

1 that if you're not subject to CAM you certainly have an
2 obligation -- the permit has an obligation to define
3 monitoring to assure compliance. And if pressure drop
4 isn't going to do it, you can certainly ask for more
5 clear monitoring, for example, particulate emission
6 monitoring or any other methodology that you would feel
7 comfortable with.

8 So either they make a correlation that
9 they agree with or the facility -- the permittee could
10 then be subject to some more stringent level of
11 monitoring. So we would -- North Carolina certainly
12 would agree with your position on part 70 monitoring.

13 MS. SCANLAN: I'm glad to hear that.

14 MR. VAN DER VAART: That was just a
15 comment.

16 MR. VOGEL: Thank you, Melissa. It's
17 been very entertaining.

18 Do we have another speaker on, please?

19 MR. SUTTLES: Yes, this is John Suttles.

20 MR. VOGEL: Okay, John. Thank you.
21 We're allotting ten minutes for presentation, ten
22 minutes for questions. We are also taping this for
23 audio transcript as well as written transcript. So you
24 may go ahead, please.

25 MR. SUTTLES: If I start speaking fast

1 towards the end, it's that I bit off more than I can
2 chew in ten minutes.

3 First, let me reaffirm that Title V is
4 vitally important to protecting public health in
5 Louisiana. We represent client groups that have
6 thousands of members, and on their behalf I would like
7 to reaffirm that the program should be maintained and,
8 in fact, strengthened to assure greater and more
9 meaningful public participation, better monitoring by
10 sources to ensure compliance with all applicable Clean
11 Air Act requirements.

12 To illustrate the importance of a Title V
13 program in Louisiana I would like to discuss three
14 points. First I would like to briefly discuss public
15 health issues in Louisiana as they relate to the Title
16 V program. Two, I would like to discuss the importance
17 of strong and accurate monitoring requirements to
18 ensure compliance with the fundamental mandate of the
19 Clean Air Act healthful air quality. And three, I'd
20 like to discuss the importance of public participation
21 in the permitting process and how it can be
22 strengthened.

23 As for Louisiana public health, for the
24 14th time in 15 years Louisiana ranks as the least
25 healthy state in the nation. The United Health

1 Foundation's annual report finds that Louisianans
2 suffer from a high rate of premature death, infant
3 mortality, and cancer death. And it's no coincidence
4 that Louisiana is also one of the most industrialized
5 states in the nation. Louisiana is the second largest
6 refinery of petroleum. It has the ninth highest rate
7 of toxic air emissions per person, the 15th highest
8 rate of toxic air emissions per square mile, and the
9 14th highest rate of total toxic air emission.

10 Many of these toxics are also classified
11 as volatile organic compounds, which contribute to the
12 formation of ozone. There's a five parish area around
13 Baton Rouge, Louisiana that has never met minimum
14 federal standards required to protect people from ozone
15 pollution. The Baton Rouge area has missed every
16 attainment milestone and deadline, and most recently it
17 missed the November 1999 attainment date and was bumped
18 up to a severe non-attainment classification.

19 This year for the second year in a row
20 Baton Rouge has experienced ozone exceedences in late
21 September and October assuring that Baton Rouge will
22 not meet the November 2005 deadline. At the same time,
23 the Louisiana Department of Environmental Quality
24 reported that the 2000 annual average level of a
25 particular VOC that is also a toxic air pollutant, 1, 3

1 butadiene, exceeds health protection standards in the
2 Baton Rouge area by nearly 200 percent.

3 This all brings me to the importance of
4 effective monitoring requirements to assure that the
5 goals of the Clean Air Act are met. Although the
6 Department of Environmental Quality has determined that
7 Baton Rouge's ozone problem is due to industrial
8 emissions of volatile organic compound, as are the
9 excessive levels of one three butadiene, current site
10 specific monitoring under the Title V program is not
11 adequate to identify the emission sources responsible
12 for these problems.

13 Therefore, the Louisiana governor
14 recently directed the Department of Environmental
15 Quality to issue administrative orders to 16 facilities
16 requiring them to install fence-line monitors around the
17 perimeter to help determine what pollutants these
18 facilities actually emit and in what quantity. Why?
19 Because the current programs -- under the current
20 programs facilities are not performing sufficient
21 monitoring to accurately show what they're emitting or
22 in what amounts.

23 A recent ExxonMobil settlement agreement
24 illustrates one important aspect of this monitoring
25 problem, the failure to monitor fugitive emissions. In

1 a 2003 agreement ExxonMobil Chemical Company in Baton
2 Rouge, Louisiana settled claims that included failure
3 to monitor and report fugitive emissions from literally
4 thousands of valves of pipeline connections in hundreds
5 of pumps. Emissions from these fugitive sources
6 account for a significant portion of the overall
7 pollution burden for people in Baton Rouge area, and
8 yet they're not being appropriately monitored and
9 there's not adequate reporting.

10 As a result of these types of monitoring
11 problems, air quality in the Baton Rouge non-attainment
12 area continues to violate minimum health protection
13 standards. Regulators know that the violations result
14 from industrial emission, but they cannot determine who
15 is responsible for the accepted emissions of VOCs, many
16 of which are also toxic air pollutants, such as one three
17 butadiene.

18 Because in Louisiana many communities at
19 risk are located along the fence lines of some of the
20 largest petrochemical refineries, public access to
21 information and participation in the process are
22 vitally important. However, the needs of the public
23 are not adequately protected under the current program
24 as administered in Louisiana.

25 Brings me to my next point, public

1 participation. Public participation promotes four
2 important purposes: One, members of the public have a
3 right to know what's going on in their communities and
4 how it affects their health. Two, public input results
5 in more expected air permit. Three, an informed and
6 involved public enhances enforcement and, of course,
7 accountability. And fourth, public participation
8 improves cleaner air act compliance. As administered
9 in Louisiana, however, public participation needs
10 improvement.

11 In an August 2002 report, EPA's office of
12 inspector generals found that, quote, the Louisiana
13 Department of Environmental Quality's records were
14 often unorganizing, incomplete, missing, or
15 inaccessible. And as result, LDEQ issued multiple
16 permits to facilities without providing the public with
17 complete information.

18 Here again I will offer ExxonMobil as one
19 example of the types of participation problems people
20 in Louisiana face. As of 2002 the ExxonMobil facility
21 had received 13 Title V permits and 42 permit
22 applications were pending. That's a total of 55
23 separate permits for one single facility. But none of
24 the 15 issued or 42 pending permits referred to would
25 provide information on the emission from the other 59

1 permits.

2 As a result, a citizen may never realize
3 by looking at a permit or proposed permit that there
4 are 54 other permits that covers the same facility.
5 Therefore, people have no reasonable way to assess the
6 potential exposures from the facility and the public
7 cannot reasonably determine facility-wide Clean Air Act
8 compliance, such as whether facility-wide pollution
9 increases due to changes or modifications that might
10 require new source review and the amount of any
11 offsetting reductions that may be required.

12 In a related problem permit documents
13 need to be clearer so the public can determine, one,
14 how an individual permit relates to the facility's
15 total number of permits and pollution emissions, and
16 two, technical processes need to be more clearly
17 explained and go further to inform the public as to
18 what effect the processes will have on nearby
19 communities.

20 Finally, regulatory agencies must respect
21 citizens' right to public hearings. In Louisiana there
22 are many people affected by air pollution who lack the
23 formal education and training to provide meaningful
24 written comments, yet they're deeply concerned about
25 their health, their family's health and the well-being

1 of their community. Nevertheless, regulatory agencies
2 often refuse to hold public hearings by stating that
3 the Clean Air Act merely requires an opportunity to
4 request a hearing, it does not guarantee a right to a
5 public hearing. To be effective in Louisiana, however,
6 regulators must -- they cannot take such a dismissive
7 approach to public involvement in permitting decisions.

8 Just in conclusion, I'd like to say in
9 light of the public health crisis in Louisiana, the
10 prevalence and concentration of the petrochemical
11 industry in the state and the persistence of air
12 pollution problems faced by Louisiana residents, the
13 Title V program must be maintained and should be
14 strengthened to provide better public outreach, ensure
15 more accurate monitoring of pollution emission, and
16 better public input and involvement in Title V
17 permitting and enforcement of the Clean Air Act.

18 I think I made it within my ten, didn't
19 I?

20 MR. VOGEL: A minute to spare, I believe.
21 Do we have any questions from the Task Force? Kelly
22 Haragan.

23 MS. HARAGAN: Hi, John. This is Kelly
24 Haragan.

25 MR. SUTTLES: Hi, Kelly.

1 MS. HARAGAN: Hi. I had a question
2 about -- it sounds like Louisiana issues multiple
3 permits to single facilities, and I know some other
4 states do that too, and I was wondering if you think it
5 would be better to have one permit per facility or if
6 you like having multiple permits.

7 MR. SUTTLES: I'd be hard-pressed to make
8 a blanket statement across the board because it could
9 become so complicated that the agency might not get the
10 permit out and it might be with 30 days to comment,
11 which is typically what we're given, people might not
12 have a chance to really raise all the comments that
13 need to be raised.

14 At the very minimum, however, if there
15 are multiple permits pertaining to a single facility,
16 there needs to be some way to cross-reference and
17 identify those other permits. Otherwise it appears to
18 be public that when ExxonMobil goes out to get a permit
19 for an ethylene unit, that that is the Exxon facility,
20 and they don't know that there are 54 other permits out
21 there. That's definitely a problem. Whether or not it
22 would be feasible to have every facility apply for a
23 single permit that covered the facility, I'm not sure
24 I'm prepared to say that, but there at least needs to
25 be some way to identify the other permits that pertain

1 to that facility.

2 MS. HARAGAN: Okay. Thanks.

3 MR. VOGEL: David Golden.

4 MR. GOLDEN: Thanks, John. This is David
5 Golden with Eastman. Kelly got most of my question,
6 but just to follow up, if -- on the multiple permit
7 issue, if there was sufficient documentation so that
8 the reviewing public could understand the number of
9 permits that are applicable, you don't necessarily find
10 it an issue if there are multiple permits. Am I
11 understanding you correctly?

12 MR. SUTTLES: As long as there's a way
13 for the public when they look at a single permit that
14 is for a particular unit of a larger facility, I think
15 as long as the public understands that's the case, that
16 there are other permits that have been issued or are
17 pending and at least a thumbnail of what they involve
18 in terms of the amount of emissions, any kind of recent
19 pollution increases so that they can evaluate new
20 source review requirements, I think that would be
21 adequate.

22 But as it is now, you have no way of
23 knowing -- and to the public it looks as though a
24 single permit pertains to the entire facility and
25 that's it, and they're actually quite confused when

1 ExxonMobil applies for a permit and then several months
2 later ExxonMobil -- well, actually there might be
3 several permits pending at one time and they just don't
4 know what it's commenting on or what it pertains to.

5 MR. GOLDEN: Does Louisiana have any sort
6 of web site that helps the reviewing public figure all
7 that out or how did you figure all that out, other than
8 being really good?

9 MR. SUTTLES: That's only going to get
10 you so far. Well, commenting on the permit for
11 ExxonMobil, and ExxonMobil coming up, and having
12 experts who have dealt with facilities for long periods
13 who say, you know, explain this all to me, and the
14 public generally does not have access to experts. A
15 lot of the public in Louisiana does not -- and
16 especially the people who are most acutely affected,
17 those who are fenceline communities, they don't have
18 access to the Internet, many of them.

19 You know, Louisiana is also an
20 impoverished state and there are a lot of people who
21 don't have the resources that might be available in
22 some other locals. And, again, typically it's the
23 people who are most directly and immediately affected
24 by it.

25 There is a web site and you can see that,

1 for instance, Exxon might have several pending permits
2 at a time, but once those are issued they go off the
3 web site. And if you're looking for pending permits,
4 you wouldn't necessarily have a way to know that. From
5 my experience, I learned it from experts.

6 MR. GOLDEN: Thanks.

7 MR. VOGEL: Shelley Kaderly.

8 MS. KADERLY: Shelley Kaderly, State of
9 Nebraska. Maybe just a little bit of a follow-up on
10 David's question there. I was wondering how you got
11 notice of the permits that you were reviewing.

12 MR. SUTTLES: Well, of course, there are
13 public notice requirements and sometimes the public
14 will come to us with a permit that's been noticed in
15 their local official journal, which, by the way, is not
16 a terribly effective method. I don't know how many
17 people even know what their official journal is. But
18 sometimes the public will come to us having seen a
19 permit that's been proposed.

20 You can also, in Louisiana, you can ask
21 the Department of Environmental Quality to send you
22 public notices either for any permit they're
23 considering or permits in a particular area or permits
24 that pertain to a particular medium. So we typically
25 get them from the Department of Environmental Quality.

1 Sometimes we will -- that's got been a perfect
2 technique. Sometimes we don't get a notice for one
3 reason or another, but we check the web site
4 periodically. So between those two methods we hope to
5 catch most or all of the permits that are proposed.

6 MR. VOGEL: Keri Powell.

7 MS. POWELL: Hi, John.

8 MR. SUTTLES: Hi Keri.

9 MS. POWELL: You said that Louisiana has
10 denied requests for public hearings and I wondered what
11 kind of standard Louisiana is applying in deciding
12 whether a hearing is warranted.

13 MR. SUTTLES: Well, I'm not sure. I can
14 give you a fairly recent example of one that really
15 rankled a lot of members of a community group that
16 represents about 2,000 people.

17 ExxonMobil had applied for what they call
18 a Clean Air Act commitment permit that was 14 Title V
19 sources -- there were 12 Title V sources they were
20 rolling into a single permit and they announced that
21 there was going to be a town hall informational
22 meeting. And at the meeting they were specifically
23 asked -- DEQ was present and Exxon's PR department was
24 present -- and they were specifically asked do you
25 propose this in lieu of a public hearing, because we

1 would object if you do. We don't have the information
2 we need to make adequate comments and we're not
3 prepared to participate in a public hearing at this
4 time. We're just seeing these permits for the first
5 time. We were assured that was not the case.

6 We filed written comments on behalf of
7 one of our member groups, and the members -- some of
8 the individual members and the group itself requested a
9 public hearing. It was denied, and one of the reasons
10 for the denial was that there had been this town hall
11 meeting. So it's hard to say -- that was under the
12 prior administration. And the current administration
13 seems to be trying harder to engage the public a bit
14 more. But I can't say what standard the old
15 administration operated under. But it shouldn't be --
16 this type of thing should not be at the whim of an
17 administration. There should be more of a consistent
18 rule that the public can have some faith be applied
19 across the board.

20 MR. VOGEL: Michael Ling.

21 MR. LING: Hi, this is Michael Ling with
22 EPA. You talked a little bit about the fugitive
23 emissions not being monitored or reported. I just
24 wanted to clarify that. Is your concern that the
25 underlying standards don't require the measurement and

1 reporting of quantities of fugitive emissions or is
2 your concern that in Louisiana you're not able to tell
3 whether the facilities are in compliance with the
4 various work practice and other standards for the
5 control of fugitive emissions?

6 MR. SUTTLES: Yes, it's the latter. We
7 have a lot of leaky plants here and they're not
8 monitoring and reporting them. And those standards
9 definitely need to be enforced and strengthened, if
10 anything.

11 MR. VOGEL: Adan Schwartz.

12 MR. SCHWARTZ: Mike Ling may have asked
13 the question I was going to ask, I'm not sure, but
14 you -- again, the example you gave was of fenceline
15 monitoring being imposed to better sense of fugitive
16 emissions, and it wasn't clear from the way you
17 described it whether that was being done pursuant to
18 Title V or for some other reason.

19 MR. SUTTLES: The requirements -- there
20 were requirements in the operating permit and they
21 simply were not being done. So, I mean, it wasn't
22 present in the permit.

23 MR. VOGEL: One more question. Bob
24 Palzer.

25 MR. PALZER: Hi. This is Bob Palzer of

1 the Sierra Club.

2 MR. SUTTLES: Hi, Bob.

3 MR. PALZER: Pursuing the fugitive aspect
4 from a slightly different standpoint, several years ago
5 I was down and did a tour in the area upstream of New
6 Orleans along the Mississippi River and was amazed to
7 see that the sugarcane was growing in immediate
8 proximity to significant chemical plants and have since
9 not eaten brown sugar, and I just wonder if you wanted
10 to -- just slightly off the Title V source, but since
11 the drinking water for the City of New Orleans comes
12 from the Mississippi River, people living in that area
13 and, in fact, all of us eat some of the crops from that
14 region and there are EJ communities there, can you
15 speak a little bit more about the EJ aspect and maybe
16 the broader thing of land use as it relates to citing
17 and pollution.

18 MR. SUTTLES: Sure. What you observed is
19 actually not an accident, really, the way that the
20 economy of this part of the Louisiana evolved. Before
21 the Civil War -- by the way, as far as the sugarcane
22 goes, I suppose it wouldn't reassure you to know that
23 those crops are also -- a lot of them are fertilized
24 with sewage sludge, but that's slightly off topic too.

25 Before the Civil War, the Mississippi

1 River was populated with plantations, and then after
2 the Civil War, with -- when the slaves were free, they
3 set up communities next door to the plantations in
4 which they worked. Around the 30s and 40s and 50s
5 large petrochemical refiners came in and they saw a
6 large swathes of land held by single landowners that
7 had access to railheads and also were on the river.
8 And so they bought them up and turned them into
9 petrochemical refineries.

10 So now what you have is the decedents of
11 the freed slaves from these plantations living in the
12 communities that were established by forbearers 140
13 plus years ago living now next -- not next to
14 plantations, but next to petrochemical refineries, and
15 many of them are sandwiched in between petrochemical
16 refineries and town -- the community of Allison is a
17 prime example.

18 The pollution burden that these people
19 experience is far and above anything that anyone else
20 in the country experiences. There were studies done,
21 and I can't remember precise numbers, but it would be
22 like smoking several packs of cigarettes a day. So, I
23 mean, it is -- EJ can -- virtually every permit in what
24 is known as the chemical corridor along the Mississippi
25 River, from Baton Rouge to New Orleans, involve an EJ

1 issue. You just can't escape it.

2 MR. VOGEL: That's all the questions that
3 we have. Thank you very much.

4 MR. SUTTLES: My pleasure. Thank you.

5 MR. VOGEL: Do we have another speaker?

6 MR. MONK: Yes, David Monk here.

7 MR. VOGEL: Okay, David. Let me remind
8 you that we have ten minutes for your presentation, ten
9 minutes for questions. We are also taking audio
10 transcripts, audio recording, and preparing a written
11 transcript of this proceeding. So go ahead, please.

12 MR. MONK: Can you hear me all right? My
13 apologies.

14 MR. VOGEL: Yes, I can hear you.

15 MR. MONK: My name a David Monk. I'm the
16 executive director of Oregon Toxic Alliance. I am in
17 an organization asked by many fenceline communities to
18 help in the Title V permits and determine whether the
19 facilities that they're concerned with are in
20 compliance with their permits.

21 I am not by any means an expert on a lot
22 of the issues with regards to air emissions. I try to
23 analyze those permits as best I can with the help of an
24 advisory group of scientists here and provide support
25 to those communities to challenging the renewal of the