.
22 Approximately 20 years ago we witnessed
23 the arrival of the first of three waste coal-fired
24 power stations in Cambria Township. By historical
25 standards, it seemed that the coal piles were being

1 eliminated in no time. And I believe that the Revloc
2 pile, for example, has been now totally removed. What
3 took the mining industry approximately 60 to 100 years
4 to create was eliminated in less than 20 years. And I
5 believe it was at no cost to the taxpayer as well.
6 I attended the public meeting here on
7 September 29th, 2009, and heard one of the speakers
8 say that he would prefer if we let Mother Nature take
9 care of these piles and threw around the term 10,000
10 years. With all due respect to that individual, I
11 disagree on behalf of my children. I am delighted
12 that piles such as Revloc no longer exist. My young
13 children have no recollection of what was. They are
14 not subjected to the odor, smoke, dust, physical
15 hazards and unsightliness of the Revloc pile.
16 The waste coal power industry has taken
17 an unchecked, volatile situation and controlled it. A
18 waste coal pile sits there as it was placed a long
19 time ago with rain water and snow melt freely
20 dispersing heavy metals and other pollutants into the
21 surface and ground water. The waste coal ash that is
22 returned now is cement-like. And free and unchecked
23 of the pollutants is virtually eliminated when
24 compared to the open waste coal piles.
25 The ash is covered with clay and soils,

1 the area is re-vegetated with a wide variety of plant
2 species. Mammals of all kinds, insects and aquatic
3 life have returned to the sites.
4 I would like to close my comments with a
5 request. As a local resident with children, I have
6 witnessed the arrival of a substantial solution to our
7 local problem. The waste coal power industry is in
8 the process of safely remediating what I consider to
9 be Pennsylvania's number one environmental
10 catastrophe. I urge the EQB to keep the waste coal
11 power industry's unique position in cleaning up the
12 environment in mind during your consideration of ash
13 beneficial use.
14 I do not live in Boston, Washington,
15 Philadelphia, or Seattle and visit this area once in a
16 while. I live here 100 percent of the time. In my
17 opinion, waste coal-fired ash is the very definition
18 of beneficial use. It should be encouraged and not
19 made to be even slightly more financially burdensome
20 or punitive. And that's it.
21 CHAIR:
22 Thank you very much for your testimony.
23 I'd like to call Dan --- is it Plosco? P-L-O ---
24 Plocus (corrects pronunciation), I apologize.
25 MR. PLOCUS:

1 Van, V-A-N.
2 CHAIR:
3 Van?
4 MR. PLOCUS:
5 V-A-N, Plocus.
6 CHAIR:
7 Van. I apologize. Thank you. You have
8 your option of stand or sit; whatever feels
9 comfortable.
10 MR. PLOCUS:
11 Good afternoon. My name is Van Plocus.
12 I'm vice president of Coal Valley L.L.C., a division
13 of Targe Energy Company that's based out of
14 Pittsburgh. Targe Energy is in waste coal business.
15 I'm here today to provide my company's and my personal
16 comments on the proposed changes to the Pennsylvania
17 Code Chapter 287 and 290 on the beneficial use of coal
18 ash.
19 As an engineering design and permitting
20 consultant for surface, deep, and coal refuse recovery
21 projects over the past 30 years, I've been closely
22 involved with the development and placement of
23 beneficial ash throughout multiple sites in western
24 Pennsylvania.
25 Recovery of coal waste as a co-gen fuel

1 is an ongoing success story that has proven to
2 eliminate dangers associated with abandoned surface
3 mines, poorly-engineered coal refuse disposal sites,
4 and in most cases, pre-Act coal waste sites that are
5 sources of ongoing pollutional discharges, highly
6 elevated acidity, severely elevated iron and manganese
7 that are the result of acid rock drainage.
8 These cases of increased metals result
9 from spiraling iron bacteria growth which further
10 produce more acidity and further dissolve additional
11 metals, including heavy metals, that go into solution
12 and into our streams. Waste to coal has made possible
13 the economics to remove the waste, eliminate the
14 burning of the waste coal, reclamation of lands that
15 are not only an eyesore but are potential health and
16 safety hazard to our communities.
17 Replacement with beneficial ash as a
18 structural fill design, engineered lifts, compaction
19 to 90 percent of maximum dry density, gives our
20 environment a second opportunity that was being
21 impacted by streams. These streams are now being
22 brought back to life. Aquatic life is being restored.
23 And in many cases, recreational fishing has returned
24 to these areas that were once dead.
25 Beneficial ash placement at coal refuse

1 recovery sites and abandoned mine sites have been
2 preexisting pollutional discharges ever since the coal
3 industry started to dispose of waste. Improvements
4 have been documented and have resulted in significant
5 reduction of heavy metals, reduction in iron,
6 manganese, sulfates, total dissolved solids and
7 overall enhancement to the environment by converting
8 acid-producing sites to an alkaline environment with
9 successful reclamation of abandoned mine lands.
10 These sites that I've been involved with
11 have resulted in complete success stories, release of
12 reclamation bonds, restoration of sites to
13 recreational and residential use.
14 Specifically as a consulting engineer, I
15 was involved with reclamation of a site that was
16 considered a failed site called Tyler Hollywood Ash
17 Placement, Russellton Coal Refuse Recovery Project in
18 Allegheny County, and most recently Renton Mine Refuse
19 Recovery Project, as well as Clearfield Properties,
20 North Camp Run Coal Company Project and several other
21 beneficial use, no-cost reclamation projects that have
22 all been proven not to be --- to have eliminated
23 pollutional discharges and have shown that they are no
24 longer producing acid drainage.
25 The Russellton Recovery Project, which

1 was a subject of a report by the Clean Air Task Force,
2 was permitted by Allegheny Valley Resources and was
3 the site of numerous sub-chapter F limited liability
4 discharges. The site was completed in 2004. The
5 point source pollutional discharge was either
6 eliminated or significantly improved and all
7 reclamation bonds have been released.
8 The Renton Coal Refuse Recovery Project
9 in Allegheny County is the site of existing mine
10 fires, several areas of Pittsburgh deep mines that are
11 burning that are right below the refuse site, acid
12 seepage, severely elevated metals, and an inherited
13 acid seep collection system that was part of the
14 Pittsburgh Coal Company and then later became the
15 assets of Consolidation Coal Company.
16 The Renton Refuse Recovery Project has
17 been operated by Robindale Energy since the coal
18 refuse project started in 2003. After six years of
19 continuous operation and placement of over 1.75
20 million tons of beneficial use ash from the Scrubgrass
21 Generating plant, the pollutional load collected and
22 treating at Consol's A.M.D. Renton Plant, which is
23 basically a mine coal pumping project, has went from a
24 five to seven day operation to a two day operation.
25 The results of which have reduced the

1 pollution load to the mine coal and improved the
2 discharges to Plum Creek, have eliminated the hot
3 spots within the refuse disposal area and clearly
4 improved the water quality of Plum Creek.
5 Robindale Energies, as an operating
6 partner of Coal Valley, is a responsible, financially-
7 sound and innovative expert in the coal refuse
8 recovery and ash placement. Their expertise in the
9 waste coal recovery and ash placement is second to
10 none. Over four million tons of acid-producing waste
11 coal has been removed from the Renton Refuse Project.
12 The ground water is steadily improving. And the
13 stream quality improving despite continuing acid
14 discharge of Pittsburgh abandoned deep mines in the
15 surrounding area.
16 The following points are my concerns that
17 I have regarding the proposed changes to the current
18 regulations for beneficial use of ash. There has been
19 no contamination of ground water at sites where
20 beneficial-use ash has been designed, permitted, and
21 has either been completed or is ongoing. These sites
22 include the Russellton Number One refuse completed in
23 2004, the Leechburg Coal Company site also in 2004,
24 and the ongoing Renton Refuse Recovery, as well as
25 several no-cost reclamation projects that have been

1 issued as permits under DEP
2 Beneficial-use ash has a proven track
3 record for the use as an engineered placement fill
4 with compaction at 90 percent of maximum dry density.
5 That's always been the reg. It's part of the new
6 regs that are going forward.
7 Beneficial-use ash is, on an average, 35
8 to 40 percent limestone with a calcium carbonate
9 content that's usually greater than 80 percent calcium
10 carbonate equivalent. Under the new regs, beneficial-
11 use ash is not suitable as a stand alone for
12 supplemental alkaline addition to meet calculated
13 alkaline addition requirements of surface mines.
14 I think that beneficial-use ash with the
15 high calcium carbonate content should be considered to
16 be a successful --- not necessarily a standalone, but
17 a supplement for alkaline addition to surface mines
18 based purely on the 35 to 40 percent of calcium
19 carbonate that is in the ash.
20 Beneficial-use ash can be placed so as
21 not to set up and thus reduce its alkalinity-
22 generating potential. In many cases, the operator's
23 ability to supplement their alkaline addition
24 requirements is proposed to not be permitted by the
25 new regulations. This is a waste of alkaline material

that could be used at active and abandoned surface mines.

The use of beneficial-use ash as a capping material to provide low permeability layers to be incorporated into many of the abatement plans or isolation of toxic materials by design to prohibit or minimize the amount of infiltration into the toxic zones is a huge benefit to both sub-chapter F sites and abandoned mine sites where reclamation and re-handling the material is required.

Coal ash as a soil substitute or soil additive is an excellent source of alkalinity to sites with low soil pH, and in many cases, no soil at all. Tests can be easily done on the background metals within the soils to design a placement of alkaline ash as a soil additive that can enhance vegetation growth and improve sites for post-mining reclamation.

In closing, I want to commend the Department for their recognition of the benefits of the waste coal industry and their ability to provide reasonable regulation and direction of the use of alkaline ash. However, recent governmental actions and threatened actions are counterproductive to the cost-effectiveness of waste coal utilization and reclamation of waste coal sites within the state.

1 The use of waste coal as an industry is
2 vital to the Pennsylvania economy. Planning for long
3 term power purchase agreements that provide little or
4 no ability for contractual agreements to absorb cost
5 increases associated with tax and regulatory changes
6 is harmful to the industry that Pennsylvania has
7 become a model and a leader.
8 The adverse effect that any such
9 increases in tax and compliance costs may have on
10 these facilities, and the beneficial land reclamation
11 services they provide to the state and the citizens,
12 must be considered before any such adverse tax or
13 regulatory changes are adopted. In closing, I'd like
14 to thank the Environmental Quality Board for seeking
15 input into this important issue. Thank you.
16 CHAIR:
17 Thank you. Gary Anderson.
18 MR. ANDERSON:
19 My name is Gary Anderson, 2640 New
20 Germany Road, Ebensburg, Pennsylvania. Good
21 afternoon. Let me introduce myself. My name is Gary
22 Anderson and I am the plant manager at Ebensburg Power
23 Company, which is located within one mile of these
24 offices. I want to thank the Environmental Quality
25 Board for this opportunity to speak to the proposed

1 changes to the beneficial use of coal ash regulations.
2 Ebensburg Power, which I'm going to refer
3 to as E.P.C., is a Co-Generation facility utilizing
4 waste coal to produce electricity for sale to Penelec
5 under a fixed price contract that continues through
6 May of 2013. The facility also supplies steam to the
7 Ebensburg Center, which is a state-owned and operated
8 facility for the disadvantaged. The facility has been
9 in operation since 1991. E.P.C. is also a member of
10 the ARIPPA trade organization which is comprised of 13
11 waste coal-fired electric generating plants located in
12 both the anthracite and bituminous regions of
13 Pennsylvania.
14 Due to time constraints today, I would
15 like to limit my discussion to the following three
16 points. The first one being E.P.C., as well as other
17 operators, have successfully performed reclamation
18 activities with the use of beneficial coal ash under
19 existing regulations. Later I will briefly discuss
20 E.P.C. reclamation of the Revloc site with beneficial
21 coal ash generated from a circulating fluidized bed
22 boiler.
23 The second point, the cost of
24 environmental compliance has become overbearing and,
25 for the past five years, has significantly exceeded

1 any comparison to consumer price index. These
2 compliance costs that I am talking about do not
3 include consumables such as limestone or ammonia to
4 meet the air emission limits, but rather I'm talking
5 about the costs associated with proving compliance
6 with environmental regulations as well as the permits
7 and emissions fees. These unfair cost burdens are
8 life-threatening to the waste coal plants due to their
9 fixed price contracts, their small size, and the high
10 cost associated with waste coal plant operations.
11 My third point, the increased cost for
12 the beneficial use of coal ash that's being proposed
13 here severely restricts the operators from reclaiming
14 the hundreds, if not thousands, of small piles unless
15 there is a place to put the ash. And therefore, it is
16 critical that the existing large refuse piles continue
17 to be allowed to be rebuilt under 290.104, Section 6;
18 projects involving multiple refuse processing sites.
19 Further, for both economic and
20 environmental reasons, the placement of reprocessed
21 refuse rejects from various sources should be allowed
22 to be incorporated into these reclamation projects as
23 long as the blending of the outside fuel allows for
24 the removal and processing of marginal refuse that
25 otherwise would've been left behind and the other

criteria in Section 6 are also being met.

Let me talk a little bit about the Revloc site. E.P.C. initiated the reclamation of the Revloc One site in 1990 and the Revloc Two site in 1997. And while the Revloc Two site has been completed, the Revloc One site is almost complete. In all, E.P.C. has removed approximately three million tons of refuse material from these abandoned mine lands and returned beneficial use coal ash under the existing beneficial use regulations as part of the final reclamation.

I attached some photos with the documents here that show the site prior to reclamation, site conditions in 2004, and a picture from last year. The reclamation project dramatically changed the landscape from a black moonscape to a green, contoured field. In addition, the adjacent south branch of the Blacklick Creek changed from a dead, red-looking stream to a vibrant living water environment.

The reclamation project's use of beneficial ash to neutralize the acidic material of the coal refuse increased the pH of the stream from about a 2.9 to a pH of 6.2. I also attached some ground water monitoring data from the Revloc Two site, comparing the water quality prior to and after reclamation. The data indicates thousands of pounds

of metals, such as aluminum, manganese and iron that would have entered in the stream from the abandoned mine lands has been eliminated.

According to the Pennsylvania DEP, the stream now has trout spawning areas and the number of live vertebra has increased from a 2 to about 13, resulting in the reclassification of the stream. The significant improvement to the water quality of the stream has resulted in a DEP water quality program looking to establish a lower discharge temperature for our plant's N.P.D.E.S. discharge program in order to protect the trout, which is a cold water fishery.

E.P.C. is undergoing a stream study at this time at the point of plant's discharge to determine if the temperature impact is valid. This further validates the environmental benefits being achieved at no cost to the taxpayer. But it also highlights the additional environmental compliance cost of yet another regulation.

The E.P.C. has started the reclamation of the Nanty Glo sites located on both sides of Route 271 as you enter the Nanty Glo borough from the south. I've also attached pictures of these sites prior to reclamation. As you can see, these are large abandoned mine land sites that overwhelm the local

1 community. Without the use of beneficial coal ash, in
2 all probability, these sites would never be reclaimed
3 and the acidic water runoff from these sites would go
4 on for perpetuity.
5 I also attached another chart that kind
6 of goes over the costs. This chart shows that over
7 time the cost of environmental compliance compared to
8 the consumer price index, and the unit contracted
9 price for electricity, all in 1992 dollars. The chart
10 is revealing and tells a dramatic story. If you look
11 at the year 2009, this year, the 1992 unit value of
12 electricity is $1.20. The C.P.I. $1.60. And the
13 environmental compliance cost value is $2.40.
14 In other words, the 2009 revenues are
15 down 25 percent relative to the C.P.I. The
16 environmental compliance costs are up 50 percent.
17 Obviously this economic dynamic cannot continue. The
18 livelihood of Pennsylvania waste coal plants are at
19 stake.
20 From a local perspective, there are three
21 waste coal plants, including E.P.C., Colver, and
22 Cambria Co-Gen in Cambria County. Together these
23 plants employ directly 224 local residents and
24 indirectly employ another 330. Recent wage surveys
25 revealed an average gross income amongst the direct

1 hourly employees of $70,000.
2 Local spending by the plants approaches
3 $25 million. Obviously the ability to remain
4 economically viable would significantly impact the
5 area economically, but it would also stop the
6 reclamation of the refuse piles and the benefits of
7 removing the A.M.L. runoff that is polluting our
8 streams.
9 In summary, E.P.C. recommends that the
10 use of beneficial coal ash be continued under the
11 existing guidelines with some modifications based on
12 the National Academy of Science report, as well as the
13 successful experience Pennsylvania has seen with the
14 use of beneficial coal ash, particularly the use of
15 circulating fluidized bed coal ash due to its peculiar
16 properties related to its alkalinity.
17 E.P.C. will make detailed comments to the
18 proposed regulations as part of the ARIPPA
19 organization. I'd like to thank you for your time and
20 consideration in this very important matter.
21 CHAIR:
22 Thank you. Next, John Foreman.
23 MR. FOREMAN:
24 John Foreman, F-O-R-E-M-A-N, 1523 Grant
25 Avenue, Altoona, PA. You've already heard that. Most

1 of you know me. Yesterday I attended the Pittsburgh
2 session. The testimony that was given by participants
3 there was broad and diverse. Some of the participants
4 were for the proposed rule-making, some were opposed.
5 But in my opinion, very little science was presented
6 there.
7 In the interest of time, I'm going to
8 move down to the qualifications section of this. This
9 is for the attorneys. Nothing in this testimony shall
10 be construed to be the position of my corporation nor
11 shall any part of this testimony be construed to be
12 the position of any past or current client nor shall
13 any part of this testimony be construed to be the
14 position of any surface or mineral estate owners that
15 I represent, nor shall any part of this testimony be
16 construed as the position of any of the watershed
17 associations that I assist. This testimony is my
18 assessment of the proposed rule-making as a
19 Pennsylvania citizen.
20 Invoking the principle of full
21 disclosure, I have assisted and am currently assisting
22 many Pennsylvania estate owners in reclaiming
23 abandoned refuse sites across many counties in the
24 Commonwealth. While my refuse pile reclamation
25 efforts are frequently as a compensated professional

1 design consultant, I have personally donated various
2 substantial commitments in time, field reconnaissance,
3 system analysis, hydrogeologic monitoring and
4 assessments, and field, design and construction
5 services to watershed associations.
6 Prior testimony that I gave centered on a
7 top-down approach to this. Today I'm going to attempt
8 to do a bottom-up approach to the analysis of the
9 proposed rule-making and examine the small-scale
10 nature of ash from an individual standpoint. The
11 timeline for this testimony starts in the 1850s and
12 progresses forward today, and most importantly, I hope
13 looks forward in time.
14 In order to achieve an understanding of
15 the personal responsibilities citizens have with
16 respect to this proposed ash rule-making, I decided to
17 use some of the best approaches known to science.
18 First, I dare to stand on the shoulders of the
19 scientific giants that went before me in order to get
20 a clearer view of the large picture.
21 Second, I dare to step back in time to
22 try and gain a perspective of the effects of evolution
23 on this subject. Third, I dare to integrate the view
24 from the shoulders of these scientific giants within
25 the perspective of time. Finally, I dare to stand

1 before you and present these findings.
2 To accomplish this bottom-up analysis, I
3 started with those stakeholders that historically have
4 the least leverage in these and proceed forward in
5 time with stakeholders that have successfully greater
6 leverage. As is often the case, those with the least
7 to gain and frequently the least input in the process
8 nevertheless will contribute the most to the solution.
9 However, before discussing the
10 ramifications of the proposed rule-making on these
11 stakeholders, a clear perspective of the magnitude of
12 the reclamation challenges facing these stakeholders
13 must be presented. This is now the coal ash in
14 Pennsylvania section.
15 First, an approximate timeline division
16 is made. And I'm just making this real simple.
17 Almost all ash at some point and all coal byproducts
18 result from coal preparation. Coal preparation has
19 historically been done in two basic manners. Called,
20 the first one, pre-modern preparation, which is
21 essentially civil war period until about 1950. There
22 were relatively few coal preparation plants processing
23 coal before 1950.
24 Most coal was cleaned by manual methods
25 where employees sat at picking tables and manually

1 sorted run of the mine coal, keeping the lustrous
2 lumps for sale and use, discarding those with
3 impurities. Most of these piles are typically
4 reprocessed and combusted today by Co-Gen plants. And
5 the resulting coal ash is highly alkaline.
6 After 1950, the number and efficiencies
7 of modern preparation plants greatly increased. Coal
8 was mechanically and physically separated using ---
9 coal refuse and reject was mechanically and physically
10 separated using screens, centrifuges, heavy media, et
11 cetera, where much of the coal is cleaner than that
12 processed by manual methods.
13 While the plant rejects are disposed of
14 in permitted piles, these piles are comparatively
15 small due to the plant processing efficiencies. They
16 get most of the product out and really only have the
17 stuff that isn't good product. And those remnant
18 piles are occasionally processed by Co-Gens. However,
19 most of this coal in the modern era goes to electric
20 fire coal power plants where combustion ash is
21 disposed of in permitted ash facilities.
22 In comparing the timeline for coal
23 production in Pennsylvania from 1850 to present, the
24 modern advent of preparation plants occurred only
25 during the last third of this timeline. Even more

1 recent is the requirement for power plants to scrub
2 emissions, resulting in a much more high alkaline ash
3 byproduct.
4 To understand the historic prevalence in
5 time-weighted distribution of coal ash in
6 Pennsylvania, you really first have to understand the
7 history of mining in Pennsylvania. I've extracted
8 four exhibits that I use in other presentations. And
9 this is called the historic summary of Pennsylvania
10 coal production. It's a real simple. But you can see
11 this first exhibit is a simple graph that shows the
12 production of coal in Pennsylvania.
13 Note that significantly more total coal
14 production occurred between 1850 and 1950 than has
15 occurred from 1950 to present. To help you all out
16 with the timeline, 1950 is approximately here. You
17 can see the large volume of coal produced versus post
18 '50, when the Pennsylvania levels are much reduced
19 from historic. This means that the vast majority of
20 un-reclaimed mine sites and refuse piles are pre-Act
21 where hand sorting of refuse was the primary method of
22 cleaning coal.
23 The other thing that this shows, and it's
24 very tough to see because the two lines run on top of
25 each other at least out until the 1940s and '50s, is

1 that the vast majority of tonnage mined in
2 Pennsylvania was by the deep mine method and that the
3 advent of significant surface mining approximately
4 corresponds to the modern 1950 to present time period.
5 The production is essentially bimodal,
6 normally distributed to here and other normal
7 distribution --- if you look at those distributions,
8 you'll find that these peaks center around World War I
9 and World War II. It is also true that the
10 interruptions in supply, places where you're seeing
11 these large drops, are correlated to two primary
12 things.
13 First, union strikes by the U.M.W.A. And
14 second, demand reduction during the Great Depression,
15 the slow spot there. One of the things I think is
16 important for everybody to realize, that these peaks
17 during World War I and World War II were in response
18 to the United States government's plea to citizens to
19 make significant sacrifices to assure victory.
20 One instance of this is during World War
21 II, it was illegal to use fuel to backfill surface
22 mines. That was a treasonable offense. So while the
23 people that are here that oppose this want to demonize
24 the industry and they want to demonize the ash, you
25 should step back and realize that the reason you have

1 your freedoms is because of what this industry has
2 meant to this country.
3 I have a second exhibit. And I'm going
4 to move a little faster here. This essentially shows
5 that same total production and now it shows the
6 bituminous portion of that, both deep mine and
7 underground mine. The only thing that's important to
8 note here is that this essentially mirrors the overall
9 production. Again, it has bimodal trends with peaks
10 from World War I and World War II, lower areas during
11 the Great Depression and the effects of U.M.W.A.'s
12 strikes.
13 As you might expect, if we're going to
14 discuss bituminous, we should also look at the
15 anthracite --- pardon me, the anthracite side of this.
16 And again, we have the same type of thing, that the
17 anthracite production compared to the bituminous is a
18 much smaller portion of the total. Two minutes?
19 Thank you, sir.
20 Okay. The final graph shows where coal
21 has been historically mined in Pennsylvania on a
22 county by county basis. It's not hard to see when you
23 look at this two-thirds, maybe three-quarters, of the
24 state has coal reserves. And that means that if coal
25 is mined in there, and most of it was mined before the

1 advent of modern coal preparation, there's going to be
2 refuse piles. Virtually every county, with the
3 exception of the great Philadelphia area and a little
4 bit of the more agricultural non-coal regions in
5 Pennsylvania and Erie, has been affected and continues
6 to have these types of problems. One primary issue
7 with the proposed rule-making is that it addresses
8 only current and future ash sites and practices.
9 I want to get back to the critical
10 stakeholders and there's two of them. The first is
11 watershed associations. First and foremost, recall
12 that for the most part these worthy associations are
13 Pennsylvania citizens that volunteer their time and
14 resources to improve watershed conditions. These
15 citizens did not --- these groups did not even get a
16 footnote in the proposed rule-making despite their
17 importance in affecting watershed health.
18 Many of these organizations have come to
19 the correct realization that reclaiming pre-Act mining
20 sites can only be accomplished by acquiring low cost
21 alkalinity used to neutralize their problems. There
22 are no specific exemptions for reclamation projects
23 conducted by these groups in the law. Recall that
24 these volunteer organizations have no means of
25 creating economic wealth and there cannot afford to

1 construct, maintain, sample, or analyze water from
2 projects that exceed the 100,000 ton limit.
3 Further, many members that I discussed
4 this with declined to testify, even though they don't
5 agree with many of the aspects of the proposed rule-
6 making. They fear political reprisal in the form of
7 reduced grant funding, or worse, complete elimination
8 of funding. There are no specific funding initiatives
9 for reclamation projects to be conducted by these
10 groups.
11 Moving on quickly. The second is
12 property owners. Moving one rung off the bottom, the
13 people that are getting shorted in this are property
14 owners. We find that these people's real estate
15 values are affected adversely by the presence of un-
16 reclaimed mine sites and abandoned coal refuse piles.
17 The proposed rule-making seems to treat property
18 owners as second-class citizens.
19 Amazingly, in the current format, the DEP
20 gets to make the decision on whether beneficial ash is
21 needed as part of the reclamation process. The
22 property owner's determination of appropriate land use
23 and desirable environmental restoration is subjugated
24 and only the Commonwealth gets to decide whether
25 beneficial coal ash is necessary.

1 How can any objective observer not see
2 the potential for abuse here? Property owners better
3 stay in good graces with local elected officials and
4 the party in power so they do not find themselves in
5 the adverse situation where a pre-Act site in
6 desperate need of alkalinity are shorted as payback.
7 Some say this is unrealistic. But politics affecting
8 state agency decisions is not without precedent.
9 Finishing up, last paragraph. The
10 proposed coal ash rule-making clearly needs to be
11 written to reestablish and affirm the rights of
12 property owners to determine appropriate land uses on
13 their property and subjugate the Commonwealth's
14 position assuring that the desired land use and
15 reclamation activity proposed does not have an adverse
16 environmental impact. Pennsylvania property owners'
17 rights cannot be continued to be trampled by
18 regulations. There's also a need for local and county
19 municipalities to have some input in this. They too
20 have been hugely shorted in this process. Thank you
21 for your time.
22 CHAIR:
23 Thank you. Beverly Braverman? Randy
24 Francisco/Sierra Club. I didn't see you coming up.
25 MR. FRANCISCO:

1 My name is Randy Francisco. I live at
2 5820 Stanton Avenue in Pittsburgh. I'm here today not
3 to testify personally, not as a --- I represent the
4 Sierra Club. And these are the official comments of
5 the Sierra Club ---.
6 CHAIR:
7 Okay.
8 MR. FRANCISCO:
9 I'm here today to testify before the
10 Environmental Quality Board in opposition to the draft
11 rule to the beneficial use of coal ash. I don't
12 believe there's a beneficial use for this toxic
13 industrial waste produced by coal-burning power plants
14 in the first place.
15 Coal ash is filled with toxic chemicals
16 and heavy metals, such as aluminum, chloride, iron,
17 manganese, sulfate and toxic trace elements such as
18 arsenic, selenium, lead, mercury, cadmium, nickel,
19 copper, chromium and boron and zinc. And being that
20 Pennsylvania is the third largest producer of this
21 waste, generating over nine million tons per year, I
22 don't think we should allow this toxic substance
23 anywhere near our drinking water. And this rule in no
24 way assures me of that.
25 I am a community organizer who works in

areas of the state affected by coal combustion waste. And those communities depend on the Department of Environmental Protection to protect their health and well-being by protecting the water that they drink. And for reasons I'll go into in this testimony, I don't believe this draft rule does anything to protect these communities and, in fact, could do serious damage to their water supplies.

This has the continued effect of seriously eroding the trust these communities hold in the Department that was setup to protect them. I also don't see why the Department should begin this process just ahead of another rule-making process on coal combustion waste slated to be announced later this month by the Environmental Protection Agency of the federal government.

In fact, there are two coal ash hearings being held this week in the U.S. House of Representatives, one in the Energy Environment Committee, and the Water and Resources Environment Subcommittee. During the extensive debate this summer over the Pennsylvania state budget, the Department of Environmental Protection's budget was cut by a significant amount, more than any other department in the state. Therefore, given the federal rule-making

1 process that is about to start, we should most likely
2 have to go through this process we are going through
3 today all over again, wasting taxpayers' money.
4 But given the Department is insisting on
5 moving forward with this process, I will direct the
6 remainder of my testimony to the deficiencies in the
7 draft rule.
8 Throughout their proposed guidelines, I
9 see phrases such as at the discretion of, with
10 Department approval, if the Department so chooses.
11 These phrases leave significant loopholes in the
12 guidelines and leave enforcement up to the discretion
13 of the Department of Environmental Protection. As we
14 have seen in many instances, enforcement action is
15 significantly lacking at this Department. And with
16 the significant budget cuts to the Department, we can
17 only expect enforcement to become more inferior as we
18 move into the future.
19 One of the instances where the phrase the
20 Department may waive or modify this requirement occurs
21 in the section devoted to how closely coal ash can be
22 placed to ground water. This is particularly
23 disturbing considering that over 978,000
24 Pennsylvanians get their water from private wells.
25 I grew up on a farm in northwestern

1 Pennsylvania where we got our water from a well. If
2 coal combustion waste would've come in contact with
3 our water supply, I don't know that we would've ever
4 actually known it until it was too late. Most folks I
5 know in Pennsylvania have an innate trust that the
6 water in their wells is clean and that they most
7 likely don't test as often as they should. In all the
8 years I lived on that farm, I don't remember ever
9 getting our water tested.
10 If our well would've become contaminated
11 with toxic coal ash and heavy metals, the waste, it
12 might've taken years before we would've --- we
13 would've been already dealing with the consequences.
14 And this is just not acceptable.
15 Anywhere that this toxic waste is placed
16 for long term storage should be lined with a synthetic
17 composite liner and be placed so that there's no
18 possible way that it can come in contact with
19 Pennsylvania's drinking water supply.
20 Another place where the draft rule is
21 severely lacking is in the monetary requirements. The
22 Pennsylvania Environmental Hearing Board invalidated
23 Pennsylvania DEP Coal Combustion Waste monitoring
24 plan, saying the system is simply not capable of
25 detecting contaminants that leave the site. If the

1 project result --- and I'm quoting this by the way.
2 If the projects result in groundwater pollution, no
3 one would know it.
4 The monitoring plan merely creates the
5 illusion of protection, which is arguably worse than
6 no monitoring at all. This is truly unacceptable and
7 the Department acted unreasonably and in violation of
8 the law in concluding otherwise. The U.S. Interior
9 Board of Land Appeals ruled that the PA DEP's failure
10 to properly monitor ash contamination threatened the
11 public water supply wells in the borough of Tremont,
12 PA.
13 The rule should also require
14 comprehensive long term water quality monitoring at
15 all coal ash mine placement sites. At least 30 years
16 of quarterly monitoring after ash placement is
17 finished should be required. Currently the draft rule
18 only requires ten years of monitoring; in the last
19 five years, only annual monitoring. This more
20 comprehensive monitoring would ensure that if
21 something were to go wrong at the site, the public
22 would have ample time to take the necessary action to
23 protect themselves.
24 If corrective action is needed and toxic
25 chemicals leak from the site, leaving the judgment up

1 to Department staff to decide when a significant
2 change in the quality of groundwater or surface water
3 from the background level occurs, and does not ensure
4 that communities are protected from pollution. And it
5 does not ensure that the sites that leak are
6 investigated before the major contamination of
7 groundwater occurs.
8 Rather than allowing operators or the
9 Department to debate whether there is a risk of
10 groundwater contamination, the rules should set
11 requirements that will trigger investigation. This
12 will ensure that groundwater degradation will promptly
13 be investigated. The objective should be to
14 investigate and address increased contaminants onsite
15 before the offsite public or private water supplies
16 are contaminated.
17 The way the rule is currently written,
18 taxpayers are at significant risk. Taxpayers should
19 not be saddled with the potential clean up costs nor
20 residents victimized by the contamination while those
21 who profit from the placement are shielded by
22 premature release of bonds, corporate disillusionment,
23 or bankruptcy. Financial assurances should be
24 required to be posted by operators before a permit can
25 be issued, and it should be maintained throughout the

1 required monitoring of the site in amounts sufficient
2 to monitor and abate pollution from the ash.
3 We are already dealing with the cleanup
4 of acid mine drainage sites throughout the state
5 leftover from the days of unregulated coal mining.
6 Please don't make the problem worse and leave
7 taxpayers picking up the tab again.
8 In conclusion, I'm very concerned about
9 the weakness in the guidelines, as well as the fact
10 that the entire rule-making process is ill-timed and
11 is a frivolous use of resources. The process is also
12 denying people in affected communities that have jobs
13 they cannot get away from at 1:00 p.m. on a weekday
14 afternoon from participating.
15 I would like to ask that future hearings
16 be conducted at a time and date to allow maximum
17 participation so that you may hear from more of the
18 people, the people that I talk to every day, who will
19 be affected by the policy you are setting. I believe
20 that the rule you are proposing in this draft will
21 have a detrimental effect on millions of Pennsylvania
22 citizens and all of them should be allowed to be heard
23 openly at this hearing.
24 CHAIR:
25 Thank you. Michael Nixon? Beverly

1 Braverman? At this time, I would like to open the
2 floor to any person attending the hearing who would
3 wish to present testimony. I see at least one hand
4 here ---.
5 MS. GILES:
6 I was on the list.
7 CHAIR:
8 Oh, were you? I'm sorry.
9 MS. GILES:
10 Karen Giles.
11 CHAIR:
12 I don't see you. But do you mind if we
13 ---?
14 MR. WALTERS:
15 Go ahead.
16 CHAIR:
17 Okay. Karen. I apologize you weren't on
18 my list.
19 MS. GILES:
20 My name is Karen Giles. I live on 127
21 Fernwood Drive, Portage, Pennsylvania. I am a
22 concerned citizen that thinks that we should solve our
23 healthcare problems by eliminating the cause of the
24 health problems.
25 Coal ash contains mercury, lead, arsenic

1 and aluminum. A U.S. Environmental Protection Agency
2 report released earlier this year found the cancer
3 risks are much higher for those living near unlined
4 coal ash disposal sites. According to the E.P.A.,
5 studies have linked long term exposure to arsenic in
6 drinking water to cancer of the bladder, lungs, skin,
7 kidney, nasal passages, liver, and prostate.
8 A long term Cincinnati lead study found
9 that childhood exposure to lead can cause permanent
10 brain damage. The 33 adults who were enrolled as
11 infants had I.Q. deficiencies and histories of
12 juvenile delinquency and criminal arrests. The area
13 of their brains responsible for inhibitions was damage
14 by lead exposure. A study done in France reports that
15 drinking water with high aluminum concentrations may
16 increase the risk of developing Alzheimer's and
17 dementia.
18 According to the National Resources
19 Defense Council, exposure to mercury can lead to
20 develop mental problems in infants and young children,
21 affecting the way they learn to think, memorize, and
22 behave. Infants, young children, and women of
23 childbearing age are at the greatest risk for mercury
24 as mercury can pass through the human placenta to
25 developing fetuses and through breast milk to nursing

1 infants.

2 Prenatal and infant mercury exposure can
3 cause mental retardation, cerebral palsy, deafness and
4 blindness. Even in low doses, mercury may affect a
5 child's development, delaying walking and talking,
6 shortening attention span, and causing learning
7 disabilities.

8 The association between environmentally-
9 released mercury, special education, and autism rates
10 in Texas was investigated. There was a significant
11 increase in the rates of special education students
12 and autism rates associated with increases in
13 environmentally-released mercury. On average, for
14 each 1,000 pounds of environmentally-released mercury,
15 there was a 43 percent increase in the rate of special
16 education services and a 61 percent increase in the
17 rate of autism.

18 In adults, mercury poisoning can
19 adversely affect fertility and blood pressure
20 regulations, and can cause memory loss, tremors,
21 vision loss and numbness of the fingers and toes. A
22 growing body of evidence suggests that exposure to
23 mercury may also lead to heart disease.

24 The National Academy of Sciences panel
25 warned some children exposed to mercury in utero by

1 their mother's fish consumption are at risk of falling
2 in the group of children who have to struggle to keep
3 up in school and who may require remedial classes of
4 special education.
5 As a former home economics teacher who
6 has studied nutrition, I know we need fish in our diet
7 to get enough Omega-3 fatty acids to decrease the risk
8 of heart disease. Fish is also an important source of
9 protein and Vitamin D. But while our fish are
10 contaminated with mercury, instead of eating more fish
11 for the health benefit, we have to limit the fish we
12 eat to avoid toxins. It is unacceptable that the fish
13 caught in Pennsylvania are not safe to eat.
14 Health experts encourage everyone to
15 drink at least eight glasses of water a day. But a
16 2007 E.P.A. report confirms that pollution from coal
17 ash contaminates the groundwater and significantly
18 increases both cancer and non-cancer health risks. It
19 is unacceptable, unsafe and fiscally irresponsible if
20 our water is not safe to drink. No more coal ash
21 should be dumped into mine sites unless it is proven
22 to be safe.
23 It may take time for heavy metals to
24 leach off the site so any groundwater or surface water
25 that could be contaminated by coal ash must be

1 monitored long term, not just for a few years, to
2 ensure that there is no contamination. Coal ash and
3 sludge from ponds must be treated as hazardous waste
4 and the strongest standards must be set for coal waste
5 disposal.
6 Corrective actions should be included in
7 the regulations so that those responsible for any
8 damage will be held accountable, not the taxpayers.
9 The proposed regulations should not contain words such
10 as at the discretion, or with the Department's
11 approval, or if the Department chooses. This type of
12 wording severely limits the enforcement needed to
13 protect our health. We need fully enforceable
14 regulations, not just guidelines.
15 These protections should be in place
16 before PA DEP allows additional dumping of toxic coal
17 ash in PA's mine sites. Strong, clear, enforceable
18 regulations will not only protect the health of the
19 people of PA, but will save the State money that is
20 required for healthcare, special education and cleanup
21 when coal ash contamination occurs.
22 CHAIR:
23 Thank you. At this time, is there
24 anybody else that registered? All right. Then at
25 this time I will call this gentleman up to the front

1 and then ma'am ---.

2 MR. PIPER:

3 My name's Robert W. Piper, Jr. I'm the
4 manager at the Cambria County Conservation District.
5 Our address is 401 Candlelight Drive, Suite 221,
6 Ebensburg, PA, 15931. I want to thank the opportunity
7 to appear before the Board today and make this
8 testimony concerning beneficial use of coal waste
9 byproducts.

10 This letter I'm presenting addresses
11 beneficial use of coal waste combustion and
12 byproducts, commonly called fly ash, that is derived
13 from many area waste coal electrical generation
14 stations here in western Pennsylvania. With the
15 development of four coal waste fired stations in the
16 region, three beginning in the immediate Ebensburg
17 area here, the burning of waste coal has had a
18 significant positive environmental impact.

19 It has a clear benefit to the watershed
20 restoration efforts in our county where the landscape
21 has been scarred for so long from previous mining
22 activities. This has resulted in the cleanup of the
23 rural communities and the countryside by eliminating
24 many rock dumps from the pre-Act mining. Water
25 quality is also improved through the removal and the

1 return of fly ash to those sites to stabilize
2 abandoned mine drainage that ran into many of our
3 local streams.
4 Since 1999, the Cambria County
5 Conservation District has also taken advantage of the
6 ability of fly ash to use on-farm stabilization
7 projects. We work with the Department of
8 Environmental Protection and the U.S.D.A.'s Natural
9 Resources Conversation Service to develop a beneficial
10 use permit for this application.
11 A feasibility study showed no runoff from
12 any under drains placed at the initial project sites.
13 Stabilization of heavy use areas on the farm is the
14 primary focus. To date we have completed six projects
15 valued at more than $46,000 and have used --- 2.8
16 million tons of coal combustion product beneficially
17 used. These sites are monitored and are very
18 functional.
19 A brief description of each of the
20 project follows. We have six projects there. The
21 first one was the Leiden farm we did in 1999. The
22 coal combustion byproducts were used for a feedlot
23 location behind the barn. To prevent destabilization,
24 a 40' by 90' feedlot pad was constructed behind the
25 barn away from the paddock, and a gutter and downspout

1 system was installed on the barn to --- safe outlet of
2 roof water.
3 The Hogue farm completed in 1999.
4 Description. The coal combustion byproducts were used
5 in a heavy use area for farm equipment, tractors, skid
6 loaders and wagons. Four inches of Styrofoam were
7 placed around the buildings to allow for ash
8 expansion. A 60' by 45' roadway was installed between
9 the pad and the bunk silo. And this road was widened
10 15' in front of the bunk silo. Plans are now being
11 made to amend the existing fly ash pad.
12 In 2009, we did that. We used coal
13 combustion byproducts to reconstruct the heavy use
14 area from farm equipment, tractors, skid loaders and
15 wagons. The roadway and the pad were reconstructed
16 and expanded with new methods of water applications
17 now shown to make the pad more solid and stable. And
18 that Hogue farm was one of the areas that we did the
19 runoff study on.
20 The Dumm farm was completed in 2005;
21 another coal combustion byproducts material were used
22 for feedlot area stabilization. The area was
23 completed primarily for use in the winter time.
24 2007-2008, the Vale Wood farms. Coal
25 combustion byproducts were utilized to stabilize the

1 heavy use area behind the barn. The fly ash was
2 installed in compacted six inch lifts to a depth of 18
3 inches. In addition to fly ash, a layer of driving
4 surface aggregate was applied for additional
5 stability.
6 That D.S.A. is a term we use with dirt
7 and gravel roads program. We borrowed that from that
8 application that we have a program here in
9 Pennsylvania for. The area is currently being used to
10 hold animal feed. Water was added at the rate of 40
11 gallons per ton to aid in compaction.
12 Other projects --- and the last one was
13 done in 2008, the McNulty farm, where coal combustion
14 byproducts were used to stabilize an alleyway feeding
15 area. The ash was applied in 18 inch depth and water
16 was added, 40 gallons per ton, for proper compaction.
17 Current totals in Cambria County from all
18 the projects completed from just these three Cambria
19 County waste coal power stations, is approximately 29
20 million tons of waste coal recovered. And that
21 reclaimed 739 acres of land. And we think that's
22 significant.
23 We urge continued allowable use of this
24 material for beneficial use. It is important to the
25 reclamation of our rural landscape and the cleanup of

1 our polluted water from abandoned mines and their
2 associated coal refuse piles.
3 In 2008, the Cambria County Conservation
4 District developed a strategic plan and identified
5 four critical needs. One of those critical needs is
6 remediation of abandoned mine drainage into our
7 polluted streams. We proposed no additional
8 restrictions to access or application to fly ash for
9 beneficial use as we have experienced with the cleanup
10 of the environment.
11 The waste coal use industry is a crucial
12 partner in this environmental effort to clean up so
13 desperately needed in our region. Thank you.
14 CHAIR:
15 Thank you.
16 MS. ALBRIGHT:
17 My name is Etta Albright, E-T-T-A, A-L-B-
18 R-I-G-H-T. And I refer to myself as an advocate for
19 Stewardship and Sustainability for Goodness Sake. And
20 my address is 429 Howard Avenue, Cresson, PA, 16630.
21 And I'm here as a citizen. Years ago I was involved
22 in questioning the amount of mercury in the Cresson
23 mountain rain and snowfall, which according to a 2003
24 National Wildlife Federation report, was reported to
25 be the highest in the United States and Canada.

1 With this and other information, I
2 advocated for not allowing a coke plant to be built in
3 the Ebensburg area because of a potential for more
4 pollutants being released into the environment due to
5 this 2005 federal legislation that allowed plants in
6 economically deprived areas exemption/modification of
7 using profit-cutting pollution controls.
8 Out of the efforts addressing local
9 environmental issues, the concept of Stewardship and
10 Sustainability for Goodness Sake evolved, and a copy
11 is included for your reference. In this concept is
12 emphasis on the partnership among business and
13 industry, consumer citizen, and government, and the
14 use of natural resources so that all damaging harm can
15 be avoided.
16 It requires open and honest discussion
17 and it requires recognition that this partnership is
18 vital for what we define as quality of life. That
19 partnership cannot be emphasized enough because
20 there's a trust among the partners that the trust and
21 authority given to them is front and center to do no
22 harm.
23 I think in the testimony given today
24 there is not an existence of that trust and there is
25 not the kind of collaboration that I would expect

among the government, which is represented by the E.P.A., and the business and industries represented here today, and of course, the citizens, like clubs like Sierra Club, that are trying to do the right thing. I think we need to do tremendous work on that.

As far as this current issue of coal ash and toxic effects --- the word toxic is enough to draw your attention to a public meeting like this. I do not know or understand the threat it poses for our immediate area. However, if it is such an issue to warrant scheduling this meeting, I feel the need to be here and understand my role in the partnership of Stewardship and Sustainability for Goodness Sake.

I can offer this. Many times I have come out of my house to be greeted by noxious acidic-like odors, this is in Cresson, I'm at 429 Howard Avenue. But unable to detect where they were coming from. It's times like these that I wish for a number or a resource to call so determination can be made. After all, if you smell something, it is entering your body and body systems must deal with it.

There was rumor several months ago of occasional white particles appearing on cars in the Ebensburg area. I called to find out any recent observations but not receive validation in time for

1 this meeting. At the time there was vocal concern
2 that the Co-Gen plant was, is, spewing particles.
3 Out of this meeting I hope to learn if
4 there has been a follow up to the 2003 Federation
5 report regarding the mercury levels in the rain and
6 snowfall in the Cresson mountain area, and whether DEP
7 has adequate resources for a proactive approach rather
8 than a reactive approach while Pennsylvania fossil
9 fuel power-polluting plants correct and stop the
10 damaging harm to the environment that exists today.
11 And as stated above, I hope there is
12 respect for the partnership of Stewardship and
13 Sustainability for Goodness Sake, which is an
14 understanding in Cambria County and should definitely
15 play a role in determining actions to be taken
16 regarding the coal ash.
17 And also, I'd like to make a
18 recommendation. During presentations of meetings such
19 as this, that a list of pros and cons identifying the
20 importance of what is being presented by the
21 relationship to the damaging harm so people like
22 myself can have more of a sense of what is going on
23 here.
24 And also, I'd like to make a
25 recommendation that the identification of the

1 personnel responsible for actions being taken, rather
2 than referring to the group as the E.P.A., because we
3 know a group or an agency is only as good as the
4 people who are behind it and operating it. So in
5 giving my report, I identified myself as a citizen
6 representing this concept of Stewardship and
7 Sustainability. So I would like more of that kind of
8 recognition as to who's being represented here.
9 And also, there's one comment here. The
10 fear of funding cuts because of not coming here, that
11 should really set the red flag up to everybody present
12 here to what I'm talking about, about this need for
13 open and honest discussions. Nobody should be fearful
14 of coming and making a presentation because of the
15 loss of their job or a loss of funding cuts. I find
16 that to be an essential part as to whether or not we
17 truly can move in a direction of having a more
18 sustainable Pennsylvania.
19 And I would want to know if the agencies
20 are using this book at all. There's great wealth in
21 this book. It says the State of Pennsylvania, is
22 Pennsylvania moving towards a sustainable future? And
23 I think that if this is not being used for the
24 decisions that are made regarding this industry, with
25 the fly ash, the damaging harm the E.P.A. must face,

1 and of course the impact it'll have on us. And if
2 this isn't being used, I would be concerned. Thank
3 you.
4 CHAIR:
5 Thank you. Is there anybody else who'd
6 like to present testimony? Please state your name and
7 your affiliations.
8 MR. SIMMERS:
9 My name is Shawn Simmers. I'm the
10 environmental health and safety manager for the
11 Cambria Co-Gen Company.
12 CHAIR:
13 Would you please spell your last name?
14 MR. SIMMERS:
15 S-I-M-M-E-R-S. Shawn, S-H-A-W-N. The
16 address is 243, Rubisch, R-U-B, as in boy, I-S-C-H,
17 Road, Ebensburg, PA, 15931. I just wanted to provide
18 a brief comment. Cambria Co-Gen Company in
19 partnership with ARIPPA and Northern Star Generation
20 Services will be providing formal comments at a later
21 date. I wanted to provide a comment this afternoon in
22 regards to the testing of the ash and the chemical
23 constituents.
24 The ash that we handle and deal with at
25 Cambria Co-Gen gets transported and disposed of at the

1 Ernest Site as part of our reclamation program. We
2 test our ash on a quarterly basis. I recently
3 reviewed our ash sample results. And of the
4 approximately 26 metals and/or elements that were
5 analyzed, 14 of them were at non-detect laboratory
6 limits.
7 The metals or elements that were at non-
8 detect laboratory limits --- and this was based on a
9 leachate analysis of the ash. Those metals or
10 elements include aluminum, antimony, arsenic,
11 beryllium, boron, cadmium, copper, lead, mercury,
12 nickel, selenium, silver, thallium and vanadium were
13 all below laboratory detection limits.
14 We did have some metals or elements that
15 did show a concentration in our leachate. And I'd
16 like to share that this afternoon. For instance,
17 barium was detected as at a concentration of .352
18 parts per million. The drinking water standard for
19 barium is two parts per million. We also had a
20 detectable concentration of chromium. That
21 concentration was 0.0147 parts per million. The
22 drinking water standard is 0.1 parts per million.
23 We also had zinc as a detectable leachate
24 concentration; 0.06 parts per million with a drinking
25 water standard for zinc of five. Fluoride was also

1 detected; 1.07 parts per million. The drinking water
2 standard for fluoride is two parts per million.
3 I appreciate the opportunity this
4 afternoon and being able to present the analytical
5 results of our ash at the Cambria Co-Gen, which, in my
6 opinion, represents typical ash from other waste coal-
7 burning facilities in our region. Thank you.
8 CHAIR:
9 Thank you. Does anybody else wish to
10 present testimony?
11 MR. ROSE:
12 My name is Arthur Rose, R-O-S-E. My
13 address is 726 Edgewood Circle, State College, PA,
14 16801. I'm a professor emeritus of geochemistry at
15 Penn State University. And I'm also active member of
16 the watershed group; the Clearfield Creek Watershed
17 Association, which is working hard at trying to cure
18 many of the acid mine drainage problems in the region.
19 One thing I'd like to suggest today is
20 that there is ash and ash; that the ash from the
21 circulating fluidized bed stations, the Co-Gen plant,
22 so-called. This ash is quite different from the ash
23 of a major pulverized coal plant. Major difference
24 would be that, first of all, this is coal refuse and
25 it's maybe half rock that went in and half coal. And

1 that means that a major part of this ash is just
2 ordinary rock.
3 Another aspect of this is --- or another
4 angle that you should be aware of is what one of my
5 professors back in the due past said was the first law
6 of geochemistry. Namely that there's a little bit of
7 everything in everything. If you analyze with a very
8 sensitive method, you're going to find every element
9 in the book. So you've really got to look at what
10 normal concentrations are in ordinary rocks and waters
11 and make this kind of comparison in order to have an
12 understanding of whether something is toxic,
13 hazardous; however you want to say it.
14 As quite a few people have suggested,
15 coal refuse is a serious source of acid mine drainage.
16 It's also usually un-vegetated so it's an eyesore;
17 wind-blown stuff coming from it, all that kind of
18 thing. So removal of coal refuse piles is definitely
19 an advantage.
20 In the Watershed Association, we tested,
21 oh, about eight or ten coal refuse piles. And one of
22 them turned out to be pretty good stuff for burning.
23 And Robindale Energy has removed that and removed the
24 source of acid drainage from Clearfield Creek and re-
25 vegetated some of that. So I see advantages that

1 other people have mentioned here.
2 As also has been indicated, limestone is
3 added to this coal refuse when it's burned and the
4 resulting ash is quite alkaline. And for mine
5 drainage, alkalinity is something you like to have.
6 We have a project called the Ferris Wheel Project.
7 This was a surface coal mine that was mined about 50
8 years ago. And there's still very --- essentially
9 nothing growing on large parts of this strip mine
10 site.
11 We have recently completed a project to
12 re-vegetate this. Alkaline ash was furnished by
13 Robindale Energy at essentially no cost. And that has
14 neutralized the very acid soil that nothing would grow
15 on. And we now have a good cover of grass. And we
16 put in about 2,000 trees. We'll see how the trees go.
17 That may be a little more questionable. But at any
18 rate, the ash was a low cost to no cost source of
19 alkalinity, which was key in this project.
20 I also about ten years ago did a research
21 project for ARIPPA, the Co-Gen group. We took samples
22 that were typical of the ash that was produced by
23 plants. We did extensive chemical testing on this ash
24 and did successive leachates with stronger and
25 stronger materials. And the ash in general showed

very little release of metals.

The heavy metals in this ash seemed to be quite strongly bound. Probably because in the circulating fluidized bed combustion process the material goes into the furnace and it stays there for many minutes to an hour or more. The temperature is not as high as the pulverized coal plant. So I think what's happening is that the heavy metals and other so-called contaminants are --- they're not being very strongly volatilized. And they are being sort of a kneel (phonetic) into the ash material so that they are then very strongly bound.

So all in all, I would urge a reasonable set of regulations to permit use of this material, both to remove the noxious piles and to use this material for beneficial use. Thank you.

CHAIR:

Thank you. Is there anybody else who would like to present testimony today? With no other witnesses present, on behalf of the EQB, I hereby adjourn this hearing at 2:37 p.m. Thank you very much.

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HEARING CONCLUDED AT 2:37 P.M.

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1 CERTIFICATE

2 I hereby certify that the foregoing
3 proceedings, hearing held before Chair Lapato was
4 reported by me on 12/08/2009 and that I Richard J.
5 Lipuma read this transcript and that I attest that
6 this transcript is a true and accurate record of the
7 proceeding.

8 Court Reporter

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