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Dept. of Natural Resources
OFFICE OF LEGAL COUNSEL

REPORT OF THE PROCEEDINGS of the
Department of Natural Resources Public Hearing taken
at Rend Lake College, 468 North Ken Gray Parkway,
Ina, Illinois, on the 3rd day of December, 2013.

MR. WELCH: Okay. Hopefully everybody
can hear me. No? How is that?

Good evening. My name is Bob
Welch. I'm a hearing officer for the Department of
Natural Resources and I'm going to be the moderator
of our little hearing this evening. As you know, we
are meeting tonight in regards to the proposed
administrative rules relating to the Hydraulic
Fracturing Regulatory Act. Before we get started,

1 I'm going to introduce you to the individuals who are
2 up here. They are here to listen to your comments.
3 On the left here is Mitch Cohen. He is the director
4 of the Office of Oil and Gas Resources Management.
5 To his left is Robert Mool. He's an attorney with
6 the department's Office of Legal Counsel. Next to
7 Mr. Mool is Nick SanDiego. He's also an attorney at
8 IDNR's Office of Legal Counsel. To my immediate
9 right here, my right-hand man is Brendan Dailey.
10 He's IDNR legislative counsel. To the far right is
11 Doug Shutt, who is a permit manager with the Office
12 of Oil and Gas Resource Management. That's who we
13 are.

14 Now, why are we here. As you're
15 aware this summer the General Assembly passed and the
16 Governor signed a new Hydraulic Fracturing Regulatory
17 Act. This act applies to all wells where only high
18 volume horizontal hydraulic fracturing operations
19 will occur in this state.

20 The act gave to IDNR the primary
21 authority to administer and enforce the provisions of
22 this act. The act further requires that the
23 department adopt rules, as necessary, to accomplish
24 the purposes of the act.

25 Now, the rule making process or

1 procedure is designed to allow interested parties the
2 opportunity to actively participate in the rule
3 making process through public comments. This public
4 hearing in which many, many diverse opinions will be
5 heard are strongly supported by IDNR in the spirit of
6 openness and transparency.

7 The purpose of this public
8 hearing, and this is one of five we're doing
9 throughout the state, is to allow members of the
10 public to express their views and comments related to
11 the proposed hydraulic fracturing administrative
12 rules which have been drafted in response to the
13 dictates of the act. So, in other words, the act
14 told IDNR you draw up the rules and then we're going
15 to have these hearings. So IDNR has proposed these
16 rules. It's a draft. It's not the final copy and
17 we're going to hear from people across the state and
18 then they'll come up with a final draft.

19 Now, I know many of you are
20 probably opposed to the idea of hydraulic fracturing
21 and like at the last hearing you would like to
22 express your opinions in regard to hydraulic
23 fracturing, but actually this is not the place to do
24 that. You're welcome to do that, if you want, but
25 we're not here to discuss the merits or lack of

1 merits of hydraulic fracturing. That's something you
2 probably should take up with your state senator, your
3 state representative. We're here as far as the rules
4 are concerned. So we're here to hear your comments
5 and suggestions in regard to the proposed
6 administrative rules. Your input will assist IDNR in
7 adopting rules to insure that the process is done in
8 a manner that is environmentally sound and consistent
9 with the law.

10 Now, these gentlemen here are
11 here to listen to your comments and make note of
12 them. They are not here -- they are here because
13 they are interested in hearing from you and due to
14 the time limitations will not be responding to any of
15 your comments. They'll take them into account in
16 reviewing all the public comments for the proposed
17 rules. As you know, also, there's a website where
18 public comments can also be made.

19 Throughout the public comment
20 period IDNR will accept and upon consideration make
21 changes to proposed rules before filing for a second
22 notice. IDNR fully anticipates and expects changes
23 to be made as part of the process. So, remember,
24 these are proposed rules and not the final draft that
25 we're dealing with right now.

1 Now, as far as the format is
2 concerned, hopefully this will work out, we've lost
3 one microphone, I think, and hopefully we'll have it
4 back, but, anyway, each of you filled out -- or most
5 of you did, I guess, if not everybody, filled out
6 cards with your names on it if you want to talk. And
7 Brandon here has shuffled them and because -- we'll
8 get to that, but I'm going to draw names and that's
9 how we'll get you up here. Because of the number of
10 people here and the fact that we want to give as many
11 of you as possible the chance to speak, your comments
12 are limited to four minutes. I'm asking you to be
13 respectful of this time limit, because every extra
14 second or minute that you use is taking that time
15 from the next speaker or any speaker.

16 After making your statement, if
17 you have a written statement, we would appreciate it
18 if you would put it in that box right there.

19 The intention is, if we get that
20 other microphone working, to have two people on each
21 side. What we try to do is I call -- at the
22 beginning I'll call out two names for each
23 microphone, when we get the second microphone and so
24 we'll always have somebody in the hole. So after
25 somebody talks, I'll call another person and have

1 them lined up and there's no wait. That way we can
2 get more speakers through here. So we'll always
3 have -- always have, hopefully, four people up here
4 at one time.

5 So when it's your turn to speak,
6 please introduce yourself, spell your last name,
7 because the court reporter is taking everything down
8 here. We want to get your names right. Tell us what
9 city you're from and, if you want, if you're from an
10 organization, you can tell us that, too, if you wish
11 to do so. If your comment relates to a specific rule
12 or section of the proposed rules and you know the
13 rule or section number, it would be helpful to the
14 staff here to let them know what you're referring to.
15 Otherwise, go ahead and make your comment. If you
16 want to read your comment, your welcome to do so. We
17 don't want to rush you, but we want to stick to the
18 four minutes so everybody -- more people will get a
19 chance.

20 Brandon's big job here is to hold
21 up the one minute sign. He does that pretty well and
22 he's getting good at it. And after that, another 30
23 seconds, I'll make some kind of a verbal or this or
24 something to tell you that you're running out of
25 time.

1 Two things now. At the very end,
2 when we're done with everybody talking, giving their
3 comments, if you're interested in staying a few
4 minutes after the public comments are finished, the
5 panel will -- they are going to review their notes
6 and summaries and summarize the concerns of the
7 public that we've received today. In other words,
8 they are going to put together a little summary and
9 then let you know what they've come up with as far as
10 tonight in regard to the rules.

11 Now, please remember that the
12 sole purpose of the hearing is to hear comments and
13 suggestions from the public in regard to the proposed
14 administrative regulations. It's not a question and
15 answer session. And please address your statements
16 or comments to the rules or proposed rules, actually.

17 Okay. Now, let's see who won the
18 Lotto here. Rachel Tompkins. Ms. Tompkins. Okay.
19 Karen Fiorino. Karen Fiorino. Where are you? If
20 you're here and you're -- will you let us know you're
21 here. Sam Stearns come on down. And Sam Schall.

22 Now, when you speak, don't get
23 too close to the microphone. Now, Ms. Tompkins,
24 right? You get to go first.

25 MS. TOMPKINS: Hi. My name is Dr.

1 Rachel Tompkins and I'm speaking as a citizen and
2 reflecting the views of the League of Women Voters,
3 of which I am a member.

4 My concerns are in relation to
5 public health and water and air pollution. The
6 Hydraulic Fracturing Regulatory Act passed into law
7 in June of 2013, foresaw many of the multiple serious
8 problems, such as water and air pollution which could
9 result from fracking. It was written to protect the
10 public from potential harm.

11 The recent published draft of
12 administrative rules have so many loopholes and such
13 weak and inadequate provisions for enforcement that
14 these rules weaken or circumvent the protections
15 provided by the law.

16 Specific loopholes or weak
17 aspects include: Failure to include radioactive
18 water and water tainted with many chemicals included
19 in the Clean Water Act in the list of those
20 prohibited from discharge into fresh water.

21 Weakening the presumption of
22 liability to water pollution close to fracking
23 operations.

24 Allowing flowback wastewater to
25 sit in open pits for much longer than the law allows,

1 rather than requiring adequate sealed storage to be
2 part of planning and limiting emergency use of open
3 pits.

4 Permitting alterations in plans
5 for fracking wells without public input with
6 permission required only after alterations are made.

7 Allowing hydrocarbons produced to
8 be emitted when capture is not considered to be cost
9 effective. Not providing for independent monitoring
10 of these emissions when lower emissions are the -- may
11 benefit the natural gas and fuel.

12 Allowing private landowners or
13 industry representatives when they assert an
14 inability to reach private landowners to waive
15 setback requirements from streams, rivers and lakes
16 and water testing requirements at their discretion
17 when setback and water testing requirements are in
18 the law to protect the water resources of a whole
19 community, not one landowner. There are no
20 provisions for independent monitoring of the water
21 sampling either.

22 Requiring medical personnel
23 treating emergencies to contact the IDNR or trade
24 secret holder during business hours with no promise
25 of immediate response to determine to which chemicals

1 a patient may have been exposed. Placing the trade
2 secret concerns of industry above the health of
3 citizens.

4 Exempting from regulation
5 existing wells and those which utilize foams or
6 gasses as part of their fluids.

7 Counting violations, once
8 determined, for only two years. Limiting
9 administrative fees, setting up a financial incentive
10 to violate regulations.

11 It does not mandate revocation of
12 permits for failure to follow guidelines.

13 Sets the fees for such violations
14 as giving false information on an application at \$50,
15 giving a green light to those who would falsify
16 applications.

17 Sets a fine of \$200 for the
18 operation of nonpermitted wells, begging the question
19 of why any company would choose to comply with the
20 costly permitting process and the regulations.

21 Sets a fine of \$200 if
22 environmental damage is shown to be the cause and
23 only \$1,000 if groundwater is fouled, when a polluted
24 water table leads to a blighted community, as human
25 life, agriculture and animal husbandry is profoundly

1 affected, providing further backward incentive, so
2 that it makes economic sense for a company to ignore
3 all regulations.

4 These rules need to be tightened
5 up so that they reflect the intentions of the
6 legislature when the regulatory act was passed. In
7 addition, scientific studies have been published
8 since then, documenting serious negative consequences
9 of fracking to the environment and economic negative
10 consequences in Pennsylvania and Texas. These rules
11 should reflect the most recent scientific data
12 available. Thank you.

13 MR. WELCH: Thank you, Doctor. If you
14 want to leave that. Okay. Spell your last name.

15 MS. FIORINO: Sure. My name is Karen
16 Fiorino. That's F-I-O-R-I-N-O. And I'm from
17 Makanda, Illinois.

18 AUDIENCE MEMBER: The mic is not
19 working.

20 MS. FIORINO: Okay. My comment
21 pertains to monitoring water quality, specifically
22 that water testing and monitoring should be required
23 along all lengths of any horizontal well bores. This
24 is relevant to section 245.600 Water Quality
25 Monitoring in the proposed rules.

1 Section 245.600(b)(1) of the
2 proposed rules provides for the testing and
3 monitoring of water sources within 1,500 feet of the
4 well site. Among the many problems with monitoring
5 provisions, the proposed rules do not provide for
6 testing along the horizontal leg of the well bore,
7 which can extend for up to 2 miles from the well
8 site. This is a reckless disregard of the known risk
9 of the underground migration of toxic fluids from a
10 horizontal well bore, especially when hydraulic
11 fracturing involves the use of explosive charges and
12 especially in areas known for the risk of higher
13 magnitude earthquakes.

14 Testing should be done even
15 beyond 2 miles from the well site for various
16 reasons. Horizontally, fractures can extend up to a
17 half mile from the well bore. Expert testimony in
18 court cases shows that fluids have been found at
19 least 3,000 feet from the well bore, plus research
20 shows that fluids can migrate up to eight to ten
21 kilometers away, 5 to 6 miles, from the injection
22 site.

23 Once aquifer contamination
24 happens, how far will it spread? What guarantee is
25 there that an aquifer, once contaminated, will

1 contain itself to a radius of 1,500 feet from a well
2 site? Certainly all residents affected by such an
3 event need protection.

4 Baseline testing needs to cover
5 all of Illinois residents at risk from aquifer
6 contamination from fracking. Thank you, sir.

7 MR. WELCH: Thank you, ma'am. Sir,
8 you're next.

9 MR. STEARNS: My name is Sam Stearns.
10 I'm from McCormick, Illinois. Down in Pope County --

11 MR. WELCH: How do you spell your last
12 name, sir?

13 MR. STEARNS: S-T-E-A-R-N-S. I'm with
14 Friends of Bell Smith Springs, a grassroots
15 environmental organization.

16 I'm thankful for the opportunity
17 to comment here now. And one of the things I'm most
18 concerned about about this -- about the proposed
19 rules are the -- the lack of opportunity for public
20 comment concerning specific well permits. This would
21 be pursuant to subpart B of the Registration and
22 Permitting Procedures, 245.200 through 245.270.
23 Specifically section 245.260, public comment periods.

24 The -- the proposed rules allow
25 for -- they would -- they would limit comments during

1 public hearings to individuals who are living within
2 1,500 feet of wells. But it's well established that
3 the toxins associated with fracking can travel far
4 beyond the 1,500 feet in the air and water. And so,
5 therefore, any person, regardless of where they live,
6 should be allowed to testify concerning specific
7 proposed permits.

8 Another issue that I have with
9 the proposed rules concerns -- on page three,
10 paragraph six of the proposed Hydraulic Fracturing
11 Regulatory Act, administrative rules states that --
12 there's a line there that says published study -- and
13 I'm quoting now. "Published studies reports and
14 sources of underlying data used to compose this rule
15 making, none."

16 The state of Illinois cannot have
17 sound regulation without good data. There needs to
18 be a -- a public record established concerning this
19 legislation and these rules that contain scientific
20 data.

21 And to put my concern about this
22 into some context, I worked on at least a dozen
23 offshore drilling rigs in the Gulf of Mexico during
24 the boom of the 1980's there. And I say that the oil
25 and gas companies who influenced our legislators to

1 come up with this bill will say and do anything to
2 initiate a fracking boom here in Southern Illinois,
3 but after every boom there is a bust and there are
4 people who influenced this legislation who think that
5 there is such a thing as unlimited growth. But to
6 quote the late Edward Abbey, "Unlimited growth is the
7 ideology of the cancer cell."

8 Unlimited growth is not
9 sustainable and with that sort of boom, as occurs
10 that I was a part of back in the Gulf of Mexico in
11 the early 80's and the kind of boom that some people
12 are wishing for here in Southern Illinois regarding
13 this fracking, there are always unintended
14 consequences and collateral damage.

15 Every boom leads to a bust and
16 citizens, like myself, in Southern Illinois don't
17 want to be left holding the bag on this bust. So
18 I -- I hold you to look at the sections that I've
19 cited here and to make changes in these rules. But
20 the fact is that there's -- there's going to be a
21 good deal of resistance to any effort to frack here
22 in Southern Illinois because people, like myself, who
23 live in Southern Illinois, don't intend to be
24 unintended consequences or collateral damage. And I
25 can assure you you'll meet resistance at every step

1 of this proposed fracking. Thank you.

2 MR. WELCH: Did you want to leave your
3 written statement up here?

4 MR. STEARNS: I'll be providing much
5 more written comments before the public comment
6 period deadline.

7 MR. WELCH: Okay. Let me call a
8 couple more names. Dick Jones. Dick Jones. Dick
9 Jones. Last chance for Mr. Jones. Georgia
10 Delagarza. That's a neat name. And Willow Reynolds.

11 MS. REYNOLDS: I'm here.

12 MR. WELCH: You can talk after
13 Ms. Delagarza. Okay. Mr. Schall.

14 MR. SCHALL: All right. S-C-H-A-L-L.

15 I have an issue about section
16 24.27, about -- relating to the hearings and the
17 amount of them. I do not feel there's an adequate
18 amount of hearings considering I'm a student and I --
19 as the people I engage trying to bring here tonight,
20 many of them aren't able to make it because a lot of
21 these are scheduled during the busiest time of the
22 year for many people, since it's the holiday season
23 and students have finals. I know like this one and
24 the one in Effingham, I know many people can't make
25 it and I believe also the -- the one on the 19th in

1 Carbondale is also when many people leave town to go
2 visit family for the holidays, including professors
3 and students alike.

4 As well as there are not enough
5 hearings in the areas that are going to be directly
6 affected by this fracturing. Specifically the
7 southeastern region of the -- of Illinois. And many
8 people have families, two jobs, live much farther
9 away and they weren't able to make it.

10 There's also a big lack of
11 knowledge about the hearings. Everyone I engaged
12 almost didn't really know when or where they were or
13 had no knowledge of what was going on as far as the
14 amount of hearings or places they were being held.
15 That is it.

16 MR. WELCH: All right. Thank you,
17 Mr. Schall.

18 MS. DELZGARZA: Hello. My name is
19 Georgia Delagarza. That's D-E-L-A-G-A-R-Z-A. I'm
20 with Illinois South Resistance, an organization in
21 Southern Illinois that's a group of people ranging in
22 ages from 20 into the 70's. We're growing every day.
23 We're here to resist HVHF.

24 We oppose the regulatory -- we
25 oppose the regulatory bill. Why should we sit here

1 in Southern Illinois and trust you, any of you, and
2 our lawmakers from Illinois. Our record is our
3 lawmakers have been busy making license plates, not
4 good laws. So why are you here asking us to entrust
5 you with our sustainability of living, our soil, our
6 air and our water. Thank you.

7 MR. WELCH: Thank you. I'm going to
8 call a couple more names, if I can get this thing to
9 work. Karen Genet, G-E-N-E-T, and Luke Schroeder.
10 Okay. Mr. Reynolds, is it?

11 MR. REYNOLDS: Yes. Bill Reynolds.
12 First, thank you for coming here
13 for -- to hold this hearing here.

14 AUDIENCE MEMBER: The mic is not
15 working.

16 AUDIENCE MEMBER: Get this together.

17 MR. REYNOLDS: Should I just go
18 without it?

19 MR. WELCH: I guess. Unless you want
20 to take mine. DNR is not going to take the blame for
21 the sound system.

22 MR. REYNOLDS: All right. It's on
23 now. All right. Well, thanks for being here at the
24 hearing.

25 I'm going to comment on several

1 sections including 310 on permit denial, section 1120
2 on the penalties and 240, 260 on public
3 participation.

4 First, I would like to say that
5 you are charged with an impossible task. You've been
6 asked to make fracking safe and we all know there's
7 no evidence that fracking can be made reliably safe.
8 You truly have an impossible task because the best
9 practice is to not frack at all.

10 We also know that fracking causes
11 more frequent earthquakes, as several studies have
12 shown. An earthquake doesn't care what regulations
13 you pass. We don't know what happens when you frack
14 in major seismic zones like the Wabash and New Madrid
15 fault lines. That means Illinois is being subjected
16 to a massive science experiment with hundreds of
17 thousands of area residents being used as human
18 subjects.

19 Now, many citizens have expressed
20 outrage at the puny fines proposed in these rules. I
21 have another reason of concern. The section on
22 penalties frequently uses the word may. The director
23 of DNR or his designee may revoke permits and may
24 impose fines. The word shall or must are
25 conspicuously absent from these regulations. This

1 means companies with multiple violations may face
2 little or no penalty at all.

3 That would be not unusual for
4 this agency, based on DNR's past cozy relationship
5 with industry history of waiving penalties, there's
6 not assurance that meaningful fines will be
7 collected. Even when a fine is recommended,
8 companies will have another chance to have it reduced
9 or waived for a long list of easy excuses. What
10 you're telling the public is that a multi-billion
11 dollar industry that loses \$1,000 in change between
12 the seat cushions may not be punished at all.

13 Now, Section 240 says that
14 notices of public hearings will be posted in
15 newspapers near the hearing site. There are no
16 requirement to post hearing notices online. So I
17 want to remind the agency that, you know, Nirvana's
18 first album was released 20 years -- more than 20
19 years ago. It's way past time to put everything on
20 the internet. There should be requirements for
21 public hearings to be listed online.

22 Section 260 states that the
23 public comment period will only last 30 days, even
24 though there's a 60-day window to approve a permit.
25 After a public hearing, comments can only be given on

1 evidence presented at the hearing. That means people
2 who find out about a proposed well after new coverage
3 of a hearing, or after the 30-day time limit, will
4 have no opportunity to present documents on new
5 issues. Those restrictions make participation more
6 difficult for the average citizen who doesn't spend
7 every day watching for permit filings.

8 In order for a public process to
9 be meaningful, there must be a reasonable chance that
10 the public can change the outcome of a decision. I
11 don't see that in the rules. I see a hamster wheel
12 that keeps people running in place, going through the
13 motions while getting nowhere.

14 Section 310 lists only four
15 reasons to deny a permit. It does not list previous
16 violations of Illinois regulation as a reason to deny
17 a permit.

18 Some of us have seen how this
19 game works before. When members of the public point
20 out that a company applying for a mine permit has a
21 long list of violations, we're told that old
22 violations from other sites can't be considered
23 during the permitting process. There's not
24 accountability for past bad behavior when companies
25 seek new permits.

1 The scenario we're facing is that
2 at DNR's discretion, a company may rack up hundreds
3 of environmental violations, pay zero penalties, and
4 still receive new permits to do even more damage.

5 If these regulations are going to
6 be meaningful, then DNR will have to put on your big
7 boy pants, finally stand up to industry and say no to
8 permits for bad actors.

9 MR. WELCH: Thank you, Mr. Reynolds.
10 Ms. Jenet.

11 MS. JENET: Karen Jenet, J-E-N-E-T.
12 My friends know me by a different name. I was told
13 it would be helpful to cite specific sections of the
14 proposed rules and to give recommendations of
15 improvement. I could choose from seismicity, to
16 water testing, from chemical disclosure issues to
17 methane flaring. I can cite a study published in the
18 Journal of Geophysical Research about single
19 wastewater well triggering 167 earthquakes near
20 Youngstown, Ohio. We are, after all, in one of the
21 most dangerous seismic zones on our continent.

22 I could express my concerns of
23 the massive amounts of water usage, water that once
24 removed from the source will be permanently removed
25 from our hydrological cycle.

1 I could stand here and talk about
2 the projection of severe water shortages in Illinois
3 with the projections for fracking that are being
4 considered.

5 I could bring up issues of human
6 health, like the recent study that links heart
7 defects in infants born to mothers exposed to certain
8 fracking chemicals. But I'm not going to do that.

9 You've heard it all and will
10 continue to hear about it for the remainder of these
11 public hearings. So instead of more of the same I'm
12 going to tell you about where I come from and what I
13 love.

14 I come from Hardin County. It's
15 the very southern eastern tip of Illinois where the
16 Ohio River defines our border with Kentucky. Perhaps
17 you've heard of the natural beauty of our area.
18 Places well known like Garden of the Gods or the
19 historical Cave-In-Rock State Park. Beautiful
20 places.

21 Hardin County relies on tourism
22 for its livelihood, the people who come to see our
23 many natural wonders.

24 The people who live where I live
25 love the peace and quiet of the wild places. The

1 people who come to visit do so for the quaint charm
2 of the small towns and the beauty of our forests.
3 Hardin County is a respite from an overindustrialized
4 world. It's a haven of calm and where nature and
5 wildlife flourish. Bikers come to ride safely on our
6 roads and hunters come to harvest deer and turkey.
7 Tourists come to hike, camp, swim, fish and rock
8 climb. And people, like myself, live in such a rural
9 place to cultivate a particular kind of life. Our
10 entire way of life is being threatened by the oil and
11 gas industry and their drive to exploit inaccessible
12 resources. How far will we allow extreme extraction
13 to go?

14 Another question I guess is what
15 will we people allow. My child and his children
16 deserve a liveable future. Extreme methods of
17 extraction and perpetuation of more fossil fuel usage
18 does not lead to a sustainable future for our
19 children, nor does it lead to a liveable planet for
20 all species.

21 I've heard the propaganda about
22 fracking being a bridge to fuel for the future and
23 I'm pretty sure that that's a bridge to no where.

24 When the fracking boom goes bust,
25 and it will, it will be too late to turn back the

1 clock. The industrialization of Southern Illinois
2 will be a death blow to our way of life and it will
3 be the squandering of one of the last wild places in
4 the midwest for the sake of short-term, short-sighted
5 fossil fuel gluttony. I urge you to shift your
6 stance to one of a ban of high volume fracking in the
7 state of Illinois.

8 Even if these weak rules were
9 improved, it cannot go far enough to protect our
10 homeland, our way of life and the interest of future
11 generations. There are no acceptable human causes
12 for earthquakes. Thank you for listening.

13 MR. WELCH: Thank you.

14 I'm going to call a couple of
15 more names. Vito Mustrangelo and Richard Whitney.

16 Okay. This is Mr. Schroeder,
17 right?

18 MR. SCHROEDER: My name is Luke
19 Schroeder, S-C-H-R-O-E-D-E-R. Kind of hard to follow
20 that, but here we go.

21 I'm a Carbondale, Illinois,
22 resident and S.I.U. student. I just wanted to point
23 something out that is lacking in the proposed rules.
24 There are no regulations proposed by the IDNR that
25 include safety measures for dealing with the

1 aftermath of a tornado strike at a fracking site. In
2 the last 10 years, 674 tornadoes have hit Illinois.
3 To quote Illinois state climatologist, Dr. Jim Angel,
4 "Illinois has experienced some of the worst tornadoes
5 in US history." Every single county has at some
6 point been struck by tornadoes. What if a highly
7 destructive tornado hit an area covered in fracking
8 sites? What would happen if there were containers
9 filled with frack fluid or produced water at the
10 site? Or even contaminated water temporarily stored
11 in an open pit? The safety of Illinois residents
12 depends on a quick response for disaster relief in
13 the event of a tornado, but there are no rules or
14 regulations for dealing with harmful debris spread
15 from fracking sites. Washington, Illinois, was hit
16 by an EF4 tornado on November 17th, and debris was
17 found over 150 miles away from there. I have to ask,
18 is there anything in the proposed rules that outlines
19 how to deal with harmful fracking waste spread all
20 over Illinois?

21 Thank you.

22 MR. WELCH: Thank you.

23 MR. MISTRANGELO: My name is Vito
24 Mustrangelo. Spelled M-U-S-T-R-A-N-G-E-L-O.

25 MR. WELCH: How do you pronounce that?

1 MR. MUSTRANGELO: I'm sorry?

2 MR. WELCH: How do you pronounce that?

3 MR. MUSTRANGELO: Mustrangelo.

4 MR. WELCH: Okay. I won't count that
5 against you. Go ahead, sir.

6 MR. MUSTRANGELO: Well, thank you for
7 the opportunity to speak here today.

8 In Section 1-130 of the
9 Legislature's Regulatory Statute, the legislature
10 granted DNR authority to adopt rules to carry out
11 legislature's purposes. There are at least two
12 legislative purposes in the statute. While the
13 legislature intended to create the statutory
14 authority for horizontal fracking to occur in
15 Illinois, it also explicitly conditioned its approval
16 of the horizontal fracking and the safeguarding of
17 public health and public safety and the protection of
18 the environment. This purpose is set forth
19 explicitly in two places in the regulatory statute.
20 Section 1-75(a)2 and Section 1-53(a)4. DNR has
21 acknowledged verbatim in its proposed Section 245.8.
22 The legislature section 1-75(a)2, DNR's proposed
23 Section 245 states as follows: All phases of
24 hydraulic horizontal fracturing operations shall be
25 conducted in a manner that shall not pose a

1 significant risk to public health, life, property,
2 aquatic life or wildlife. The term significant risk
3 is not defined and that will be problematic. But
4 with respect to the legislature's purposes as stated
5 in section 1-53(a)4, DNR has changed legislature's
6 language in its proposed rules. And this change will
7 result in lowering the standard explicitly created by
8 the legislature.

9 The legislature stated as follows
10 in Section 153(a)4. "The Department shall issue a
11 high volume horizontal hydraulic fracturing permit
12 with any conditions the department may find necessary
13 only if the record of decision demonstrates that,
14 subsection four, proposed hydraulic fracturing
15 operation will be conducted in a manner that will
16 protect the public health and safety and prevent
17 pollution or diminution of any water source. But
18 DNR's proposed section 243.3 permit decision changes
19 legislative words will be conducted to as proposed or
20 reasonably expected to be conducted. This is a
21 lowering of the standard that is inconsistent with
22 the legislative -- the legislature's stated purpose.

23 Many people are making comments
24 about other specific omissions and inadequacies of
25 the proposed rules.

1 Among them, proposed rules do not
2 address locating fracking wells or disposal in high
3 risk seismic zones.

4 The proposed rules do not address
5 locating -- excuse me.

6 The proposed rules do not address
7 radioactivity.

8 The proposed rules do not address
9 the severe light and noise pollution created by high
10 volume hydraulic fracturing.

11 The proposed rules do not address
12 the use of depleted uranium and explosive charges
13 used for hydraulic fracturing.

14 The proposed rules do not require
15 the consent of all landowners under whose land the
16 horizontal well bores will travel.

17 The proposed rules do not
18 adequately protect quality or quantity of our water.
19 There are many more.

20 All of the residents of Southern
21 Illinois are depending on you, on DNR, to protect
22 their health, their safety and the safety of their
23 water, air and soil. Many of us believe that this
24 first step falls woefully short. And this view is
25 shed by many others around the state and around the

1 county.

2 The legislature has directed DNR
3 to report to the legislature by February 1, 2014,
4 with recommendations concerning the potential impact
5 of horizontal hydraulic fracturing on public lands
6 and other natural areas.

7 The availability of water for
8 human consumption and general domestic use and the
9 potential for increase in natural seismic activity.

10 We believe that if the DNR
11 reviews all comments made here throughout the public
12 comment period, any conscious -- conscientious report
13 will lead to express grave concerns about the safety
14 of horizontal fracking under current technology.

15 Thank you.

16 MR. WELCH: Before you get started,
17 I'm going to call a couple of names. I should have
18 said at the beginning, if you have a written
19 statement, and maybe I did, and you want to leave it,
20 there's a box right here. Just a second, sir. I've
21 got two more names to call. Carolyn Ferdinand and
22 Renae Cook.

23 Okay. This is Mr. Whitney.

24 MR. WHITNEY: Yes. Rich Whitney,
25 W-H-I-T-N-E-Y. I am a local attorney. Reside in

1 Carbondale. Also served as chair of the Illinois
2 Green Party and I'm on the legal committee for SAID.

3 A lot of what I had to say has
4 already been said by others, but I wanted to focus on
5 what is missing from these regulations. Conspicuous
6 by its absence in the proposed regulations are the
7 words earthquake and with only three exceptions that
8 I could find at least in part 245 the word
9 radioactive and that only with respect to testing of
10 groundwater and flowback water only and procedures
11 for the companies to escape liability.

12 What about produced water? What
13 about scale on pipes and tanks? What about
14 monitoring workers exposure to radioactivity? I
15 don't see anything in the regulations that provide
16 adequate protection in these areas.

17 According to studies by the
18 Illinois State Geological Survey in the 1950's and
19 70's Illinois shale, the source rock for oil and gas
20 reserves, has above average levels of uranium for
21 back shale. This uranium decays into radium and
22 radon. Moreover, the US Geological Survey has found
23 that oilfield brine or produced water in Southern
24 Illinois to have radium levels that average more than
25 1,000 picocuries per liter, which is 67 times the

1 maximum contamination level allowed by the EPA.

2 The radioactive levels for
3 produced water in shale gas operations are likely to
4 be two to four times higher than oilfield brine. On
5 average 2,000 to 4,000 picocuries to liter.

6 Moreover, when produced water is removed, along with
7 the hydrocarbons, excess radioactive salt in the
8 water precipitates out and become scale on pipes or
9 tanks or sludge in the bottom of tanks or pits.

10 The level of radioactivity can
11 exceed 100,000 picocuries per gram and constitute a
12 clear and present danger to workers or others who are
13 exposed to recycled scrap metal from oil and gas
14 operations. This level greatly exceeds uranium
15 levels in uranium mine tailings, for example. That
16 is why high levels of radioactivity elsewhere have
17 been found in school playground equipment, in
18 bleachers and school sports stadiums.

19 Do we really want untested oil
20 and gas field scrap metal sold into Illinois markets?

21 These kinds of problems are why
22 Illinois has a low level Radioactive Waste Management
23 Act. It and OSHA are the applicable state and
24 federal laws. These regulations, as far as I've been
25 able to determine, don't take account of these

1 standards and they need to, if we are to protect
2 ourselves.

3 With respect to the absence of
4 the word earthquake in the regulations, granted I
5 haven't read through part 240 yet, I am still working
6 my way through that and will be submitting more
7 comments, either online or another format, but I
8 would point out from what I have read that the focus
9 seems to be on whether or not the fracking operation
10 may be causing the earthquakes and in that regard I
11 would urge you to be looking at the standards
12 established by the National Academy of Sciences. But
13 what we're not taking into account is the flipside of
14 this and that is what if there's an earthquake,
15 whatever its cause, and the impact on injection wells
16 and ongoing fracking operations.

17 In my view, the only possible way
18 to protect public safety and health with respect to
19 the earthquake danger is to not allow fracking in
20 earthquake -- earthquake prone zones. Meaning where
21 there's active earthquake faults like the two that we
22 have down here in Southern Illinois.

23 Fracking should be banned in
24 areas where that constitutes a danger, which would
25 include near the -- near the two active earthquake

1 faults in this region. Thank you.

2 MR. WELCH: Thank you, Mr. Whitney.

3 Okay. This is Ms. Ferdinand.

4 MS. FERDINAND: Good evening. I am

5 Carolyn Ferdinand from Carbondale.

6 F-E-R-D-I-N-A-N-D.

7 Could I clarify? Are you all
8 from the Illinois Department of Natural Resources?

9 MR. WELCH: Yeah.

10 MS. FERDINAND: All six of you, seven?

11 MR. WELCH: I'm a hearing officer. I
12 don't work for IDNR.

13 MS. FERDINAND: Thank you. I am a
14 life-long environmentalist. That's 70 years. I
15 would like the IDNR to lead the charge against
16 fracking and -- thank you -- and I am amazed that you
17 do not see that as your most sacred responsibility.

18 The Department of Natural
19 Resources, that is the department of water, soil and
20 air, we are poisoning every component. We get one
21 serving of natural resources. Hey, no seconds.

22 MR. WELCH: Thank you, ma'am. Are you
23 turning this on and off up there? Is that what
24 you're doing?

25 MR. DAILEY: It's for the feedback.

1 MR. WELCH: I know, but every time I
2 start to talk, it's turned off.

3 Sabrina Hardenburgh. Got to say
4 here so we know you're here. Like taking role in
5 school. Samuel Bearden?

6 MR. BEARDEN: Here.

7 MR. WELCH: All right. Okay.
8 Ms. Cook.

9 MS. COOK: My name is Renae Cook and
10 I'm here representing the web of life, which I feel
11 is under attack in Southern Illinois and on the
12 planet in general.

13 Also, I would like to know what
14 is up with your comment website? I have been
15 diligently responding to this thing and I keep
16 getting notices back that there's a problem with it.
17 I even on Thanksgiving afternoon, I went to my
18 computer and I put in a comment. Came back again.
19 You know, this is really suspicious, is all I'm going
20 to say at this time. If you're really wanting
21 comments, make sure that site is working.

22 I want to thank you for this
23 comment period because I've learned so much. First
24 time I heard of fracking my blood went cold and then
25 I started looking more and more about it, but I'll

1 tell you what, the things that I have learned through
2 this comment period are I believe criminal, the
3 proposed lack of direction and protection for the
4 people and this planet.

5 And, you know, there's been so
6 much made about how Sierra Club and, oh, what's the
7 other one, National Defense Council and your
8 organization are working so hard to create the very
9 best regulations in this country. I'm telling you
10 what, if this is the best we can come up with, guys,
11 we're in big, big trouble. And I have to tell you I
12 feel like there's pirates coming in to rape and loot
13 and take what they can. It's happening across this
14 world. It's happening in every state in this union.
15 I'm -- I, for one, am fed up with it.

16 People have a right to earn a
17 living, but they do not have a right to impact my
18 right to life. And that is what this is going to
19 boil down to. This has been handwritten by the
20 industry. We all know that. Oh, one thing I did
21 want to ask, does anybody here on this panel, can you
22 tell me what your mission statement is at the
23 Department of Natural Resources?

24 MR. WELCH: We're here to get
25 comments, ma'am.

1 MS. COOK: I didn't think so.
2 Probably should remember what it is because part of
3 it is to protect Illinois natural resources. Water,
4 air, land. And it goes on to protect present and
5 future generations as well. I don't think you're
6 doing a very good job of that and these proposed --
7 this proposed bill is just -- it's shocking to me.

8 And I -- people have a right to
9 earn a living, I said that, but I -- I just feel like
10 the people that are going to work in this industry
11 have been dooped. They feel like there's nothing
12 there for them but to go to work for an industry like
13 this. And I really urge you all to rethink this,
14 because you have to live here, too. I hope you
15 really pay attention to these suggestions that have
16 been made tonight. These people are working
17 phenomenal hours and putting their expertise in place
18 to try and protect our planet and you just have to
19 pay attention. Thank you.

20 MR. WELCH: Thank you, Ms. Cook. All
21 right. Ms. Hardenbergh.

22 MS. HARDENBERGH: My name is Sabrina
23 Hardenbergh, H-A-R-D-E-N-B-E-R-G-H. I am aligned
24 with SAFE. I am aligned with Shawnee Group of the
25 Sierra Club, to be distinguished separately from the

1 state-wide Sierra Club. I've also been a health and
2 healthcare researcher much of my life and I've worked
3 in the legal sector at personal injury, property
4 liability, workers' compensation. So while I'm going
5 to send you many comments this month and a half
6 during the comment period, I'll focus on one
7 pertaining to health in your rules. That is subpart
8 G, chemical disclosure trade secrets 245.730 trade
9 secret disclosure to health professional.

10 First, the trade secret
11 disclosure to health professionals is encumbered by
12 IDNR and other business work schedules for
13 information to flow in a timely manner, especially in
14 the case of poison control emergency. While the rule
15 describes a procedure for information flow to occur,
16 the first barrier is to catch IDNR during business
17 hours. Not good if the affected patient presents at
18 the end of a weekly business cycle and must wait
19 until opening of next business week. Then they must
20 wait two hours further for the trade secret holder to
21 report the toxic substance before they must wait
22 further for other medical diagnostics and treatment.

23 One, will there be a 24/7 crisis
24 hotline at IDNR to relate this trade secret
25 disclosure?

1 Two, why isn't there a 24/7
2 crisis hotline at the trade secret holders' location?

3 Three, will this be remedied
4 before administrative rules are approved?

5 And, four, if not, what will
6 IDNR, state of Illinois, do to remedy this and when?

7 Will all health professionals be
8 able to obtain a list of the trade secret council in
9 their client area prior to emergency presentation of
10 an infected patient? As the rule is unclear about
11 this in the nonemergency subsection.

12 Secondly, this disclosure of
13 trade secrets to health professionals and affected
14 patients and affected patient's family specifies that
15 a confidentiality agreement will be signed creating a
16 gag order. Consequently, health professionals and
17 public health professionals will be gagged as to
18 their education role and the Hippocratic oath to do
19 no harm. The public will not be informed to take
20 precautions against specific toxic substances and the
21 recurrence of the same emergencies will replicate,
22 creating further suffering in the local population,
23 tax already limited time of health professionals and
24 their office staff, as well as other injustices when
25 it comes to appropriate workers' compensation,

1 personal injury and product liability cases for which
2 the affected patient ought to be compensated for
3 damages to life, livelihood, property, the family's
4 consortium and all manner of related damages.

5 How will IDNR remedy this failure
6 in disclosure to facilitate justice for the affected
7 patient's family and community? Why is this health
8 related section not longer and much more detailed
9 with respect to OSHA and clinical guideline related
10 protocols and what will be done to remedy this?

11 MR. WELCH: Thirty seconds, ma'am.
12 Are you done? Thank you. I appreciate it.
13 Alexander James and Mark Denzer. All right.
14 Mr. Bearden. Right?

15 MR. BEARDEN: My name is Samuel
16 Bearden. I'm an Eagle Scout from Boy Scout Troop 107
17 and also a student -- I'm also a student studying
18 forestry and plant biology at Southern Illinois
19 Carbondale.

20 What I would like to address is
21 the water quality monitoring or the lack thereof. We
22 all know that high volume hydraulic fracturing means
23 that well bores can oftentimes extend for 2 miles
24 from the natural well site. Given that toxic
25 chemicals are present not only on the vertical

1 portion of the fracking wells, but also horizontal,
2 water testing and monitoring must be done within
3 1,500 feet of any point along the full length of well
4 bores in order to adequately mitigate these risks.

5 Furthermore, although the law
6 mandates that fracking companies have the burden to
7 demonstrate the proof, water pollution testing must
8 come from a third party laboratory that has no stake
9 in whether the results are negative or positive. And
10 obviously --

11 Well, this next part will go
12 against some of the most horrible agendas in the
13 nation and ultimately the world. But the answer to
14 our dwindling fossil fuel supply is much more simple
15 than utilizing new and potentially dangerous
16 technology to meet our energy needs. The answer is
17 to curb our need for the energy in the first place by
18 reducing consumption. Additionally, investing in
19 local resource, such as solar panels and wind
20 turbines, and, of course, the ultimate source of
21 energy, geothermal technology.

22 These corporations will fight
23 against us because they will lose the monopoly
24 control over our power. The answer to our problem in
25 reducing consumption and our overreliance on

1 destructive, big energy companies.

2 MR. WELCH: Are you done? I was going
3 to ask you to speak a little slower so that the
4 reporter can get it.

5 MR. BEARDEN: I apologize. Thank you.

6 MR. WELCH: Thank you, Mr. Bearden.

7 MR. DENZER: Thank you for allowing me
8 to speak. Can you hear me? Well, I stand here in
9 solidarity --

10 MR. WELCH: Excuse me. Could you
11 introduce yourself?

12 MR. DENZER: Yes. My names is Mark
13 Denzer. D-E-N-Z-E-R. I stand here in solidarity
14 with the McMac brothers in Canada who are fighting
15 fracking. Not a lot of media coverage in that, you
16 know. There aren't resistance up there. There's --
17 wars are going on up there.

18 Me, myself, I stand here as a
19 small businessman. I stand here as a canoe guide.
20 You know, I rent canoes on the Cache River. I -- I
21 give tours, you know, from March to November.

22 And can you tell me in these --
23 this legislation, these regulations that you have,
24 you know, can you -- can you -- is there any clause
25 in there that, you know, if things go south, you

1 know, as we say, such as, you know, earthquakes and
2 hydraulic fracking of fluids going down the stream,
3 killing fish, such that -- such as how that has
4 happened in Pennsylvania and Ohio and Arkansas and a
5 lot of other places, can you tell me, is there a
6 clause in there where you're going to reimburse the
7 tourism industry? Are you going to reimburse this
8 booming business that we have down in Southern
9 Illinois that, you know, you know, I've worked very,
10 very hard to establish a small business, you know,
11 and there's not a lot of canoe outfitters down there.
12 There's nobody but me. And can you honestly say --
13 are you going to reimburse all of those beautiful
14 places such as the wineries and the places such as
15 the Shawnee National Forest and all of these places
16 that make their living off of tourism, you know? Is
17 there any clause where you're going to reimburse
18 them? And if they do sue you, are they going to be
19 gagged, such as in other states?

20 This is what I understand to be
21 true, you know, that when someone is sued in an
22 industry, you know, that they are gagged. You know,
23 you can no longer speak because of the money
24 associated with the lawsuit. And that, to me, is
25 perplexing.

1 As far as earthquakes go, you
2 know, we're -- you know, the New Madrid earthquake
3 zone hasn't been active for nearly -- since 1812, you
4 know, since Diakoonta (ph), you know, stomped his
5 foot on the ground, you know, and said, you know, if
6 you don't ban together against these colonial
7 Americans -- he's talking to his native brothers, and
8 he was saying that if you don't ban together I'm
9 going to stomp my foot down. And I want to stomp my
10 foot down and if you don't stop this fracking, you
11 know, that's what's going to happen. This earthquake
12 is going to happen and going to wreck our homes.

13 That's going to be that. I'll
14 say that much.

15 MR. WELCH: All right. Thank you,
16 sir. Kyle Kingston and Mary Swanson. Mr. James.

17 MR. JAMES: Good evening. I'm
18 Alexander James, J-A-M-E-S. I'm from Edwardsville,
19 Illinois. I'm speaking tonight as a concerned
20 citizen.

21 The Hydraulic Fracturing Act
22 makes numerous provisions to protect public health
23 and the integrity of the environment. The proposed
24 rules, on the other hand, have so many clear
25 loopholes and such negligable fines that render

1 those provisions meaningless, in some cases, and I
2 would like to focus on two examples. Both having to
3 do with water quality.

4 The first is Subpart D, well site
5 preparation, that's 245.400. The regulation
6 prescribes a setback from wells, springs, lakes and
7 springs and other sources of -- other things that
8 might contaminate the groundwater.

9 The rules for implementing this
10 regulation allow landowners to waive the
11 requirements, essentially at their own discretion.
12 So, in other words a private party, including a
13 corporation, is given the authority to waive a
14 setback that's meant to protect public groundwater.
15 The next section that I would like to touch on is
16 subpart F, water quality. That's 245.600.
17 Monitoring is essential to determining whether
18 pollution is occurring and what its source is. The
19 regulatory act recognizes this. The rules, however,
20 allow private entities to waive the requirement for
21 water testing. Representatives of the fracking
22 industry can also waive the requirement as long as
23 they are willing to assert that they are unable to
24 contact the landowner. Moreover, should that
25 assertion prove false, they are liable to a \$50 fine,

1 as I understand the rules.

2 The act enumerates a long list of toxic
3 chemicals associated -- potentially associated with
4 hydraulic fracturing. I think over a hundred. The
5 rules limit the list to a much smaller set of
6 so-called indicator chemicals. Why not monitor all
7 of the known risks. Should an operator somehow fail
8 to take advantage of all of these loopholes and
9 identify this polluting a body of water, the fine, as
10 I understand it, would be a thousand dollars, which
11 is a very small cost of doing business in a
12 profitable operation.

13 I urge the DNR to put together an
14 independent task force to amend the rules and the
15 task force should include representatives from all
16 stake holders, but particularly public health and
17 natural resources. Thank you.

18 MR. WELCH: Thank you.

19 MR. KINGSTON: My name is Kyle
20 Kingston, K-I-N-G-S-T-O-N. And I come before you
21 tonight to comment on behalf of myself and the
22 expressed opinions are strictly my own.

23 I'm a third generation oil and
24 gas industry working the Illinois basin and I can
25 contest to the industry's ability to provide jobs to

1 the economy in Southern Illinois.

2 Growing up and residing in White
3 County I have seen firsthand how the struggling small
4 towns and villages rely on this industry and the jobs
5 it supplies. I'm also a former state regulator to
6 the oil and gas industry and I can attest to the
7 majority of the industry's desire to operate in an
8 environmentally responsible fashion.

9 I've also had the fortune to
10 personally work on sites, not only in Illinois and
11 Indiana, but also in Ohio, Pennsylvania, and Colorado
12 and can attest that wells receiving this kind of
13 stimulation we're discussing tonight do not belong to
14 my grandfather's oilfield. The companies performing
15 this type of completion often employ biologists,
16 hydrologists, other environmental engineers and
17 scientists, along with an array of regulatory
18 compliance personnel. They bring with them best
19 management practices and a general feeling of the
20 responsibility to be a good corporate citizen.

21 That said, I would like to make a
22 few brief comments directed to the specific sections
23 of the rule, which I feel should be improved.

24 Section 245.270(a)1(A)v. The
25 term environmental value and the term recreation are

1 very broad. I would request that these terms be
2 defined and streamlined.

3 Section 245.270. The officer issues
4 decision within seven days of a hearing and only has
5 to take into consideration that the DNR has no more
6 than 60 days to approve or deny the permit. I
7 request that decision be rendered within seven days
8 after the close of evidence, but within 60 days from
9 the date DNR receives the permit application as to
10 avoid last minute approval/denial windows to allow
11 time for implementation of any conditions the
12 department may find necessary.

13 Third, 245.310(d), the section pertains to
14 conditions under which a permit can be denied. As
15 we've heard here tonight, the phrase pose significant
16 hazard to public health, aquatic life, wildlife and
17 the environment is one of the conditions. Most of
18 the groups that would be opposed to this type of
19 permit will potentially claim any impact as a
20 significant hazard to public health. These are the
21 same groups who claim you cannot regulate hydraulic
22 fracturing safely.

23 Fourth, section 245.410, I would
24 like to define what constitutes a high wind day, is a
25 gust the same, and what is the burden of proof in

1 that allegation.

2 245.600(a)7. NDA's have to be
3 provided to DNR. I don't see anything in here that
4 statutorily prevents DNR from releasing contents of
5 NDA's via right-to-know or similar FOIA type laws. In
6 a later section on trade secrets for additive use,
7 there is a clause that states, "Information so
8 disclosed to a health professional shall in no way be
9 construed as publicly available.

10 Six, 245.855, spills and
11 remediation section does not distinguish between
12 spills on containment and off containment. Obviously
13 a release which impacts soil is not the same as a
14 release on containment which never reaches soil or
15 water.

16 Seven, 245.1020, there is no
17 leeway described that acknowledges the potential for
18 delays or restrictions on restoration as defined in
19 this section.

20 And, finally, 245.1120, is there
21 a sunset provision to this or five years later can
22 somebody come back and ask for -- basically what is
23 the burden of proof in this?

24 I want you to or I want to take
25 this opportunity to thank the DNR and everyone

1 involved in this process for your time and
2 consideration.

3 MR. WELCH: Thank you, Mr. Kingston.
4 Call a couple more names. Barbara McKasson and
5 Marilyn S-M-E-R-K-E-N, I think. All right.
6 Ms. Swanson.

7 MS. SWANSON: Hi. My name is Mary
8 Swanson, S-W-A-N-S-O-N. I live in Carterville. I am
9 a property owner in Union County and welcome all of
10 you to beautiful Southern Illinois. I hope you've
11 had some time to look around our area here.

12 I am affiliated with SAFE and
13 with Illinois South Resistance.

14 I've lived in Southern Illinois
15 for 30 years and I've come to call it home and my
16 daughter's a native here. I love it here. Mostly
17 because of our natural resources. The forest,
18 wetlands, lakes and waterways, which are also, you
19 know, what supports our tourism industries.
20 Protecting our environment is extremely important to
21 us and we do try to be responsible stewards of the
22 environment.

23 I've reviewed most of the
24 proposed administrative rules and I do not feel they
25 serve the best interest of the land or the people of

1 Southern Illinois, but rather serve the oil and gas
2 industry. I have yet to see the independent research
3 on which these rules were based. Research conducted
4 by impartial entities rather than the oil industry or
5 the government that protects this industry and
6 subsidizes it with my tax money.

7 I -- I don't have reference
8 numbers to your rules, but I would like to
9 specifically address two issues.

10 One, there is clear evidence that
11 fracking operations contribute to increased
12 earthquake activity, even to areas not prone to
13 quakes.

14 We in Southern Illinois live atop the
15 intersection of two fault zones, which two have a
16 significant history of earthquakes. Including one so
17 severe it caused the Mississippi River to flow
18 backwards.

19 The fines proposed for earthquake
20 related issues are less than a slap on the hand to
21 companies with annual profits in the millions and
22 billions. There is no deterrent here.

23 Furthermore, the land cannot be
24 returned to its original condition following
25 earthquakes. Currently earthquake insurance for

1 homeowner's is exorbitant. If fracking operations
2 start, they will likely be unavailable. And we
3 certainly cannot count on the industry for
4 compensation. Not that one could be compensated for
5 what is at risk.

6 And let's turn to some water
7 issues.

8 First, we will not be informed of
9 what chemicals will be injected into and stored in
10 our land, though we do know it contains heavy metals
11 as well as other known carcinogens. We do have clear
12 evidence that aquifers, streams, rivers, wells, will
13 be contaminated. Like quake damage, this
14 contamination cannot be undone.

15 I have had a lifelong dream of
16 retiring to a cabin in the woods and I was finally
17 able to purchase this in beautiful Union County. I
18 have a stream on my land and my water is well water,
19 which will be poisoned by fracking operations. This
20 will make my property not only uninhabitable for me
21 or the wildlife, but also unsaleable and there is no
22 compensation for this.

23 I strongly encourage the IDNR to
24 reconsider these rules and have at least a temporary
25 moratorium on fracking in Illinois until adequate

1 independent research on associated risk is completed.
2 What damage is done in the rush to exploit the earth
3 cannot be undone. The people of Illinois deserve and
4 demand that this research be done to protect not only
5 the public safety, but also the quality of life of
6 all of its inhabitants. And I thank you for the
7 opportunity to speak to you.

8 MR. WELCH: Thank you, Ms. Swanson.

9 Let's see. Ms. McKasson, I think it is.

10 MS. MCKASSON: My name is Barbara
11 McKasson, M-C-K-A-S-S-O-N. And I am from Carbondale.
12 And I thank you for extending the hearings from two
13 to five hearings, but I would urge you to extend the
14 comment period to at least the end of January because
15 during the holidays people do not have the adequate
16 time to wade through the legislation and the rules
17 and to make really comprehensive comments, you know,
18 unless you're paid full-time to do that. Most people
19 aren't.

20 So I am a lifelong resident of
21 Illinois and have lived in Southern Illinois for 27
22 years and I do not want to see any part of this
23 beautiful natural area of Southern Illinois to be
24 polluted by fracking waste.

25 I am very concerned that IDNR

1 does not have a good record of protecting our land,
2 air and water from conventional fracking waste. Not
3 to mention this high volume fracking waste.

4 In the 1970's the Illinois
5 Environmental Protection Agency conducted thorough
6 scientific studies of the environmental impact of
7 conventional fracking. The EPA report called the
8 Illinois Oilfield Brine Disposal Assessment found
9 that thousands of acres of prime farmland had been
10 made sterile from fracking -- fracking waste disposal
11 over the 30 previous years and this was just in White
12 County. 3,000 acres of farmland lost because of this
13 by 1978.

14 Now IDNR has damaged its
15 credibility even more by writing rules that create
16 loopholes in the new hydraulic fracturing law. How
17 can we trust IDNR to enforce a law that IDNR itself
18 has attempted to weaken.

19 At the very minimum DNR must
20 follow the law by fixing the proposed rules.

21 First, the existing high volume
22 fracking wells should be regulated to the standards
23 of the new rules.

24 Second, there should be an
25 equivalency factor for nitrogen foam and other

1 fracking fluids that may be used in horizontal
2 fracking, but that may use less water. Otherwise,
3 these directional fracking methods will be excluded
4 from the regulations under the new rules.

5 Third, the rules should require
6 accurate calculations for tank size so that the
7 operators do not have to constantly use open pits for
8 flowback and produce brine.

9 Fourth, presumption of the source
10 of chemicals found in an incidence of water pollution
11 within 1,500 feet of a well should include the entire
12 list of chemicals provided in the law.

13 Fifth, the law states that
14 penalties will be issued to prevent noncompliance.
15 As many people have said, these fines are
16 ridiculously low. They should be increased.

17 Sixth, health workers should be
18 able to contact a trade secret holder immediately in
19 an emergency situation at any time.

20 Seventh, the proposed rules have
21 been worded to exclude many significant permit
22 modifications from public notice and review. All
23 significant permit modifications should be included
24 as required by the law.

25 MR. WELCH: You've got ten seconds,

1 ma'am.

2 MS. MCKASSON: These are just some
3 examples of how the proposed rules do not measure up
4 to the letter and intent of the law. This must be
5 rectified. Thank you.

6 MR. WELCH: Thank you, ma'am.
7 Ms. Smerken.

8 MS. SMERKEN: My name is Marilyn
9 Smerken, S-M-E-R-K-E-N. I am from Murphysboro,
10 Illinois, and my comment is subpart H, Section
11 245.850, hydraulic fracturing fluid and hydraulic
12 fracturing flowback storage disposal or recycling
13 transportation and reporting requirements.

14 Subsection (d)1 of Section
15 245.850 provides for testing of fracking fluids only
16 one time during the early flowback stage and only for
17 "naturally occurring radioactive materials".
18 Problem. The proposed rules include no follow-up
19 requirements or standards if testing shows
20 radioactivity levels in flowback to be high. In
21 other words, these proposed rules treat flowback the
22 same whether it is highly radioactive or not.

23 DNR knows that naturally
24 occurring radioactive material occurs in Illinois
25 soil and gas operations. See 62 Illinois

1 Administrative Code Section 240.860(e)3 and
2 240.861(k)1(c).

3 Revisions needed. The rules must specify
4 how flowback and produced water will be treated if
5 they test positive for radioactivity. The rules
6 should also require that the requirements of the
7 Illinois Low Level Radioactivity Waste Management Act
8 be followed. Thank you.

9 MR. WELCH: Thank you, ma'am.

10 MR. CONNOLLY: I'm Dennis Connolly,
11 C-O-N-N-O-L-L-Y. I belong to RACE, the Regional
12 Association of Concerned Environmentalists, the Union
13 of Concerned Scientists and SAFE.

14 And the areas I want to touch on
15 are seismicity, water quality monitoring, risk of
16 large scale environmental disasters and flowback
17 radioactivity.

18 I contend there is gross
19 negligence on behalf of the IDNR to not consider the
20 real significant threat to our public health and our
21 future generation with regard to this hydraulic
22 fracturing.

23 Consider the -- consider the
24 permanent chemical trade secrets contamination to our
25 aquifers by fracking chemicals used. The release of

1 radon and methane into the drinking water.

2 As a member of the Union of
3 Concerned Scientists I charge the DNR with gross
4 negligence in regard to potent greenhouse gas methane
5 release. I also charge the IDNR with criminal
6 complicity by not outlawing the practice of
7 hydrobolic bombing the seismic sensitive nature of
8 our region between two major earthquake fault zones.

9 Your guidelines reveal complicity
10 as far as earthquake allowances of up to 4.5 on the
11 Richter scale. Where hydraulic fracturing has
12 occurred, pattern of earthquakes follow. Most
13 recently Texas. Also happened in Arkansas and Ohio.
14 And I don't understand the state of Illinois, why
15 they are not researching this and I'm calling for a
16 two-year moratorium to research this further.

17 Why is IDNR not asking or
18 considering these future scenario conditions?
19 Considering a drought of just two years ago and the
20 millions of gallons of water needed to frack each
21 well, this is reason enough to halt the fracking.
22 Now consider the chemical contaminants used and I
23 contend you have failed to regulate or even think of
24 the spill potential involving barges or truck
25 accidents.

1 Your fines are wholly inadequate
2 and show a degree of criminal complicity.

3 Now, please consider our
4 political leaders and the oil and gas money involved.
5 Is their decision to allow the exploitation been
6 disproportionately influenced?

7 And, finally, I would like you to
8 consider Fukushima and our government EPA. We're not
9 even monitoring the radiation from Fukushima.

10 MR. WELCH: Okay. Thank you, sir. J.
11 Nelson Wood and Curt Wilson.

12 MR. WOOD: Chairman, I'm declining to
13 speak. This is J. Nelson Wood.

14 MR. WELCH: Okay. Thank you, sir.
15 Then we call Janet Donoghue.

16 MS. GIBSON: My name is Tamika Gibson
17 and I'm speaking today on behalf of a coalition of
18 non-profit environmental organizations including
19 Faith in Place, Environmental Law and Policy Center,
20 Natural Resources Defense Council, and the Illinois
21 Environmental Council.

22 As our coalition has said from
23 day one, we do not welcome fracking coming to
24 Illinois. The draft administrative regulations
25 published on November 15, 2013, by the Illinois

1 Department of Natural Resources to implement the
2 Illinois Hydraulic Fracturing Regulatory Act do not
3 reflect a willingness to take the time necessary to
4 get appropriate protections in place before fracturing
5 commences. In fact, DNR's draft regulations run
6 afoul of the law in several significant ways and
7 thereby fail to sufficiently protect residents from
8 the known environmental and public health risks of
9 fracking.

10 Moreover, DNR has stifled the
11 public's ability to meaningfully participate in the
12 ongoing comment period by scheduling hearings over
13 the holiday season. For example, Chicago's November
14 26th hearing was two days before one of the most
15 traveled holidays, and limiting these hearings to two
16 hours notwithstanding the enormous public interest
17 and concern about fracking across the state is wholly
18 inadequate. Further, DNR has imposed an overly
19 complicated system for citizens to submit their
20 comments, which, whether intended or not, gives the
21 impression that DNR is deliberately inhibiting public
22 participation.

23 Many of the problems outlined
24 today appear to be a result of a hasty deadline that
25 DNR needlessly subjected itself to. In addition to

1 our substantive concerns with the rule, we asked DNR
2 to immediately slow the process down and publicly
3 commit to protect the environment and public health
4 by providing adequate, meaningful opportunity for
5 public comment and hearing on these critical
6 regulations.

7 Key substantial concerns we have
8 include:

9 Emergency response and
10 disclosure. The law requires that
11 trade-secret-protected information about chemicals be
12 disclosed to help workers when necessary to treat a
13 patient, in both emergency and non-emergency
14 situations. In contrast, IDNR's draft regulations
15 give discretion over when to share this information
16 and direct health workers to contact either IDNR
17 during normal business hours or trade secret holders,
18 which it provides no means to identify or locate.
19 This is unacceptable. Emergencies can happen any
20 time of day or night, and emergency personnel must
21 not be left to guess which private fracking entity to
22 contact if the department is not available.

23 Water pollution. The law
24 requires all wastewater to be stored in closed tanks,
25 allowing the use of lined open pits only for one week

1 if unexpectedly huge volumes of wastewater come up
2 the well. In contrast, IDNR's draft regulations
3 allow wastewater to sit in open pits potentially for
4 longer than a week, and do not require accurate
5 calculations of tank size, leaving room for frackers
6 to underestimate tank capacity and therefore use open
7 pits more frequently.

8 Excludes wells. The law applies
9 to all high-volume fracking wells, regardless of when
10 they began operating or what process they use. In
11 contrast, IDNR's draft regulations would exempt
12 existing wells and potentially exclude types of
13 fracking that use gas.

14 Liability. The law presumes that
15 any water pollution found within 1,500 feet of a
16 fracking operation was caused by that fracking,
17 unless the fracking company can prove otherwise. In
18 other words, the burden of proof lies with the
19 frackers, not with the communities impacted by the
20 pollution. In contrast, IDNR's draft regulations
21 limit industry's burden of proof to a much smaller
22 set of indicator chemicals, rather than the list of
23 over 100 chemicals included in the law.

24 Public notice. The law requires
25 that any significant modification to a permit undergo

1 public review processes, notice, comment and public
2 hearings. In contrast, IDNR's draft regulations
3 significantly narrow the types of modifications that
4 require public processes, opening the door for
5 fracking permit holders to avoid public scrutiny.

6 MR. WELCH: Ten seconds.

7 MS. GIBSON: The environmental
8 coalition will be submitting extensive written
9 comments on these and other concerns with DNR's draft
10 regulations. We call on IDNR to act responsibly and
11 promptly revise these regulations to ensure full
12 compliance with the Illinois Hydraulic Fracturing
13 Regulatory Act.

14 MR. WELCH: Mr. Wilson.

15 MR. WILSON: Hello. My name is Curt
16 Wilson. That's Curt with a C. And I sincerely
17 appreciate you gentlemen's time tonight.

18 I am a homeowner in Carbondale,
19 Illinois. I work in the field of computer security.
20 I'm also a musician. And I have some things to share
21 about I75 Section (a)2. All phases of high volume
22 horizontal hydraulic fracturing operation shall be
23 conducted in a manner that shall not pose a
24 significant risk to public health, life, property,
25 aquatic life or wildlife. I think this is meritable.

1 However, I do believe there needs to be significant
2 discussion on what significant means here.

3 Obviously we've seen the
4 propaganda that says fracking equals jobs. I
5 understand people want great livelihood. They
6 deserve to earn a living from good employment.
7 That's totally fair. However, if you take a look at
8 some of the risks, the risks to public health and
9 safety, you take a look at earthquakes. We're
10 between two earthquakes zones as several other
11 speakers have already communicated. This makes this
12 region very dangerous and unstable for this
13 operation. Therefore, I'm calling for a ban.

14 In addition, a local researcher
15 has published in tonight's paper the mechanisms that
16 connect the disposal of fracking wastewater into deep
17 injection wells to a significant increase in
18 mid-continent seismic activity. I believe that he
19 did a great job with his paper. I would have loved
20 to see this published by IDNR. If you already have
21 this information, I'm sorry I have not seen it.

22 The poisoned land. The poisoned
23 water, poisoned livestock, these are significant.

24 Fracking may equal jobs.

25 Fracking may equal jobs, but we don't want those jobs

1 to be treating people for cancer. Sustainable energy
2 can work in other countries. It can work here as
3 well. It can provide economic benefit for people to
4 support sustainable energy.

5 And I would like to end, since
6 I'm a musician, with something from my artistic side.
7 This is a poem.

8 The sun, it shines; yet eyes are turned
9 down. Perceive not the king with sole of a crown. A
10 moment's coming temps the eyes of the mother they do
11 despise. The prick of force into her hide. Her plea
12 for sanity sadly denied. Bombs above and bombs
13 below, she screams in pain, her blood does flow.
14 Short-term to short-term gain, but long-term lies.
15 Human greed wears no disguise. Cast aside into the
16 trash the land once pure for cold, dead cash. Thank
17 you.

18 MR. WELCH: Thank you.

19 Okay. We need Matthew Borowicz.
20 Matthew. And then Ed Upton. And this is
21 Ms. Donoghue.

22 MS. DONOGHUE: My name is Janet
23 Donoghue, D-O-N-O-G-H-U-E. I am from Carbondale,
24 Illinois. I am a mother and have lived in Southern
25 Illinois about 30 -- a little over 30 years. A long

1 time resident of Jackson County and before that
2 Monroe County.

3 I went to your website and was
4 looking for a study that was done in Illinois that
5 can prove that our water would be safe and I did not
6 find that study. Therefore, my comment is on section
7 245.610, water pollution investigation. A general
8 comment about that.

9 Since the EPA announced that it
10 will delay comprehensive study on water contamination
11 until 2016, then I say that we should not frack
12 Southern Illinois until that study is released.

13 There is evidence pointing to
14 major problems with EPA study that is cited by
15 proponents of fracking. EPA study of 2012 where two
16 whistleblowers came forward that worked closely with
17 that study and have said that evidence was covered
18 up. And we need to not frack until we know without a
19 doubt that our water is safe.

20 There's been no comprehensive
21 study, none, and this really shocked me, in Illinois,
22 concerning our water and its safety with fracking. I
23 don't know how you can stand on the ground and say
24 it's safe, if there hasn't been adequate test to
25 prove so. This makes it more important than ever

1 that fracking is delayed.

2 The EPA study to be released in
3 2016 may be the only study done. We owe it to
4 ourselves, our land and our family, our future to
5 wait until we know conclusively that we're safe.

6 I've looked people in the eye and
7 met them in person who have said that their water was
8 contaminated by fracking. These people have no
9 reason to lie, as far as I can tell.

10 I actually met a couple that now
11 live in Anna, Illinois, in Union County, that
12 relocated because their water on land that they
13 owned, a natural spring, was contaminated from
14 fracking in Texas. Now, why would we move forward so
15 quickly when there's still uncertainty about basic
16 safety of one of our most precious resources, water.

17 During the Chicago radio
18 interview in September representatives from the
19 Illinois Sierra Club and the National Resources
20 Defense Counsel admitted on air that the rules in
21 place as they are do not protect our water. It's
22 not -- and also just to mention that, that both of
23 those organizations that industry touts as saying
24 they represent the environment, none of them
25 represented Southern Illinois.

1 Then just to lastly, then, moving
2 forward, knowing that we're putting toxic chemicals
3 underground, doesn't the government owe it to us,
4 some kind of a study, and Illinois, before proceeding
5 in light of the recent drought and the knowledge
6 knowing that water is going to increase in scarcity
7 and value?

8 I ask that Illinois not endanger
9 this precious resource and not endanger its citizens.
10 When you say that we have the toughest regulations in
11 the U.S., we don't. The toughest regulation would be
12 a moratorium or a ban. We need a moratorium until we
13 are certain about our water.

14 Thank you very much for the
15 opportunity to speak. I don't know necessarily what
16 the hiring or promotion policies of IDNR are, but it
17 would be great to see a woman on the panel.

18 MR. WELCH: Thank you, Ms. Donoghue.
19 Matthew.

20 MR. BOROWICZ: Yes. My name is
21 Matthew Borowicz. That's B-O-R-O-W-I-C-Z. I would
22 like to thank you for the opportunity to speak. Just
23 like my fellow Eagle Scout and the Boy Scouts here I
24 was raised with the moral and ethical duty to protect
25 our environment.

1 I want to comment on specifically
2 245.600, water quality. Monitoring in the proposed
3 rules. Section 245.600(b)1 of the proposed rules
4 provides for the testing and monitoring of water
5 sources within 1,500 feet of a well site. Among many
6 of the problems with this monitoring provision
7 proposed rules do not provide for testing along the
8 horizontal legs of the well bore, which can extend
9 for up to 2 miles from the well site. There are many
10 problems with either considering the mitigation of
11 toxic fluids from the horizontal well bore, with
12 hydraulic fracturing, in using of explosive charges
13 and it can create and mitigate the higher risk of
14 magnitude of earthquakes.

15 I would like to also mention one
16 other thing. We're talking about this document up
17 here, but there's one document that is way more
18 important than that and that is the Constitution of
19 the United States.

20 Recently the Supreme Court said
21 that a corporation is a citizen. They do not breathe
22 air. They do not drink water. Now, I do know that
23 landowners have a right to use their land and to make
24 money from it, but when that right infringes on other
25 citizens' right to have a healthy lifestyle and a

1 life, liberty and pursuit of happiness, gentlemen,
2 that is breaking the Constitution.

3 I implore you to put a moratorium
4 on fracking in the state of Illinois. Other
5 countries, including France, have banned it. I don't
6 understand why this country is hell bent on getting
7 fossil fuels and energy from sources that we know
8 will eventually run out. It's bad investment and
9 simple as that. Thank you for your time.

10 MR. WELCH: Jonathon Hallberg and
11 Gabriel Garcia I think it is. Jonathon, are you
12 here?

13 MR. HALLBERG: Yeah, I'm here.

14 MR. WELCH: Gabriel? Come on down.
15 Ed Upton, where are you? Supposed to be up here.

16 MR. UPTON: I don't have a written
17 statement and I came to this meeting knowing that I
18 was interested in horizontal drilling and fracturing
19 and I do know that in the United States since the
20 last 12 years we have gone from importing 70 percent
21 of our oil to now about 40 percent. And I'm from
22 Southern Illinois. I better give my name. Ed Upton.
23 Between Woodlawn and Mt. Vernon. And I think
24 Southern Illinois needs the economy. You know, we
25 need a boost in the economy and this will do it. And

1 most of the things I've -- it seems to me like
2 it's -- I'm not a cheerleader and, if I was, I don't
3 have a booster club or anyone backing me, but I'm
4 real positive. And the economy of the United States
5 is the greatest and it's getting greater and it's
6 because we have resources, natural resources. When I
7 was a kid I swam in those salt pits and those are the
8 ones that the state of Illinois made rules that you
9 couldn't have salt pits. And that's where that
10 radiation is now. And we have been improving our
11 logs all along.

12 When you get this going, you need
13 to be able to go quicker because North Dakota is now
14 number two to Texas on oil production. And it takes
15 them 12 days to get a permit to drilling. The --
16 let's see. And the other permits are the federal
17 land in 2005 it took 154 days to get a permit to
18 drill and 2012 it takes 307 days. In Texas it takes
19 14 days to get a permit. In Ohio 14 days. In
20 Colorado 27. I'm just saying that we need to do this
21 and we need to do it efficiently and quickly or the
22 rest of the United States will pass us by.

23 And my understanding of hydro
24 fracking is that 90 percent of it is water and that
25 there's a small percentage that's sand when --

1 MR. WELCH: Wait a minute now. Wait a
2 minute --

3 MR. UPTON: I don't have a fan club.

4 MR. WELCH: Just stop. Now, listen.

5 When everybody has talked here against fracking
6 everybody has been polite. One gentleman comes up
7 and takes an opposite view and you start heckling
8 him. Let the man talk. Okay. Go ahead, sir.

9 MR. UPTON: I understand that they go
10 down and they go horizontal and they inject water and
11 sand and they have a manmade -- like a crystal that's
12 a little bit larger than sand and that holds the
13 shale apart. When I was a kid, they would show me a
14 core and they would say this is shale. We can't get
15 anything out of it. Now, we have more than the whole
16 world and we have just this year passed up Saudi
17 Arabia on having the most oil. And there's a lot of
18 gas here and the -- we're starting to have gas
19 powered engines on railroads. And GE is doing this
20 and we're going to be much better off and -- but
21 we'll be left behind if we don't do it.

22 MR. WELCH: Twenty seconds, sir.

23 MR. UPTON: Thank you.

24 MR. WELCH: All right. Thank you,
25 Mr. Upton.

1 MR. HALLBERG: I am Jonathon Hallberg,
2 H-A-L-L-B-E-R-G. I am here representing the South
3 Central Illinois Regional Planning and Development
4 Commission, as well as the Greater Wabash Regional
5 Planning Commission, Southeastern Illinois Regional
6 Planning and Development Commission, Southwest
7 Illinois Metropolitan Regional Planning Commission
8 and White County Road Commission.

9 In the language about bidding for
10 road repairs and in section 245.410 we find no place
11 where the proposed administrative rules address
12 upgrade, maintenance or repair of roadways needed to
13 accommodate the many activities under the Illinois
14 Hydraulic Fracturing Act. These activities will
15 affect traffic flow during and after hydraulic
16 fracturing and drilling activities. Not planning for
17 or undertaking them will have an even greater effect.
18 Traffic maintenance and management cannot occur
19 without planning for these issues. A provision for
20 the establishment of road upgrade and maintenance
21 agreements within section 245.210, Subsection 15, in
22 the Traffic Management Plan, of the proposed
23 administrative rules would ensure these issues are
24 addressed.

25 We also recommend striking the

1 term preferably in the initial paragraph of
2 Subsection 15, which currently reads, "A traffic
3 management plan that is developed by the applicant
4 will preferably in coordination with the impacted
5 highway authorities (county, township, road district
6 system, and municipal street system) et cetera, et
7 cetera. We recommend striking preferably from this.

8 The Illinois Hydraulic Fracturing
9 Act makes allowances in Section 1-55(a) that, "Each
10 permit issued by the department under this act shall
11 require the committee to comply with all provisions
12 of this act and all applicable local, state and
13 federal laws, rules and regulations in effect at the
14 time that the permit was issued." The language we
15 propose does not hamper the permitting process, but
16 rather supports the act, even making allowances for
17 delays. It ensures communities can exercise their
18 rights under various Illinois statutes including 605
19 ILCS 5/5 et seq., 605 ILCS 5/6 et seq., 605 ILCS
20 5/9-113, and 625 ILCS 5/15-316.

21 The proposed alterations to
22 subsection 15, the traffic management plan, which is
23 in part 2010, permit application requirements, would
24 go in the subpart. It would be a fifth component to
25 the traffic management plan, which we recommend

1 calling item C would be as follows.

2 An executed or proposed road
3 upgrade and maintenance agreement established with
4 affected county, township, road district system or
5 municipal street system authorities, which includes
6 provisions for needed upgrades and supplemental
7 maintenance of affected routes to accommodate
8 operator transport activities, arrangements for
9 undertaking such upgrades or supplemental
10 maintenance, provisions for timely repair of damages
11 by the operator, arrangements for coverage of costs,
12 such as bonds or surety, and consequences for failure
13 to repair in a timely manner.

14 And then one subpart A. In the
15 event that a proposed RUMA is submitted, the
16 applicant will outline the current status of the
17 negotiations, including whether a
18 mediation/arbitration process is needed and what
19 party will serve as a mediator/arbitrator. Thank you
20 very much.

21 MR. WELCH: Thank you. I'm going to
22 call a couple more names and I would like you to come
23 on up and sit in these two front seats here, so we
24 don't have to wait. Mr. Garcia, you're up. Gabriel
25 Garcia? Okay. Beth Martell, you're up. Then Greg

1 Smothers and then Michael Hicks. Michael, are you
2 here? Greg Smothers. All right. Right up here.

3 MS. MARTELL: I'm Beth Martell,
4 M-A-R-T-E-L-L. And I come from Makanda, Illinois.

5 MR. WELCH: Just take a breath.

6 MS. MARTELL: Concrete crumbles, steel
7 rusts. In the United States since the year 2001 six
8 bridges have collapsed. The Federal National Bridge
9 Inventory reports 85,000 U.S. bridges are in bad
10 shape and need to be replaced. What are bridges made
11 of? Steel and concrete. What does fracking use to
12 keep these deadly chemicals out of our drinking
13 water? Steel and concrete.

14 The fracking industry buries
15 steel pipes thousands of feet underground, fills them
16 with fracked water, effluents and sand, puts them
17 under a tremendous amount of pressure, waits for 20%
18 to 80% of the toxic and radioactive wastewater to
19 come out, and seals the rest of the water inside the
20 steel pipes with an inch of concrete. Then they tell
21 you everything's going to be okay. You don't have to
22 worry that fracked water is poisoned with more than
23 600 toxic and radioactive chemicals. The damage is
24 done. Out of sight is out of mind. But the USGS
25 says there's no way to keep all the water separate.

1 It can't be done. The poison is going to end up in
2 your water because all steel rusts.

3 The question is this. Why are we
4 betting against a natural process everyone
5 understands and expecting everything to work out to
6 our advantage All steel rusts. Doesn't that single
7 fact unhinge all the fracking science?

8 When the industry talks to you
9 about fracking, ask them who is going to check the
10 steel pipes in a few generations when all the
11 fracking money is gone and the pipes are still down
12 there in the dark getting rustier and rustier and
13 rustier.

14 Don't be fooled. They are going
15 to hand this problem back to you and you're the one
16 who will have to find the solution. Not them.
17 They're in it for the money and if you'll sell your
18 water cheap, they'll certainly take that to the bank.

19 MR. WELCH: Thank you, ma'am.

20 MR. SMOTHER: Good evening. My name
21 is Greg Smothers. Last name S-M-O-T-H-E-R-S. I'm
22 from Marion, Illinois. I am the Williamson County
23 engineer and I'm also representing the Illinois
24 Association of County Engineers as a vice president
25 of that association.

1 I want to speak briefly about the
2 present permit process as it pertains to the traffic
3 management plan that is required by all applicants.

4 Current law does not adequately
5 address the upgrade, maintenance or repair of
6 roadways that will be required to accommodate
7 activities under the Illinois Hydraulic Fracturing
8 Act.

9 I also want to touch on the road
10 upgrade and maintenance agreements, acronym RUMA,
11 with all affected counties, townships, road
12 districts, unit road districts and municipalities.

13 We strongly urge these rules to
14 require the traffic management plans to be done in
15 direct coordination with the affected impacted
16 highway authorities. It should not be something that
17 is done when it's convenient or when it's preferred
18 or at anyone's discretion. It should be done in
19 every instance if we're going to properly protect our
20 infrastructure. We also urge these rules to require
21 that an executed RUMA with all impacted highway
22 authorities must be part of the Traffic Management
23 Plan to be included in the applicant's permit,
24 application for IDNR's consideration.

25 We strive as a -- as an

1 organization each and every day to maintain and
2 provide transportation system to support growth
3 through -- in our regions. There's a great deal at
4 risk with our road systems and the infrastructure if
5 we do not require those provisions. Rural Illinois
6 government authorities do not have the tax basis or
7 the wherewithal to maintain the road infrastructures
8 placed under this type of distress. Thank you

9 MR. WELCH: Thank you, Mr. Smothers.
10 Gerald Quindry. You can come on up here. Would you
11 come on and have a seat up front, please? And Sherry
12 Sullivan. Are you here? Okay. All right.
13 Mr. Hicks, hello.

14 MR. HICKS: I'm Michael Hicks,
15 H-I-C-K-S, from Texico, Illinois, and tonight I would
16 like to comment on Section 245.720 of the Hydraulic
17 Fracturing Regulatory Act. Under this act fracturing
18 companies will be required to provide a master list
19 of chemicals used in their operations. But this
20 section doesn't require them to disclose all of the
21 chemicals publicly if they feel they are a trade
22 secret. A redacted version of this list will be
23 given to the public, and we are supposed to trust
24 that the people up top will be watching out for
25 dangerous chemicals being used.

1 According to a report on
2 hydraulic fracturing from the U.S. Energy and
3 Commerce Committee chemicals used include extremely
4 toxic substances such as the cancer-causing benzene,
5 lead and methanol. In fact, methanol, which is a
6 hazardous air pollutant, was the most used chemical
7 from 2005 to 2009. Not all of the chemicals could be
8 identified by gas service companies, suggesting the
9 fracturing companies are injecting fluids containing
10 chemicals that they themselves cannot identify.
11 Luckily some of these proprietary chemicals were
12 identified, and they included things such as instant
13 coffee and walnut hulls all the way to chemicals
14 linked to vision loss, birth defects, seizures, heart
15 damage, brain damage and other health issues,
16 according to the U.S. Environmental Protection
17 Agency.

18 There have been over 1,000
19 documented cases of water contamination next to areas
20 of gas drilling, as well as cases of negative effects
21 on health and illness from the chemicals involved in
22 hydraulic fracturing. Residents in Dish, Texas, who
23 live next to a gas production site reported illness
24 among community members after complaining of strange
25 odors from drilling sites. Consulting groups were

1 called in to investigate and found elevated levels of
2 benzene and other toxic chemicals in the air. In
3 some cases, 384 times the legal limit deemed as safe.
4 Another infamous case in Pennsylvania where locals
5 were lighting their tap water on fire is also quite
6 concerning.

7 Fracturing companies have
8 responded to the high levels of flammable methane
9 found in water supplies with rhetorical tricks,
10 claiming methane is a naturally occurring chemical.
11 That is true, but the actual fracturing process
12 itself involves drilling into the methane layer of
13 the earth, allowing the toxic gas to migrate into the
14 water supply. This water contamination and
15 contamination in other areas has been repeatedly
16 traced back to hydraulic fracturing or its
17 surrounding process by the Pennsylvania Department of
18 Environmental Protection, studies by the
19 Massachusetts Institute of Technology, studies by the
20 Colorado School of Public Health, peer-reviewed
21 studies by Duke University, as well as tests
22 conducted by the EPA.

23 Many sections of this act imply a
24 concern of contamination, and while there are
25 protections to hold companies liable for this, I'd

1 like to ask, if there's even a small chance of
2 contaminating the earth, why is it something we are
3 considering? Many choices in life involve risk, but
4 environmental damage is permanent. We only get one
5 earth. The argument against all of this is an appeal
6 to emotion, that we need this to create jobs. It's
7 interesting to note that according to the New York
8 Times, jobs in the oil and gas industry are seven
9 times more likely to be fatal than the U.S. average.
10 To be specific, the EPA considers the radioactive
11 material in fracturing flowback to be a hazard to
12 workers, raising their risk of lung cancer. Workers
13 are also exposed to alpha and gamma radiation, that
14 can penetrate the skin and raise the risk of skin
15 cancer. Instead of asking workers to handle
16 cancer-causing chemicals, I'd rather see jobs created
17 to further our understanding and also lower
18 feasibility of true energies of the future, such as
19 geothermal, marine and solar. Most of these
20 technologies are already in use around the world
21 today, such as gemasolar thermosolar plant in Spain
22 and geothermal plants in California. Marine power
23 has the potential of providing a substantial amount
24 of renewable energy around the world, and
25 developments are being made on this in multiple

1 countries.

2 MR. WELCH: You have 30 seconds.

3 MR. HICKS: To conclude my comments,
4 if fracturing companies are allowed the chance to
5 contaminate our land, they should be required to
6 disclose all chemicals involved with this process to
7 the public, not just a redacted version as the act
8 currently states. When it comes to public health and
9 the environment, there should be total transparency,
10 and the information I have provided tonight should be
11 overwhelming proof that total transparency is
12 desperately needed. Thank you.

13 MR. WELCH: Thank you.

14 MR. QUINDRY: Hello. My name is
15 Gerald Quindry, Q-U-I-N-D-R-Y. I am a professional
16 engineer registered in Illinois. I am a -- I live in
17 Fairfield, Illinois, and I have opened up a
18 consulting business there. Hopefully to service some
19 of the needs of the oil companies. First, a
20 backhanded comment to you gentlemen. I think you've
21 done a very much better job of establishing water
22 quality management programs for groundwater than you
23 have for surface waters. I would like to talk to you
24 about the surface water parts.

25 What -- I have a chart here --

1 I'll try to put it up here, if you can see it. It's
2 included in my submitted document. That site shows a
3 alkalinity in the Little Wabash River, Clay City.
4 Now, the Little Wabash River is one of the major
5 streams in the area. The variability of water
6 quality parameters in that river will be much more
7 attenuated than in the small creeks and small streams
8 that you'll find throughout the area. But those
9 small streams have to be baselined, as well as the
10 groundwater situation -- groundwater sources under
11 your regulations.

12 As shown from the alkalinity
13 there, if you pick a month, any time during the time
14 period you're really just bouncing all over the
15 place. There's a tremendous amount of noise in the
16 data. It's impossible there to come up with a
17 baseline absent the long historical record. Another
18 issue on that is your regulatory approach of that
19 point. Instead of taking a sample at a single point
20 in the stream and then six months, 12 months later,
21 taking another point, another sample at that same
22 point, what you should be doing is an upstream and a
23 downstream sample at the same time before doing
24 fracking and then six months, 12 months, 36, 30
25 months, whatever, after fracking, take another set.

1 Compare the differences between the two, not -- not
2 just the single number.

3 So I think that would greatly
4 improve the capability of baseline water quality data
5 from moving sources.

6 One other issue there of
7 alkalinity, though, your water statistical program
8 that you've called for in 245.610(e) in the
9 statistic -- I believe that's the correct section.
10 You talk about statistically significantly higher for
11 a measurement. Well, alkalinity goes down, if you
12 spill fracking fluids. So you're going the wrong
13 direction in terms of what -- maybe your pH would go
14 down. Same thing. Each of the 27 baseline
15 chemicals, you need to look at individually what's
16 the likely direction of change for them.

17 Finally, the work plan for water
18 quality monitoring and the data reports that are
19 submitted to you, I truly do believe they need to be
20 submitted to you under a PE or PG stamp. You don't
21 want those things to be just mysteriously showing up
22 with no signature, nobody personally responsible for
23 them. Thank you very much.

24 MR. WELCH: Thank you.

25 Now, normally, since it's past

1 8:30, that would be the last person, but I'm going to
2 call four names and that's going to be it because
3 it's past 8:30. I want two to sit here and two to
4 sit there with four minutes. Lucia Amorelli. Lucia
5 are you here? Come on up and have a seat, please.
6 Robert White. Kristy Hamison. Randall Questelle.
7 Randall, are you here? All right. Come on up you
8 four and have seats right up here. Ms. Sullivan,
9 you're on.

10 MS. SULLIVAN: Yes. Can you hear me?
11 My name is Dr. Sherry Sullivan. I am a lifelong
12 resident of Southern Illinois. And I currently
13 reside at the Lake of Egypt in Goreville township on
14 the edge of the beautiful Shawnee forest. I have
15 built my dream home there because I really, really
16 enjoy the natural resources of Southern Illinois.
17 There is no place like it in the rest of the state.
18 And I'm going to read my statement about the rule
19 that I chose to focus on tonight, but I want you to
20 know that I am very passionate about keeping this
21 part of the state the way it is, keeping our water
22 pure, our air breathable and our soil usable. I am
23 an organic farmer or gardener, I guess you could say.
24 I have a small vineyard. I have an orchard. And I
25 don't want this area ruined by toxicity.

1 All right. Now let me tell you
2 what I have to say about your rules. I am distressed
3 about the disregard for local use of government and
4 the decision making power, section B of registration
5 and permitting procedures. The realities of the
6 geography of this area that are going to be fracked
7 is that very little of this fracking is going to take
8 place in towns and cities. It's going to take place
9 in rural areas. Very rural areas. The south seven
10 counties of the state.

11 So my questions are if you have
12 to have prior notifications of intentional process of
13 permitting for cities and towns, why are the proposed
14 rules silent on the notification in regards to
15 neighborhoods in rural areas where there are no towns
16 or cities nearby? Shouldn't the citizen residing in
17 rural counties of Illinois have the same input on
18 fracking permits as those that live in towns and
19 cities?

20 As the rules are currently
21 written this -- doesn't this create a class of
22 second-class citizens who have fewer rights to
23 participate in determining the type of energy
24 extraction that's allowed in their neighborhood, if
25 you're only notifying people who live in towns and

1 cities? How is that legal under our state's
2 constitution? Aren't we all guaranteed the same
3 rights to a healthy environment in Illinois? I think
4 I heard someone say that earlier. I think I heard
5 someone quote that. Don't all people of the state of
6 Illinois have the right to know when harmful
7 substances are being injected and stored in their
8 soil? Expelled into the air and transported across
9 their dilapidated, crumbling rural roads? I believe
10 they are. And I think that IDNR should consider
11 asking for a moratorium or a ban on fracking.

12 MR. WELCH: Thank you. Ms. Amorelli.

13 MS. AMORELLI: A-M-O-R-E-L-L-I.

14 MR. WELCH: Your first name is Lucia?

15 MS. AMORELLI: L-U-C-I-A. I'm a
16 Jackson County resident and landowner. I rely on
17 well water and am only 10 miles away from Johnson
18 County, which over half of it has been leased for
19 fracking. My comment pertains to the need for more
20 rules to protect our most precious resource in
21 Southern Illinois, our natural areas and the Shawnee
22 National Forest.

23 The only ruling that I am aware
24 of which would offer any protection to these natural
25 areas is in section 1-25(a)5, setbacks and

1 prohibitions which states that a well site cannot be
2 within 750 feet of a nature preserve. Obviously
3 750 feet seems very inadequate. There are 12 nature
4 preserves alone in Johnson County and many other
5 natural areas in or nearby Johnson County, such as
6 Ferne Clyffe State Park, Giant City State Park, Dixon
7 Springs, Crab Orchard National Refuge, Bell Smith
8 Springs National landmark, Millstone Bluff National
9 register site, Burden Falls and Bay Creek wilderness
10 areas and Lusk Creek Natural landmark. These are
11 just a few surrounding -- immediately around Johnson
12 County. Do we really want fracking allowed near all
13 of these highly visited areas? Are oil and gas
14 companies going to be allowed to drill underneath
15 these areas since they can frack a mile or more
16 horizontally? We need rules that clearly state that
17 drilling in and under state parks, nature preserves,
18 wilderness areas, etc., is prohibited.

19 We also need rules that help
20 protect tourism in Southern Illinois, which is one of
21 our largest sources of income. For example, tourism
22 will not want to come to Southern Illinois if there
23 are 200-foot high rigs right next to one of our
24 beautiful vineyards or if when looking out from
25 Garden of the Gods and you see hundreds, thousands of

1 rigs on the horizon. We need some kind of rule
2 protecting our scenic views. The National Parks
3 Conservation Association also lists the following
4 issues that should be addressed when considering
5 fracking near natural areas. The impact of new roads
6 and other expanding infrastructure, water usage that
7 could deplete key waterways, air, land and water
8 pollution, and the disruption of sound scapes and
9 night skies.

10 In closing, if our state gets
11 fracked like Colorado or North Dakota where their
12 landscapes have been scarred with drill pads and
13 rigs, we will have ruined our most precious resource
14 here in Southern Illinois. It is critical that IDNR
15 take these matters into account when revising the
16 rules, or better yet, declare to our Illinois
17 legislators that there aren't enough rules possible
18 to ensure the safety and integrity of our
19 environment, our livelihoods and our homes here in
20 Southern Illinois. Thank you for your time.

21 MR. WELCH: Thank you. This is?

22 MS. HAMISON: K-R-I-S-T-Y,
23 H-A-M-I-S-O-N. I live in rural Brookport, Illinois.
24 I live in very south Pope County and I drove 70 miles
25 to get here. It was over an hour and a half.

1 My area will be impacted if
2 fracking is allowed in Pope County and we really need
3 you all to come down here and hear how the people
4 down there feel about it and I can guarantee you they
5 are opposed. They are terrified.

6 I -- many years ago I went to
7 northeastern Michigan with a group of friends and we
8 rented a house. It was a nice, kind of lodge-type
9 place and beautiful hilly forest and there were
10 houses around as well. Rural houses. And we were
11 out on this really nice porch in the afternoon and
12 all of a sudden this most horrible smell engulfed us.
13 And we thought there was a huge gas leak in the
14 house. We were going to blow up. We called the
15 caretaker and he said, oh, it's natural gas drilling
16 flares and when the air is just right and the wind is
17 just right you get overcome with this smell.

18 I have also been to the Allegheny in
19 Pennsylvania and I've seen what the oil and gas
20 company has done to that beautiful environment and
21 what the people have gone through there and are going
22 through. They are not benefiting. They are having
23 their lives turned upside down, destroyed, their
24 homes. They can hardly live there. And other
25 people, other countries are benefiting for this cheap

1 fuel.

2 When I get up in the morning -- I
3 live in a really beautiful area adjacent to the
4 Shawnee and it's forest and the air is clean. The
5 water is clean. The earth is clean. And I go out
6 and I smell the dew in the morning. If it's going to
7 rain, you can smell the rain coming. In the fall,
8 the leaves start composting and you have that
9 fragrance. In the summer there's honeysuckle. If we
10 get these wells and they flare, you're not going to
11 have that anymore. You're not going to be able to
12 sit on your porch. I sleep -- I have a screened in
13 porch and I sleep on it in the summer. That's going
14 to be gone. You know, my life that I have worked all
15 of these years will not be the same. I will probably
16 have to move. I've lived in Illinois my entire life.
17 I've lived in southern Pope County for 30 plus years.

18 And as far as the rules are
19 concerned, you can have all of the rules in the
20 world, but who is going to enforce them? Who is
21 going to be able to go underground 2 miles and really
22 see what's going on? So I really hope that you will
23 not allow this and that you will have a meeting down
24 in Pope County, Metropolis, Golconda and hear from
25 those people as well. Thank you.

1 MR. WELCH: Thank you.

2 MR. QUESTELLE: My name is Randall
3 Questelle, Q-U-E-S-T-E-L-L-E. I live in Carmi,
4 Illinois, right in the middle of the affected area.
5 I listened to what has all gone on here today. You
6 can say most of us are listening to the same radio
7 station, WIIFM, what's in it for me. And everybody
8 is worried about what's in it for me. I
9 personally -- I was a coal miner for 30 years and I
10 was a college instructor for 15, but what's in it for
11 me, you know, you know, I'm a -- I'm for progress and
12 the thing that I can see that we need is in my 30
13 years in coal mining, what made the coal mine
14 industry safe in my 30 years from 1969 to '99, was
15 inspections. I haven't heard a thing said about the
16 inspections. Who is going to inspect? What's the
17 workers going to be doing? That kind of thing. So,
18 like I said, I'm for progress, but also I'm
19 interested in what it's going to do to the roads in
20 our areas, the housing. I hear that Carmi is going
21 to triple in size, is one estimate, and the housing
22 cost -- to rent a houses is going to go from 500 to
23 \$1,500 a month. And then also with any boom you have
24 a -- a following that follows that. It's not exactly
25 what you want to have. I'm talking about lifestyle

1 changes and crime. You also --

2 In closing, I want to think about
3 the safety of the workers that's working in our
4 cities that's going to have to put up more
5 infrastructure and that. And last, but not least, is
6 the safety of the oilfield workers. My father-in-law
7 was an oilfield worker for several years and we have
8 to safeguard the workers. Thank you for your time.

9 MR. WELCH: Thank you. Robert White
10 never showed up? I guess we're done then.

11 Remember, if you want to stay
12 around for a few minutes after -- or --

13 AUDIENCE MEMBER: I filled out a card
14 to speak.

15 MR. WELCH: We had a few other cards,
16 but we're out of time.

17 AUDIENCE MEMBER: Sir, I filled out a
18 card to speak and you never called my name.

19 MR. WELCH: Well, what we did was we
20 took all of the cards and we shuffled them up and
21 then I called them in the order that they came out.
22 Now, we usually stop at 8:30. Instead we went an
23 extra 15 minutes to get a couple more speakers in
24 here, but that's it. We're done.

25 AUDIENCE MEMBER: So what does that

1 mean?

2 MR. WELCH: If anybody has written
3 comments and you want to leave it up here, you can
4 put it in the box and if you want to hang around for
5 a little bit they are going to summarize what we
6 heard here today. Okay. Thank you again for coming.

7 (At which point in the proceedings a
8 break was taken.)

9 MR. COHEN: Is it working? My name is
10 Mitchell Cohen. I just want to give you a summary of
11 what we heard as a group tonight up here on the
12 panel. These are the comments that we heard most
13 often from the group related to the hydraulic
14 fracturing administrative rules. We did hear all of
15 the comments. We will review all of the comments in
16 toto with all of the comments we're receiving from
17 the website and that are being mailed in. But for
18 tonight the most common comments that we heard
19 related to the water quality monitoring, the chemical
20 disclosure and trade secrets by industry, the
21 enforcement issue and the fines and seismicity. So
22 those were the top four that the panel heard from the
23 audience.

24 We thank everybody for their
25 comments and we will be reviewing them all in the

1 future after the public comment period is over. So
2 thank you very much. We appreciate all of the
3 comments tonight. Thank you.

4 AUDIENCE MEMBER: Can you say that
5 again?

6 MR. COHEN: Let me go over those
7 again. Water quality monitoring, chemical disclosure
8 as it is related to the trade secrets, the
9 enforcement issue with regard to the fines being too
10 small, and seismicity. Thank you.

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1 STATE OF ILLINOIS)
) SS
2 COUNTY OF WILLIAMSON)

3

4 I, Valeri Bleyer, a Notary Public in and
5 for the County of Williamson, State of Illinois, do
6 hereby certify:

7 That the said proceedings was taken before
8 me, as a Notary Public at the said time and place and
9 was taken down in shorthand writing by me;

10 That I am a Certified Shorthand Reporter
11 for the State of Illinois; that the said proceedings
12 was thereafter under my direction transcribed into
13 computer-aided transcription; that the foregoing
14 transcript constitutes a full, true and correct
15 report of the proceedings which then and there took
16 place;

17 IN WITNESS WHEREOF, I have hereunto
18 subscribed my hand and affixed my official seal this
19 18th day of December, 2013.

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VALERI BLEYER, CSR# 084-002678
Notary Public for Illinois

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