

1                   MR. VOGEL: In the interest of time let  
2 me propose to the Task Force that we have -- we had a  
3 break scheduled from 9:40 to 10:00. We're almost at  
4 10:00. The next speaker and series of speakers are due  
5 the up at 10:00 going to noon. Could I propose that we  
6 work through our break to get back on time, and if  
7 folks want to take a break, then they can do it on  
8 their own.

9                   SPEAKER: If we do that, can we commit to  
10 breaking for lunch?

11                   MR. VOGEL: Yes, I think we can do that.  
12 Do we have Sharon Genasci on the line?

13                   Robert, would you like to do your  
14 testimony now?

15                   MR. HALL: Can you hear me loud and  
16 clear? I've got a fairly good speaker phone. Other  
17 people do not and when you run into that, you might ask  
18 them to pick up the telephone.

19                   MR. VOGEL: Go ahead, please.

20                   MR. HALL: I used to be an airline pilot,  
21 pardon me for that technical information.

22                   MR. VOGEL: As long as we don't have too  
23 much turbulence.

24                   MR. HALL: That's when the radios weren't  
25 very good.

1                   This is Robert Hall. I'm with the Nevada  
2 Environmental Coalition, Incorporated. I'm calling  
3 from Las Vegas, Nevada, otherwise known as Sin City.  
4 My comments are basically this. We have an  
5 extraordinary situation out here in Nevada and in the  
6 west with Region 9. Region 9 is apparently somewhat  
7 different than some of the other regions in the way  
8 they operate. Basically my one sentence summary of  
9 Region 9 is if you don't like it, sue them. That's the  
10 option with Region 9. And we do regularly, we sue them  
11 regularly. Might recall a case, Hall versus EPA in  
12 1999, 2001 where we knocked out the PM10 plan here  
13 because of gross lack of credibility in the plan.

14                   But that brings up the first question,  
15 and that is that Title V does not operate by itself.  
16 It's part of the Clean Air Act. But frankly, you would  
17 never know it. The reason I say that is the southern  
18 Nevada area, the Las Vegas non-attainment area has  
19 never had a finally approved pollution specific SIP  
20 since 1979. They recently approved PM10 and a CO SIP,  
21 but that's subject to judicial review at the ninth  
22 circuit.

23                   And every time this has happened, either  
24 the EPA has withdrawn the plans or the Courts have  
25 vacated and remanded the plan. So we're not clear as

1 to how Title V fits into the Clean Air Act when there  
2 is no SIP. And that's our situation. And that's been  
3 the situation since 1979.

4           Incredibly, to avoid sanctions, Clark  
5 County, which is the Las Vegas area, withdrew all of  
6 its plans -- PM10 plans forever. In other words,  
7 apparently, according to what the language of the  
8 document is, they even withdrew the '79 approved SIP.  
9 So it's chaotic out here. And what's happening is that  
10 they are going ahead anyway and permitting under Title  
11 V without complying with any of the other requirements  
12 of the Clean Air Act, which I find rather astounding.  
13 But that's what's happening.

14           And I notice that there was a question by  
15 a previous speaker, Title V is flawed by design. I  
16 would say that that's certainly a flaw. In other  
17 words, if they don't have a proper SIP in place,  
18 finally approved, and that's another flaw in the  
19 system.

20           EPA will approve a SIP and then put it  
21 into effect in 30 days. They will publish it  
22 immediately and put it into effect in 30 days, but the  
23 Courts give you 60 days to file for judicial review, so  
24 then you've got the judicial review ongoing.

25           It takes a couple of years. And in the

1 case of our situation, we had to send letters out to  
2 everyone and tell them, by the way, all the money you  
3 collected, would you please pay it back, which came as  
4 a complete shock to them. So it couldn't be more of a  
5 mess out here as far as Title V or anything else goes.

6 Title V, we have the same problems  
7 everyone else has. If you make comments, they simply  
8 ignore them. In our case we had about seven years of  
9 comments on Title V problems before and after Title V  
10 went into effect, and they never answered one of them.

11 The number of total -- well, new source  
12 review and Title V was 33 pounds of comments was  
13 excruciatingly detailed complaints about specific sites  
14 and they simply ignored them. They didn't even send a  
15 one page letter back saying we've received it and we're  
16 not going to do anything about it.

17 So what we did then is when they came up  
18 with the PM10 plan and the CO plan proposals, the  
19 latest ones, we shipped this 33 pounds back to them and  
20 refiled them as a part of the SIP submittals, which  
21 came as a shock to them. So we're in a real battle out  
22 here.

23 This permit shield in Title V really  
24 enables them to do dastardly things. In other words,  
25 if we find out later they didn't tell the truth in the

1 application, the permit shield protects them.  
2 Regarding the comments on NOVs, we are not bumps on a  
3 log and we should be a part of that process.

4           The fact that they put a clamp on  
5 everything, we can't talk about it. It's a -- it's in  
6 the -- you know, it's in process and we can't tell you  
7 until the end. Most of the time you have to pull teeth  
8 to get the final decision. They say they're under no  
9 obligation to send those out. We have gone to court on  
10 some of the settlements.

11           We do have enough cooperation with the  
12 U.S. Attorney here where we do get copies of the  
13 documents that go before the Court for final approval,  
14 and we have intervened in those, and so far down the  
15 line that it's worthless.

16           The situation in the Ninth Circuit Court  
17 of Appeals isn't very good because they're overworked  
18 and underpaid, they think, I think. And you get about  
19 five minutes on extremely complex matters. And it's  
20 very difficult to get anything out of them that makes  
21 any sense. In fact, because they defer to the  
22 government and the government credibility out here is  
23 about zero, you wind up with bad law.

24           Let's see, we have a couple of other  
25 things. In the interest of saying your comments are

1 not relevant. Anything they don't like is not  
2 relevant. That's the truth. I'll let it go with that  
3 at the moment. If anyone has any questions, I'll try  
4 to elaborate. Thank you.

5 MR. VOGEL: Thank you. Bob Morehouse.

6 MR. MOREHOUSE: Thank you, Bob. This is  
7 Bob Morehouse. Question on public hearings. Have you  
8 requested public hearings and what has been the  
9 response?

10 MR. HALL: We from time to time both on  
11 this and Title V have requested hearings. It's a waste  
12 of time. Our comments are documented. When I say  
13 they're excruciatingly documented, we have a group of  
14 people that are technical experts that either worked  
15 for the agencies or they worked for sources of air  
16 pollution or something like that where they have the  
17 technical experience. We put those in single-spaced  
18 documents that total 20, 40, sometimes 60 pages of  
19 single-spaced detailed as to why that site should not  
20 be permitted and we don't even get a reply.

21 MR. MOREHOUSE: Your comment about the  
22 request for public hearing being a waste of time, is  
23 that because you're not granted one?

24 MR. HALL: Just go over what's already on  
25 your paper.

1 MR. MOREHOUSE: So you are granted --

2 MR. HALL: Written comments and there's  
3 not much else you can do.

4 MR. MOREHOUSE: So you have had public  
5 hearings?

6 MR. HALL: We have had some public  
7 hearings and -- well, first, let me put it this way. I  
8 shouldn't say public hearings. We've requested  
9 hearings and then we go into a room. Those hearings  
10 are not published. No one else knows about them. They  
11 have never published, to the best of my knowledge,  
12 publicly published the hearing was ongoing, and that's  
13 at the county level.

14 Here in Nevada, Clark County stands in  
15 the same status as the state in the sense that they  
16 handle their own Title V program. I don't see how you  
17 can go ahead with a Title V program without a SIP.  
18 That stuns me.

19 MR. VOGEL: Thank you. Shelley Kaderly.

20 MS. KADERLY: Shelley Kaderly with the  
21 State of Nebraska. You may have just clarified my  
22 question. I'm trying to understand who -- when you  
23 refer to they, I'm just trying to understand who the  
24 they is that you're dealing with. So you deal with  
25 Clark County in the State of Nevada as well as the

1 State of Nevada and the U.S. EPA Region 7 -- or Region  
2 9, rather?

3 MR. HALL: Right. Clark County is the --  
4 Las Vegas was the tail that wags the dog. The state is  
5 really a small operation compared to Clark County.  
6 Clark County is better staffed, better paid and so  
7 forth than the state's operation. So the state  
8 basically rubber stamps everything and sends it up to  
9 EPA.

10 The thing we find with EPA is the  
11 political person that's put in as the head of Region 9  
12 is basically a Californian, and California has  
13 tremendous political power and that person's job is to  
14 deal with the political powers that they want to do.  
15 It's not surprising. It's the way things work.

16 But the professional staff, they're  
17 seizing underneath. There's no question about that.

18 MR. VOGEL: Thank you. Kelly Haragan.

19 MS. HARAGAN: This is Kelly Haragan with  
20 the Environmental Integrity Project. I thought you  
21 mentioned something about having trouble getting  
22 information and specifically NOV's. Could you elaborate  
23 on that?

24 MR. HALL: Well, first of all, we never  
25 know an NOV is ongoing sometimes -- most of the time,

1 and if we make a complaint -- there have been NOVs that  
2 have resulted from our complaints, but we don't know  
3 that. In other words, the time that -- well, actually  
4 the Kerr-McGee fiasco out here, that one we believe we  
5 had something to do with but we don't know that.

6                   There was a 100 million dollar fine  
7 brought against Kerr-McGee, but the details -- and we  
8 still don't know today what's happened on that. If you  
9 call them, well, it's ongoing. Okay, well, when is it  
10 going to finish? Well, we don't know.

11                   MS. HARAGAN: So your issue is more  
12 finding out what they're doing to follow up on  
13 violations. Have you had trouble getting information  
14 that you need to write your comments?

15                   MR. HALL: There's no question that we  
16 don't get any information from EPA. We get our  
17 information from sources that are very knowledgeable,  
18 but we don't get it from EPA. They don't give us  
19 anything.

20                   In fact, a lot of the things that are  
21 posted on electronic bulletin boards about comments or  
22 ongoing litigation or anything like that in any other  
23 region doesn't appear on Region 9's board. The victory  
24 we got in Hall versus EPA, they never told anybody  
25 about it. They just ignored it for three years until

1 another suit came along.

2 MS. HARAGAN: So do you think it would be  
3 helpful to have more information available on the web?

4 MR. HALL: Well, it should be a  
5 requirement as to what is posted. In other words, you  
6 can't pick and choose, and that's what they're doing.  
7 I mean, can you imagine having a SIP vacated and  
8 remanded and you don't tell anybody about it? You just  
9 keep operating as business as usual. That's what  
10 happens.

11 MS. HARAGAN: Thanks.

12 MR. VOGEL: Carol Holmes.

13 MS. HOLMES: Hi, this is Carol Holmes at  
14 EPA. I just wondered if you had any specific  
15 recommendations on how to make Title V work better that  
16 you could give us.

17 MR. HALL: It should be the first  
18 paragraph that says without a SIP you don't have a  
19 program because you don't know -- what are you  
20 measuring against? In other words, if the person  
21 exceeds any standard, if you don't have a SIP, you  
22 don't know what that means.

23 In fact, that's the problem with the  
24 Clean Air Act and the Administrative Procedures Act, is  
25 that you can find every piece of information in these

1 documents that they put out except how much is too  
2 much. You'll never see that.

3 MR. VOGEL: Don van der Vaart.

4 MR. VAN DER VAART: My name is Don. I'm  
5 with North Carolina Division of Air Quality. And I had  
6 a question about the comments you made about a permit  
7 shield. Have you had an instance where or a court case  
8 or whatever, administrative process where the permit  
9 shield actually did defend someone who had submitted  
10 incorrect information or is that what you are worried  
11 about?

12 MR. HALL: Well, first of all, we've got  
13 a department of air quality management here that has a  
14 number of people on staff that used to be consultants  
15 to these sources of air pollution. I can't think of  
16 anything worse than that. And beyond that, once they  
17 are permitted, they've got a shield. It's -- then the  
18 only thing you can do is go to court.

19 MR. VAN DER VAART: You haven't actually  
20 had a case where --

21 MR. HALL: We've had several cases. One  
22 of them was Kerr-McGee. Another one was Tenet. These  
23 things -- we run into these things all the time. Once  
24 they've got a permit, we've got a problem.

25 Incidentally, I am not a licensed

1 attorney. When I go to court I have to go to court in  
2 my own name only. And there's nobody else here.

3 Sierra Club has been somewhat active here  
4 mostly in urging mass transit. They got a decision out  
5 of the U.S. District Court on U.S. 95 on the widening  
6 of U.S. 95, but by and large we haven't had too much  
7 assistance from the Sierra Club here on these  
8 individual site situations, in fact, none to speak of,  
9 and there isn't anybody else there.

10 MR. VOGEL: Question from Bob Palzer.

11 MR. PALZER: This is Bob Palzer. I'm  
12 representing the Sierra Club. Sorry you're having  
13 difficulty finding people in that region to help you,  
14 but I want to -- and you can contact me. I can see if  
15 I can find somebody who's locally, who has a presence  
16 in the area.

17 MR. HALL: We talked to the people all  
18 the time. That's not the issue. The issue is, again,  
19 if you're not going to court here, you're not doing  
20 anything because they just ignore everything else.

21 MR. PALZER: I understand that. But  
22 that's not what I want to deal with right now. I would  
23 like you to elaborate a little more, and I want to make  
24 sure I understood correctly, but it was my sense that  
25 when you do get hearings, that these are not, in fact,

1 public hearings open to the general public, open to the  
2 media, and issues that are matters of record; is that  
3 correct?

4 MR. HALL: Yes and no. When the county  
5 commissioners approve it, you can go down there and  
6 speak before that, but it's too late then. Everything  
7 is set in stone. After you submit your comments, which  
8 they do publish notices in the paper in the legal  
9 section, you submit your comments and if you request a  
10 hearing, that is not noted. That's correct. They say  
11 because you commented, you can have a hearing. But no  
12 one else knows it's happening.

13 MR. PALZER: So these are exclusionary  
14 only to -- the only response is to the person  
15 requesting a hearing?

16 MR. HALL: That's the way it operates.

17 MR. PALZER: That's incredible.

18 MR. HALL: Well, hearings -- let me take  
19 a step back. This doesn't directly have anything to do  
20 with Title V, but it will illustrate what's happening  
21 here. What's happened with the BLM here since 1970  
22 when NEPA was first enacted, is that they've never  
23 complied with it under any circumstances whatsoever.

24 And I said that before the Ninth Circuit  
25 Court of Appeals, which I don't take lightly if it

1 isn't true, which it is. So the answer is that what  
2 they do is they've got a whole room full of thousands  
3 of little EAs and they take all of their activities and  
4 parse them down into little EAs and nothing ever is  
5 added up. And that's how they do it.

6                   And they're doing that with Title V and  
7 everything else around here. This little piece isn't  
8 important and that little piece isn't important. And  
9 if you ask them about the EAs which are never noticed  
10 to the public -- people think EA has to be noticed to  
11 the public. That's not true. The regulation clearly  
12 states it does not have to be noticed. These federal  
13 agencies have whole rooms full of these things and they  
14 say, well, you can come down and look through our  
15 drawers if you want to.

16                   MR. VOGEL: I think it's about time to  
17 move on to another speaker. If we have somebody on the  
18 line.

19                   MR. FREDERICK: This is Dave Frederick.  
20 I think I'm here for the 10:20 slot.

21                   MR. VOGEL: Thank you, David. Please go  
22 ahead and speak -- let me remind everyone on the line  
23 that we are recording this for audio transcript and  
24 also written transcript. Go ahead, Dave.

25                   MR. FREDERICK: Thank you. My name is