

1 the time to be with us today.

2 MR. GOLLWITZER: Thank you all for having
3 me.

4 MR. VOGEL: You're welcome. We are now
5 going to take a break until 1:00.

6 (Recess taken)

7 MR. VOGEL: Okay. I think we are ready
8 for you to make your presentation. You'll have ten
9 minutes for your presentation and ten minutes for
10 questions. Let me say that we are recording this for
11 audio and written transcripts.

12 MR. GOLLWITZER: Ray, by way of
13 disclosure, this is Scott Gollwitzer listening in on my
14 colleague.

15 MR. VOGEL: That's fine, Scott.

16 Go ahead, Avram.

17 MR. FRIEDMAN: Thank you. First I would
18 like to thank the Task Force for giving me the
19 opportunity to speak on the merits and the problems on
20 the Title V permitting process. I am not an attorney,
21 but I do speak as a representative of the Canary
22 Coalition, a broad-based grassroots clean air advocacy
23 coalition that includes members of the business
24 community, local government officials, members of the
25 religious community, academic community, the medical

1 community, organizations and people from all walks of
2 life and socioeconomic backgrounds, originating and
3 mostly centered in western North Carolina but now has
4 members in 21 states.

5 The idea of the Title V process is a good
6 one that can potential serve the public well combining
7 all federal, state, and local air quality regulations
8 into one process. Under one application and permit
9 theoretically simplifies the process not only for the
10 relevant industries and regulatory agencies but also
11 for watchdog organizations and individuals who are
12 monitoring the status of polluting industries.

13 However, simplification is a relative
14 term. I have personally forced myself to read through
15 several Title V permits for utility owned coal burning
16 power plants in North Carolina, admittedly with only
17 limited success in comprehension. It's understandable
18 that essentially a technical process requires an
19 intensely technical and complex evaluation and review.
20 But since the overall purpose of the permitting process
21 is to protect the general public from harm, there needs
22 to be some parallel documentation produced that allows
23 the layman to understand what is happening in a local
24 manufacturing facility, what pollutants are being
25 released into the local environment, and what potential

1 health and safety risks and environmental damage are
2 posed by the operation of the plant.

3 An element I found lacking in all the
4 permits I reviewed was a total cost evaluation of the
5 operation of the facility. By total cost, I mean a
6 balance sheet that estimates the total economic benefit
7 of operating a facility such as jobs created and
8 economic ripple effect throughout the community versus
9 the economic costs of operating a facility, including
10 health care costs, loss of productivity in the labor
11 force within the community due to respiratory and other
12 ailments caused by the facility's operation, and
13 environmental damage caused by operation of the
14 facility in its airborne emissions.

15 Since the Title V process has eliminated
16 all but one administering agency and one review
17 process, the likelihood of this type of analysis is
18 greatly diminished unless it's included within the
19 process itself. This is important information of which
20 a community should be made aware.

21 Aside from the documentation of the
22 permit itself, the administration of the Title V
23 process is deeply flawed in North Carolina in several
24 ways. Although in the past it was promised by the
25 state agency that public hearings would be part of the

1 review process of all Title V permits for utility owned
2 coal burning power plants, the DAQ has not followed
3 through.

4 Public hearings were denied for the Buck
5 Steam Station, the Allen Steam Station, the Cliffside
6 Steam Station, the Riverbend Steam Station and others
7 citing, quote, lack of significant public interest,
8 unquote, despite written requests by multiple
9 organizations who represent thousands of affected
10 citizens throughout the state.

11 When the first four power plant Title V
12 permits came up for review in 2002, the DAQ did grant
13 two hearings that combined permits of two plants at
14 each. The hearing for the Belluse Creek and Dan River
15 facilities were held in Rockingham Community College.
16 The hearing for the Roxboro and Mayo plants were in
17 Roxboro Community College.

18 For those of you who may not be familiar
19 with the geography of North Carolina, these are remote
20 sparsely populated regions that are, to say the least,
21 inconvenient to get to, especially on a weekday or
22 working night. The hearings were minimally publicized
23 beforehand in the local newspapers of the hearing venue
24 despite the fact that the emissions from these plants
25 affect hundreds of thousands of people in large urban

1 areas downwind of the facilities. Speakers who
2 traveled up to four hours to be heard were granted
3 three minutes to comment on the content of both 40-odd
4 page documents.

5 Experiencing this set of circumstances
6 can only leave the impression that the hearings are
7 viewed by DAQ officials as a mere formality rather than
8 as a meaningful part of the decision-making process.
9 Important issues were raised of great public concern to
10 the public. For instance, it was brought to light that
11 the Roxboro and Mayo Power plants were being licensed
12 to incinerate toxic wastes such as used oils, solvents,
13 ethylene glycol, waste ammonia citric acid boiler
14 cleaning solution, and coal fly ash mixture from the
15 nearby Cogentrics plant if there was no follow up to
16 comments or any indication that comments had influenced
17 either the terms of a particular permit or general
18 policy by the DAQ.

19 There's a prevailing and sinking feeling
20 that participants have wasted valuable time in
21 researching the issues, preparing a statement, and
22 traveling long distances to deliver them, that written
23 comments will be filed and forgotten to no avail, that
24 the public's interest is not being served. There's a
25 prevailing sense that there are close and inappropriate

1 ties between industrial representatives and DAQ
2 officials and that industrial concerns will prevail
3 every time over health and environmental concerns.

4 Take, for instance, the administrator who
5 is currently in charge of the Title V process for the
6 DAQ in North Carolina. I don't know Donald van der
7 Vaart personally, who sits on this Task Force. I'm
8 sure that he's a good, kind man and a capable
9 individual who would never consider beating his wife or
10 dragging a dog from a leash attached to the back of his
11 car. But the fact is, he worked in an administrative
12 capacity with Progress Energy as the manager of
13 environmental services for CP&L's just prior to landing
14 a job in the DAQ's administration. This type of
15 revolving door policy can only be viewed as a conflict
16 of interest and counterproductive to the achievement of
17 the goals of a regulatory agency.

18 The industry should not have one of its
19 own as the principal official responsible for
20 administering its own regulation. By definition,
21 regulatory agencies and the industries they're supposed
22 to be regulating should have an adversarial
23 relationship or the process is meaningless. Private
24 industries have their own priorities that are focused
25 on maximizing profits for shareholders. But government

1 agencies are supposed to have as their priorities the
2 interests of the public at large, in this case public
3 health and the environment, which often comes into
4 conflict with the pure profit motive of industries.

5 In North Carolina this adversarial
6 relationship is not what it needs to be. And as we all
7 know, this same inappropriate relationship between
8 industry and the agency that is supposed to be
9 regulating the industry is becoming more and more the
10 norm on the federal level as well. One has to ask who
11 is left to safeguard the public's interest?

12 I'd have to say that the make-up of this
13 Task Force certainly doesn't inspire confidence in the
14 fact that the public's interest is adequately
15 represented. Six representatives from community-based
16 groups are overwhelmed by six industrial
17 representatives and six regulatory agency
18 representatives, at least some of who we know have
19 recent industrial ties.

20 If balance is the objective, it has not
21 been achieved. It's questionable whether balance
22 should even be an issue within a regulatory agency.
23 There are plenty of advocates for industry within the
24 private sector and within government. There's the
25 Chamber of Commerce, various industrial associations,

1 the governor and state legislatures who are politically
2 indebted to industrial interests for campaign
3 contributions. There's no shortage of advocates for
4 industrial concerns, but the role of a regulatory
5 agency or task force, again, is to guard public health
6 and safety in the face of all this monetary influence
7 from other places.

8 The role of the EPA, DAQ, Title V process
9 is to advocate for public health, to advocate for the
10 environment. Having regulatory agencies set up for
11 that sole purpose is the balance, but today that
12 balance doesn't exist.

13 The Title V permits that I have reviewed
14 entrust all emission monitoring and record keeping to
15 the industry itself. This strikes me as an inadequate
16 system to protect public health. Not that all
17 industries are dishonest and would willingly harm the
18 people of a community by intentionally falsifying
19 records and breaking the law, but if we could assume
20 that all polluting industries had only the public
21 welfare in mind, we wouldn't need regulations or
22 regulatory agencies at all to begin with.

23 But these safeguards were found necessary
24 as the industrial revolution evolved because it quickly
25 became apparent that very often industrialists lost

1 sight of the need to protect the public as they focused
2 primarily on their bottom line and profits and
3 financial losses. It's necessary to institute a policy
4 of unscheduled and irregular inspections of all
5 polluting facilities by the regulatory agency and for
6 the agency to have a role in the monitoring and record
7 keeping of emissions.

8 MR. VOGEL: You have about one minute
9 left.

10 MR. FRIEDMAN: In summation, the Title V
11 process can potentially be a worthwhile tool for
12 simplifying the administration of air quality rules and
13 regulations. But as in all tasks, its success depends
14 on who is doing the administering. Thank you.

15 MR. VOGEL: Thank you. Are there
16 questions from the Task Force? Adan Schwartz.

17 MR. SCHWARTZ: Hi, Avram. This is Adan
18 Schwartz. I'm with the Bay Area Air District. You
19 mentioned a couple of public hearings that were granted
20 and that did occur, and I could be mistaken, but it
21 sounded like they were held in the community near where
22 the facility was.

23 MR. FRIEDMAN: That's correct.

24 MR. SCHWARTZ: And I was wondering
25 what -- yet you sounded critical of that, and I

1 wondered what exactly was wrong with that and what
2 other -- what you would propose instead as far as a
3 location for a public hearing.

4 MR. FRIEDMAN: Well, I think for anything
5 that pollutes to the extent of a coal burning power
6 plant that's owned by a public utility, you have to
7 look downwind and look at the major urban areas that
8 are affected by the emissions. For instance,
9 Winston-Salem, Greensboro, Raleigh or Durham would have
10 been a much more appropriate place for those hearings
11 to be held.

12 MR. VOGEL: Other questions? With no
13 other questions, I would like to thank you for coming
14 on the phone to testify for us today.

15 MR. FRIEDMAN: Thank you very much.

16 MR. VOGEL: Do we have Merrijane Yerger
17 on the line?

18 MS. YERGER: Yes, I'm here.

19 MR. VOGEL: We're ready for you now. Let
20 me remind you that we're taking -- we doing ten minutes
21 for your testimony and then ten minutes for questions
22 and answers. Also, we are recording this for audio
23 transcripts as well as a written transcript.

24 MS. YERGER: Okay.

25 MR. VOGEL: Go ahead, please.