I think early on it's not obvious to me, as a permitter, that it's going to be easier for us to reissue because we're essentially starting all over again from scratch. We tried to make the application process a little easier and we know more about writing the Title V permits the way we want to write them, but there are different permits than the permits the guys already have.

It's not going to be quite as easy, I don't think, as we all hoped it would be the second time around and I'll ask you my standard question I asked everybody else. A through F, what's your grade?

MS. HARAGAN: First, I'd like to address your first point. You know, obviously, you know permitting, how difficult that is, way better than I do. But, at least, it seems like first round, you go back and you deal with those permits from eons ago that are lost. You go and find them and figure out what the requirements are and you get a baseline agreement between the facility and regulator about what the requirements are and some of those may

change, but it just seems like there's some of that digging back into the past and finding requirements that you shouldn't have to do at renewal.

MR. HIGGINS: That would be nice. Nothings ever 100 percent and that's always an issue. Someone spoke earlier today about the search for the perfect permit and it may seem hard to believe, but regulators try and do that, actually and we always know something more than we did last time and there's always different slants on the legal pieces of this, that or the other thing.

I was hoping it would take like 30 or 40 percent of the time for permit 2 than it took for permit 1 and I think it's going to probably take like 70 or 80 percent of the time.

MS. HARAGAN: As far as the grade, I think I'd have to go with Lyman's approach and grade the concept of Title V and then how it's implemented. And I think the concept gets an A. I think it's really helpful to have all the requirements in one place and to have compliance certification requirements. On implementation, I think I'd give it

about a C.

MR. LING: Keri?

MS. POWELL: I have a few follow-up questions to better understand the incorporation by reference issue in Texas. The first one is, can you clarify for me when Texas keeps old permits in a permit file, where is that file?

MS. HARAGAN: It should be both at the regional office and in the office in Austin. A lot of the old permits are no longer in paper form. They're on microfilm. That's a problem because the microfilm degrades over time. Sometimes you just can read the permits.

MS. POWELL: How big are the Texas regions? If you're an advocate that's concerned about a facility in a community, how far might you have to travel to get to the agency and look through the files and see those permits when you're trying to review the permit.

MS. HARAGAN: Sixteen regions. So, you know, Texas is a big place and, if you're out in west Texas, you may have to travel a long way.

MS. POWELL: If you have a facility that have 27 Title V permits, is it clear after all those permits are issued that there are 27 Title V permits for that facility?

MS. HARAGAN: Yes, that is clear. There's a website you can go to. You can search by facility and they can tell you all the permits that apply to that facility.

MS. POWELL: Texas Title V permits are available online?

MS. HARAGAN: No. I mean, there is a system where permits are on the computer. The problem is, and I think Steve will agree with this, that the search mechanism is almost useless. It pulls up a list of things without a title so you can't tell what they are and often things aren't dated. You may be able to pull up pieces of permits, but it's very difficult to determine which are the current versions and piece them together to form a whole permit.

MS. POWELL: The last question with respect to incorporating regulations by reference.

Some of those regulations would be federal regulations available online. I'm curious about the availability of the Texas SIP regulations. Are they also available online?

MS. HARAGAN: They are available online. It's a good point to clarify. I think if you are going to use incorporation by reference, the things you're incorporating have to be easily accessible to the public and I think that means really being online.

MS. POWELL: You said Texas is incorporating regulations by reference?

MS. HARAGAN: Yes.

MS. POWELL: Have you ever had any problems with the incorporation of the regulation by reference not specifying how that regulation applies to the facility or is that pretty clear?

MS. HARAGAN: I think Texas actually goes to a fairly detailed level in the citations that they put in the permits. I think that's pretty helpful.

MS. POWELL: Thanks.

MR. LING: Bob Morehouse.

MR. MOREHOUSE: I just want to actually echo something Kelly said earlier. We ere talking about the Texas program and minor new source review permits and the incorporation of those permits by reference. The difficulty for the public to go find them I think it is also a difficulty for the individual companies because we would just as soon have those rolled into one master permit, also.

Texas has a unique problem, which is being worked on now and that is how the language of the Texas program by that incorporation. You also have to certify, not only to the actual permit that's in the minor new source review, but to the interpretations that were made in developing that minor new source permit. Those representations can be anything from the calculation methodology. It could be an e-mail between you and the state permitting engineer. Those are all representations that were made during the development of the minor new source review permit. And so you get into issues like we estimated the stream composition to be 50 percent toluene. Well, what's the deviation from an

estimated number? We have a lot of people spending an inordinate amount of wasted effort on that.

That issue -- part of that could have been solve, I think, if those permit limits, whatever, in the minor new source review permits were put into Title V and you just add the minor new source review permits. That issue I know that I'm referring to is being worked now in the state, but that is, again, the result of some of the difficulties that we've had. That wasn't a question, I guess?

(Laughter.)

MR. LING: Any more for Kelly?

Steve?

MR. HAGLE: I just want to make one other comment on the minor NSR permits and their availability. As Steve pointed out, part of the negotiations with EPA on the lawsuit settlement and the NOD was that we make those publicly available, and we have a requirement that a permittee gather all of those permits up and make them available in a public location near the facility. So they should be able to find those without having to go to the file

room.

Hopefully, that's being done and that's a change after Kelly came up here to Washington, she may or may not have been aware of. So there is a better mechanism. However, I wouldn't presume to say it's perfect for making those available.

MR. LING: Keri?

MS. POWELL: I'm going to ask Steve a question if that's okay really quickly just to follow-up on that?

One thing that makes me nervous about relying on the facilities to compile that collection is, obviously, what do we do if the facilities don't do it because they're not directly accountable as the government? How about putting that in the permit that they're required to do it? So, if they don't, then we can enforce that requirement against them.

MR. HAGLE: I'm not sure I understand what your question is. The permit itself will list all of the new source review permits that apply to that reference or that are referenced by that facility's Title V permit and our rules require them to gather

those up and put them in a public location and make them available to the public.

Now, if you go to that public location and cannot find that information, then you can certainly contact us and we will work with the company to make sure that gets out there and we would not close the public comment period until we've given you some time.

MS. POWELL: Is that a state regulation that requires that at this facility?

MR. HAGLE: I believe that's in our Title V rules. I can find that out for you.

MS. POWELL: So you include that requirement in the Title V permits themselves?

MR. HAGLE: It's not in the Title V permit itself because at the time you're looking at the Title V permit -- I mean, you're reviewing that Title V permit and the requirement is, when you take the permit to public notice, you make those permits publicly available.

MS. POWELL: But, obviously, you need to have the permits available throughout the term of the

permits. If you're not including the requirements in the permit, people have got to have a way to look at them.

MR. HAGLE: And, at that point, you'd have to rely on the file room. Obviously, seeing that there's been some problems with this.

MR. LING: All right. Thank you very much, Kelly.

Our last speaker of the day is Wayne Penrod. While Wayne is coming up, I want to ask the audio person to stop the tape and the transcript. He tells me he has an announcement to make from the hotel facilities people. It has nothing to do with Title V.

(Discussion off the record.)

MR. LING: Hopefully, that will not appear on the internet.

Here's Wayne Penrod.

MR. PENROD: Thank you for the opportunity to speak to you today. My name is Wayne Penrod, the Senior Manager of Environment and Production Planning for Sunflower Electric Power Corporation.

Sunflower is a generation and transmission electric cooperative. Our location is in western Kansas. We're just a few miles west of Dodge. If you're a cooperative, serves its members at wholesale. It's a not-for-profit organization.

Several things unique about us, and I'll try to remember to mention all of them, but if there's anything else that you might want to know about a coop, I can probably tell you as well. We operate two facilities. One is a coal-fired generator of about 360 megawatts in size. One is a gas-fired facility and it has both steam generation and combustion turbines. Those plants are located about 10 miles from each other within the southwestern part of Kansas.

We serve 115,000 people in our service territory, the western 34 counties of the state and we serve regionally interconnected electric customers with other electric companies and provide them with economy power and contracts from time to time as the situation might permit. Most of my time in the last four years has been spent in two areas of endeavor.

One is securing Title V permits for those two facilities. The other is securing a PSD permit for a new facility that is to be located or co-located on the coal-fired plant site. So I have unique perspective, maybe, on some of those things. Probably I'll forget to mention what most of them are. I may depend upon questions from you if you would like to ask something specific about that.

Our coal-fired plant was built in 1983, so it's 21 years old, more or less, the newest coal-fired generation facility in the State of Kansas. We have a PSD permit that was issued in 1979-1980 and the most significant thing, as I work my way through this process, was to identify, learn, try to make sure that it stayed consistent. The PSD permit is the only air permit for the facility and it is identical in requirements to the Title V permits. So one of those two permits, from my perspective, from my unique location that situation is that one of those is extra.

The Title V permit has only one additional element in it than the PSD permit had. That is, we

have additional surveillance requirements on the smaller control devices that would be installed for coal-conveying systems, ash-handling systems and line unloading facilities all of which are instrumental in the process. They're rather small in comparison to the major emission source, which is the stack that gets the gases off the boiler.

We have the modern control technologies that were required by subpart D(a) of the Clean Air Act. That is a scrubber, a high efficiency fabric filter, low NOX burners. This was pre-SCR days, so the company met requirement, the 40 CFR 47(a) and 48(a) monitoring requirements and excess emissions reporting requirements. Because we're an electric utility and we have Part 75 requirements also, we submit quarterly electronic data reports, which is the emissions from all the gas monitors on the facility. So, if it's NOX or if it's SO2, it's reported.

We also have excess emission reporting for carbon monoxide. We're the only utility facility in an attainment area for CO that has a reporting

requirement for carbon monoxide. We also have excess emissions reporting requirements for opacity.

The Title V experience, in addition to be laborious, frankly, I'm not sure there's a good way to express this because I'm not trying to cast doubts or aspersion on the state agency. We filed our first Title V draft permit in 1998. The application was filed within a month or so of the due date or a month or so before the time that it was due.

We turned around, and being familiar with all the activities that we did, we went ahead and prepared, through a consultant, a Title V draft. The agency, because of the uncertainty associated with what was going on, I wouldn't be blaming the agency and I'm not really trying to say it was EPA's difficulties. But, as a practical matter, that permit was held in abeyance. There was no action taken on the draft permit and just six months ago, plus two days, we received our permit for the Holcomb facility. That's the coal-fired facility. So there was a wasted effort there. There was a waste of money associated with some of the efforts we went

through. We think that's because of the absence of clear understanding, perhaps, of the requirements and, perhaps, in some ways, changing requirements that might have come down the pike during that intervening period.

In the years since the Emissions Fee program was initiated, we have spent $635,000 without, again, trying to play games with Title V. We have not reduces our emissions by as much as one ton. We have always been a clean unit. We have a clear stack. The local Region 7 folks, when they made their first visit to the plant not long after we completed our compliance testing requirements, which were then six months to startup, came to the plant, noticed there was nothing coming out of the stack, turned around and drove 400 miles back to Kansas City, called us. Ask us why the unit was offline and why we hadn't notified them. It's a clear stack, modern coal-fired coal plants are going to look like that. In our particular situation where we have the fuel types we have in the control devices we have installed on them, so much of this seems to be, as I

say, an additional requirement.

We understand that the imposition of the Title V program requires the expense of money, requires the state permitting engineers and the other folks associated with compliance, monitoring and those kinds of things, to learn, frankly, as we learned some things about our own permit as we were working our way through this process. I've not even called the $635,000 emission fees and payments, $135,000 of that, by the way, is the proverbial check in the mail. They're due the first of next month.

My concern is that we, having gone through that, and the state permitting agency having learned a lot about our facility and the other coal-fired facilities, having learned that and having now received a permit and having that permit not being particularly laborious in the things we have to do in order to fulfill the obligations under the permit, we'll be doing the same thing the next five or six years seeking a second permit and we don't stand to learn much about the process nor do the state permitting folks.

That's pretty expensive when you do the math and try to divide by zero. It's hard to figure out how much per ton you've saved or you've spent rather in trying to assess the effect of the report.

I was going to answer the question you haven't yet asked. We really have not had any problems with the state agency. We haven't had any problems with EPA at Region 7. We've had frequent conversations with them about the process we've gone through. We've been very upfront and forthright about it. I have no complaints.

My complaint is, not for the previous seven of years, but for the next seven is that we're going to be paying again to do the same thing we've already done and I don't expect that I would give you an A for that. I think that the cost for the program has been justified once and I'm not complaining about it again. But I really think that to have to go through the continued payment in search of assured compliance on our unit is probably not well-spent.

Probably the other things I forgot to say -- I do have the permit here if anybody wants to see

it, 45 pages of permit. The rest is supporting information and application data. There are six pages that cover the main sources of our plant. The rest of the pages cover the minor sources, which, on a worst day, couldn't do as much as could be done by the major source in a few minutes of an emission episode.

The real problem with that became apparent to me as we were working through the process and to the agency I will give full credit because they asked for a certain number of monitoring episodes during the course of the calendar year. They wanted us to go out on a weekly basis and observe the small dust collectors and be able to assert that over the course of the 52 weeks that we were not out of compliance.

We did a good estimate of how much time it would take to do the things that they asked us to do and it would have been a half a man year per year to do those things. Having had that information pointed out to them, they recognized that there wasn't anything significant to be gained from that exercise and rather would have us spend our dollars doing the

things at the plant that might make the difference with the big source to be sure that we don't have any more events there. That might otherwise be absolutely as part of the operation. I would rather have spent the money paving a haul road, frankly, than I would have to go through this next six years of going through the paper chase, frankly, of trying to assure that we're in compliance when we are, as a matter of course.

I'll answer any questions you might have. I certainly don't have any other prepared comments or remarks. So, if you have any questions, I'll be glad to respond.

MR. LING: Bob?

MR. MOREHOUSE: Wayne, can you give me some sense on the $635,000? Obviously, a huge number, how does that break out? Is that all Title V or was some of that a PSD permit development?

MR. PENROD: No, sir. That's all Title V for two facilities, the one coal-fired and the one gas-fired plant. That's the emission fee payments. It has nothing to do with my time or the time the

other people spent in either assuring compliance or helping me to develop the language in the draft comments on the permits themselves.

MR. MOREHOUSE; That's fees only, so you'd have to add to that all the consulting time and developing the applications?

MR. PENROD: Yes, sir. I don't have that information with me, but we have kept track of it just for the record. It's substantial dollars.

MR. LING: Keri?

MS. POWELL: I was just curious about your knowledge of other power plants in your area. How do you think that your plant compares to other coal-fired plants in Kansas?

MR. PENROD: In what respect?

MS. POWELL: You said that your plant is successful because it's very clean and nothing came out of the stack. I just wanted to know what your experience was with other power plants.

MR. PENROD: I'm sorry. Let me back up. I really didn't say that nothing was coming out of our stack. It's a clear stack for particulate

purposes. You can't see fly ash. Of course, there's different vintages of facilities in the state. There are five, as I recall, of the coal-fired units that are equipped with scrubbers. There are four of the units equipped with fabric filters for particulate control. I think the oldest unit I have the least knowledge of and it's also the smallest located in the southeastern part of the state.

As a practical matter, the plants are all generally clean. They don't have a clear stack. If they don't have a fabric filter, they don't have a clear stack. They're still relatively clean.

MS. POWELL: Even when they say they have a clear stack, it's my understanding that you might not be able to see the particulates coming out of the smoke stack, but the very smallest of them are the most dangerous to people. You do recognize that there are still dangerous particulates coming out of your smoke stack?

MR. PENROD: I recognize that over the course of the year that our total particulate emissions might total a hundred tons. Our efficiency

of our fabric filter is as efficient as all but two of the most recently issued new source performance standard and PSD permits that have been issued for new plants.

MS. POWELL: I apologize. I wasn't listening close enough at the beginning to catch the lay of the land in Kansas.

MR. PENROD: Flat.

(Laughter.)

MS. POWELL: Approximately, what portion of the state are you the managing power company?

MR. PENROD: We serve -- our distribution cooperative is the western 34 counties, which is about a third of the State of Kansas.

MS. POWELL: And there are other cooperatives that handle the rest of the state?

MR. PENROD: No. There is one municipal utility that operates coal-fired generation and there are three investor-owned utilities that operate coal-fired generation in the state.

MS. POWELL: I guess what I was wondering was -- I mean, you were saying that part of the

reason that you didn't see much of a benefit to Title V in helping with compliance at your facility was that you felt that it was already very clean and while in compliance with the requirements. Is that what you're saying?

MR. PENROD: My chief point, I think, is going through the preconstruction PSD review for the plant defines the control technology that you need to apply and it defines the monitoring requirements and the compliance requirements in every respect. So, when you've gone through that process, if that process was sufficient in the first place, then you should have, I think, with the exception of malfunctions and those kinds of things, you have achieved the best that you can achieve.

MS. POWELL: How about other requirements that apply to your plant? Aren't there requirements that apply?

MR. PENROD: SIP requirements are much less complicated for a lack of a better way of saying it than the other requirements. There's not a piece of our facility equipment that doesn't have a

requirement placed upon it. We have coal-handling requirements under subpart Y. I may get the subparts confused from time to time. The cooling tower has Part 63 requirements, which relate to chemicals in the water. All of those things are covered in the PSD process.

MS. POWELL: Your PSD process include all the SIP requirements and all the NSPS requirements and all that?

MR. PENROD: That review includes all of the NOX requirements. All those things are covered in the permit we've just gone through. One of the important parts, perhaps, I didn't pay enough attention to this, we've just gone through this process for another unit, a companion unit at the same site, so those things are pretty much indelibly imprinted here. And so I'm persuaded that, if you've done that, you don't have anything much in regards to emissions that the public ought to have undue concern about.

MS. POWELL: I see a lot of people have their cards up.

MR. LING: Bernie?

MR. PAUL: How are the Title V permit fees in the State of Kansas assessed? Is it based on a dollar per ton basis or is it assessed on they looked at the number of Title V sources and said we're going to charge these type of facilities so many dollars per year and these type of facilities so many dollars per year? Can you share a thought if you know that?

MR. PENROD: I have some awareness of that. First of all, there are four different classes of Title V permits in the state. The larger sources like ours are Class 1. Any Class 1 sources you're going to follow the same methodology. If you emit more than 100 tons of one of the pollutants that are included within that, which is SO2 and NOX and carbon monoxide, I think. It's a small number, so I don't recall. But you're assessed a fee, so many dollars per ton up to 4000 tons a year on the emissions from that facility.

We do not touch the cap. We don't get but about halfway, frankly, in both NOX and SO2. But there's other structures of the fees. It has been as

low -- first of all, I think, if I remember correctly, there are 19 Class 1 permits in the state. That's a state matter. Please don't write that down because I'd hate for the Director of Environment to fuss at me for making a false statement. But they're relatively few. Most of those are in the utility sector. Some of them go beyond the 4000-ton cap in their emissions, but most of them are relatively small emitters.

New facilities is the point, I think, and new is 30 years.

MR. LING: Shannon?

MS. BROOME: Thanks for coming today. You said that on the issue of the observations of the small bags that you were looking at half a man year in terms of work hours. This is an issue that's my biggest pet peeve.

MR. PENROD: Mine, too.

MS. BROOME: Having been in Indiana making observations of absolutely nothing. It drives me nuts. What would cost out half a man year for the company when they know it's not the salary. It's the

salary plus something and what level of person are you talking about because it can't be just anybody who could make these observations and do the recordkeeping and all that stuff.

MR. PENROD: We have two people. One of which is the most directly involved and makes, by far, the largest portion of the evaluations. He is a supervisor-level individual. He doesn't have a lot of staff, but that's the level of person they have do it. In fact, he at one time was the operator who was responsible for the scrubber, showing compliance with the scrubber. His salary is whatever it is. It's probably going to be $60,000 a year that we might attribute to the actual act of going through all those compliance verifications.

But what's more important to me is that I would rather have him spending time looking in the main plant baghouse.

MS. BROOME: You're saying it's an opportunity cost.

MR. PENROD: It's an opportunity cost.

MS. BROOME: Which is something that's

hard to quantify and I just wanted to ask you, did you know that the administrative law judge who just retired from Indiana is also named Wayne Penrod?

MR. PENROD: Is he from Indianapolis?

MS. BROOME: Yes.

MR. PENROD: We've communicated a couple of times by e-mail. We have similar roots.

MS. BROOME: I thought Wayne Penrod was testifying. I though, oh, Wayne Penrod.

MR. PENROD: And I knew he was from Indiana and didn't hold it against him.

(Laughter.)

MR. LING: Mike?

MR. WOOD: Just real quick. I'll assume your permit was issued by the state agency?

MR. PENROD: Yes, it was.

MR. WOOD: You mentioned EPA had done an inspection. That answered that question. Was there any public participation in any of your permitting, particularly, more recent permitting, either the NSR or Title V process?

MR. PENROD: I'll tell you -- well, let me

answer that two ways. First of all, we don't have a lot of people in our neighborhood. The largest in the western third of our counties has 30,000 people. We go to great efforts, frankly, to invite people to come to the plant to see the plant every spring as science teachers are looking for class trips to take their kids to see something that might be of interest to them.

We get a host of people who come. We give tours of the plant. They see the plant. They ask questions. Although, some of those are elementary students and the questions may not be all that tough. Some of them aren't. Some of them are seniors in high school and they ask some pretty tough questions. So it's giving us a little bit of practice.

We are in the process of going through a PSD review on an existing unit for some improvements we're going to make. We have gone through the Title V process on two units and the PSD review on a new unit. And, to an extension to the permit on the new unit, we have not received, other than those that we offered at public hearing, any comments by any one

other than the state agency. The EPA did file some comments. The Region 7 office did file some comments that were appropriately handled at the issuance of what we call the Holcomb 2 plant. That was 18 months ago.

Public interest, public distrust, maybe, of our operation and our facility is not high.

MR. LING: John Higgins?

MR. HIGGINS: Again, I want to get your grade.

MR. PENROD: I give the agencies and the process and that we learned a lot, maybe not so much myself, but a lot of people at our facility learned a lot by going through and thinking about the way the plant operated and the compliance requirements at the plant in a different way by going through the Title V process. I really think the process is at worst it's a B.

My real bad grade is reserved for what I see as the cost of that in the future because we're going to pay more and we've already achieved the benefits that have accrued from that expense. That's

my fear is that the program will be more burdensome; that provisions, frankly, for small businesses in our business, because we're in both of those. We're in small businesses, but we're in the power business and so we have those kinds of costs. That's the thing I'm most concerned about.

I'd like to be able to control some emissions and spend some of those dollars doing it instead of spending them on emissions fees that frankly don't go to reducing emissions.

MR. LING: I'm going to call on myself. I just wanted to make sure I understood part of your testimony. I think I understood your point that going through Title V the only practical difference that that made compared to the PSD permit that you already had was some additional monitoring requirements on some of the coal-handling equipment. Is that right?

MR. PENROD: There are 18 bag filters half the size of your office scattered throughout the plant. Yes, that's correct.

MR. LING: So, in terms of the internal

checks that you do for compliance with all those PSD requirements, are those now different as a result of Title V or are they essentially the same as a result of those internal checks?

MR. PENROD: As a result of Title V, we have a different person who goes by and assesses the functionality of those particular devices. We had people who did it before. The recordkeeping, frankly, was not as good as it should have been, but we've made that improvement. Yes, sir.

MR. LING: One last related question. That's the practical difference, and maybe this is a question for one of our lawyers rather than you. But, in terms of the legal difference of certifying compliance with the permit terms -- and, also, this is a practical difference, the reporting, how often you report, six month reporting. Are those different because of Title V or is that essentially the same as it was under the PSD?

MR. PENROD: We didn't have -- I think it's probably a two-part answer again. We had current requirements, pre-Title V requirements that

report on the main stack, SOX, NOX, CO and opacity. Those reports we filed. Those aren't going to be any different. The due diligence things that we do now that are sufficient for the appropriate signatures associated with an electronic data report are no different than it's going to be for this Title V activity.

The other things I think we've probably implemented the necessary changes in recordkeeping and in records of observation I think more than recordkeeping. We've incorporated those into the process and so those will be a little bit different, but they should be sufficient for the purpose.

I'm not an attorney. I'm a mechanical engineer. So, if there are attorney questions, I can't answer those.

MR. LING: Steve?

MR. HITTE: I thank you as well for coming. I guess Michael started to get into it. I'm still struggling with what your concern is. You say it's the future you're concerned about and I'm not understanding that. Are you saying that when your

Title V permit comes up for renewal you're concerned it's going to be more onerous. Or are you just saying that you just don't like the idea of having to pay fees because the money could be served better elsewhere?

MR. PENROD: The answer is both. I am concerned about the program becoming more onerous. Keeping in mind that the PSD review accomplishes the task that folks who are not satisfied and, perhaps, are really interested in Title V solving some of those problems, it's not necessary. So it's extra. Our permits are all in one place to begin with. What I would hope to find would be a way to bifurcate, for lack of a better way of saying it, the fee payments such that those who were in compliance who continue in compliance who don't have continuing problems with the technologies that are installed can, in some fashion, get credit for good behavior.

MR. HITTE: Just for the record, it's up to the states how they charge fees. Have you ever approached the state about renegotiating your fee?

MR. PENROD: No, I have not. It only

became apparent to me when I divided the dollars by the number of tons reduced.

MR. HITTE: And the states can tie dollar fees to one source according to Title V.

MR. PENROD: I imagine I'd be outnumbered in that discussion.

(Laughter.)

MR. PENROD: Perhaps, important here would be the recognition that there are those sources who are finding themselves in that very same boat. There are Class 2 sources whose emissions are lower than ours whose fees are not a whole lot less than ours. Yet, if you add two or three of those guys together, you get us. So we're supporting the program and we're not, by far, the largest choice in the state. We're the smallest major source in the state. So there's an equity question there that just somehow keeps creeping into my thinking process.

MR. LING: Keri?

MS. POWELL: Is this our last presenter? Do we have more?

MR. LING: Wayne's the last one signed up

unless there's --

MR. PENROD: I feel a cold coming on.

(Laughter.)

MS. POWELL: I'll go easy on you.

MR. PENROD: You have been thus far.

MS. POWELL: Whether those inspectors went out without anything except looking and seeing nothing coming out of your stack. Did they come back?

MR. PENROD: No, they did not.

MS. POWELL: How often do the inspectors come to inspect your facility?

MR. PENROD: The state agency by virtue of their own interim directions appear on a religious once-a-year basis to review the operations. Of course, we file either quarterly reports or semi-annual reports, depending on the process, depending on the particular requirement and so we're self-reporting in that regard.

What they developed over the course of the last 20 years that the plants operate is they know what the equipment is. They know what it's capable

of doing and my assessment is I'm not volunteering this for them because I never asked them the question, is it they spend their time where they think they can be of more value to the constituency, which includes me, by the way.

MS. POWELL: Have you ever been with the inspectors when they did an inspection?

MR. PENROD: I've been with the inspectors one time. The EPA Region folks, as a practical matter, probably come out every three years. They'll come with the state agency. Sometimes it's a training exercise. Sometimes the folks are just trying to get acquainted with each other to see that they do the same things or they think about them in much the same way. We've never had a question. We've never had a problem.

MS. POWELL: I'm sorry. You're describing your state inspectors come once a year and U.S. EPA comes once every three years, so when you are on an inspection was that a U.S. EPA inspection or a state inspection?

MR. PENROD: The one particular inspection

I was on was just a state inspection.

MS. POWELL: Can you tell me what happened at that inspection?

MR. PENROD: They asked to see our records. Those are very specific as they are laid out in the regulations. You take them, show them the records. They ask to see the relative accuracy reports and the gas monitors and the audits on the opacity monitor. They look through those, even though we file those on a quarterly basis. They come to the site to verify more than anything else that I think that they're there. They looked at them. They looked at the appropriate pages, which are, frankly, rather thick. We do a good job of reporting that we provide a lot of information. I don't know that it's easily assimilated, but we try.

They look at the facility. They observe the stack. They observe, in the case of the dust collectors, they'll drive around and they'll see anything as a practical matter. Sometimes, by the way, the coal-handling system is operating when they're there. Sometimes it's not.

MS. POWELL: Do you have continuous monitors on your stack?

MR. PENROD: Yes. That's a requirement of subpart A.

MS. POWELL: They're SIMS or COMS?

MR. PENROD: SIMS. We have COMS, too, for opacity.

MS. POWELL: Just to clarify something, you said in the past your recordkeeping might not have been as good as you would have wanted it. Has it gotten better, your recordkeeping?

MR. PENROD: Our recordkeeping, as it relates to the 18 discrete baghouses that are located in the coal-handling system and the ash-handling system and the lime-handling system, the main stack, we would have been in trouble long ago if we weren't doing that correctly.

MS. POWELL: Just a final thing. You didn't have to do any kind of annual compliance certification prior to Title V. Right?

MR. PENROD: We do a certification with the filing of each electronic data report. We did

with the Part 60 reports prior to that as well. That did not relate to the 18 coal-handling dust collectors.

MS. POWELL: So this is the first time. Have you actually had to file a 105 compliance certification yet?

MR. PENROD: June 23rd was the end of the first six months and so I have 28 days left.

MS. POWELL: You have to file a certification every six months?

MR. PENROD: Yes.

MS. POWELL: I'm assuming you're not planning on certifying non-compliance of anything.

MR. PENROD: No.

MS. POWELL: Do you have any evidence of possible non-compliance?

MR. PENROD: I have no evidence of any non-compliance. I have a due diligence process that I have to go through for the second quarter which, frankly, would go through the end of June for my electronic data report and have computerized recordkeeping for all of the maintenance activities

that are done on the control devices and with the monitoring devices. And so it frankly becomes a check, those locations, reading the reports, which I don't wait six months to do, and then the certification.

In fact, I think I misspoke. We only have the annual certification, but we have the semi-annual reporting. The plant manager for that facility would like to see that due diligence statement by me before he files the semi-annual report.

MS. POWELL: Just a last question. Does your facility undertake any monitoring that isn't specified in the Title V permit?

MR. PENROD: Certainly.

MS. POWELL: I'm sorry. This is one more question. When you're certifying compliance, do you take into account evidence for that monitoring as well as your Title V monitoring?

MR. PENROD: Some of the things that you speak may be individual actions that are undertaken by a shift supervisor, by a maintenance mechanic, by an operator who observes a wisp of coal dust out one

of the little dust collectors. He write that work request. The work request goes through the system as is appropriately prioritized and taken care of. It's not an expedience of the opacity standard. So we do things that are reported in the fashion I think you just described. I'm aware of all of those, but only if I go through every maintenance record and I do not go through every maintenance record.

MS. POWELL: Is it okay if I ask another question? I'm sorry. Nobody else has their card up. So you're the responsible official that signs?

MR. PENROD: No, I'm not. I do the due diligence for the responsible official. I'm the designated representative for the EDRs, but I'm not the responsible official because I have no operating responsibilities for the plant.

MS. POWELL: Who is it that signs your compliance?

MR. PENROD: The plant manager.

MS. POWELL: You're doing a due diligence for him?

MR. PENROD: Yes.

MS. POWELL: So he's relying on you to give him good evidence and you say you don't review all the reports?

MR. PENROD: I don't review all the maintenance records for all of the equipment as a normal process.

MS. POWELL: But you're saying that some of those maintenance reports might have an observation or evidence of a problem?

MR. PENROD: None of those will have an observation of a problem. We do things before we have to. Just as an example, if I can use this one. As I say, we have a clear stack, no particulate matter can be observed in the stack at exit. I went through the plant for another culture class, frankly, on Wednesday. I observed what I imagine would be a percent or two opacity at the stack exit. I asked the plant manager if there was something that was happening with the fabric filter. He looks up. No. They investigated. We don't know whether we've discovered anything or not, but we're looking for the source of 1 percent. It's not a compliance matter

and I'm not going to report it.

MS. POWELL: Thank you.

MR. LING: Any more questions for Mr. Penrod?

(No response.)

MR. LING: Thank you very much.

MR. PENROD: Thank you.

MR. LING: This concludes the list of speakers today. So I appreciate all the speakers if any of them are still here who came and who testified and who answered all our questions patiently.

Before we formerly adjourned, I just wanted to say a couple of things to the Taskforce and also give the Taskforce a chance to say anything they want to say in conclusion.

First of all, I would like have a call at some point very soon after this meeting to, number 1, discuss how the people thought the running of the meeting went and what adjustments we need to make for the Chicago meeting. I also want to discuss the logistic of planning out the Chicago meeting and subsequent meetings and how the Taskforce wants to

operate in between meetings and things like a lot of the issues that have come up today about receiving testimony, summaries and all that kind of stuff. I don't want to do that today, but I think we need to set a call up about that very soon.

What I do want to do today, though, is check the date for Chicago. It's tentatively scheduled for September 14th. I just want to make sure. If anybody has a current conflict with that date, let me know.

Steve?

MR. HITTE: Recognizing that we've already signed a contract and there will be substantial penalties if we change, September 14th is, I think, a Tuesday.

MR. LING: If anyone has a conflict, just let me know before you hit the exits. I do see a couple of cards up.

Shelley?

MS. KADERLY: I wanted to thank all the presenters today, again. I think we got a lot of valuable information today. One of the things that

we talked about on our call just a few days ago was if there were any pieces of information that the Taskforce identified that maybe EPA could provide or share it with the Taskforce to help us do our duties here. One of the things I think would be helpful is if EPA gave us an overview of what Title V requires for the minimum public participation requirements.

Some of the difficulties that we heard today, I suspect, might be more specific to particular agencies rather than the underlying Title V program requirement. So I'd like to get some clarification on that, if we could.

Also, I wanted to let you know that with me and I'll leave it with whoever wants to accept it, I brought a recent survey that the State of New Mexico did on what the Title V fees are for each of the states and some other information that the State of Oklahoma compiled recently as well that might be of use to the committee.

MR. LING: Bernie?

MR. PAUL: When I look at the name of this Taskforce, the Title V Performance Taskforce, it lead

me to wonder how are we going to measure the performance of the Taskforce and maybe this comes from being ingrained in corporate culture for 14 years now, you can't do anything about performance unless you have some metrics about how well things are.

Recognizing that you cannot measure everything, I'd like when we have our next call, and I wanted to raise this today so people would start thinking about it, what are some quantifiable measurements we might be able to use as we go through this process. And, if it would help, as we have our next round of hearing, if we could suggest particular measures that people could bring to us about their views of the program. That would give us some data to work with. I'm one of these people that likes data, but I understand that not everything can be quantified, nor needs to be quantified, but I think it helps sometimes to put a context around stuff.

MR. HIGGINS: Just for the record, did everybody get the minutes of our last call? We somewhat got into that. I know you weren't in on the

call.

Bernie, I'd like to say we weigh our permits and the heavier they are the higher score we get. Remember, Steve Martin once suggested that the best way to assess the quality of art is how it smelled and how much it weighed, so that would be fine with me.

MR. LING: Steve?

MR. HITTE: In the spirit of your question, Michael, about having a call, I agree. We probably in a couple or three weeks should just have a call. One thing that's running through my mind is, okay, if we, the Taskforce, are suppose to digest what we've heard, I'm not quite sure what each of us heard in the sense of what we need to act on. So I would propose that we need to talk about that and I do know that somebody asked me this at the break regarding the availability of all this stuff here.

In less than two weeks, Graham will have notes, key points that he picked up from today's meeting that will be made available and, in about the same amount of time the recorder who did the verbatim

will be available. And then, regarding the digital audio that we did, that, in theory, will be available tonight but it's going to take us a few days to put it on the website and what we will probably do is we noted the timeframes that each person spoke, so we will have this digital, whatever the right word is, broken up into 30-minute segments.

You'll know the first hour Mike Ling spoke. So the first two 30-minutes will be Mike. The next hour will be John Paul, et cetera, et cetera. That should be available, as I say, imminently. So, for those of you who really want to dive into rehearing what we heard and what it is we think we need to act upon, at least you'll have materials outside of any notes you may have taken today.

MR. LING: Is that another one from you, Bernie? Or is that left over?

(No response.)

MR. LING: One thing I would suggest is, why don't we go ahead and look at candidate dates for the call. Let's say two weeks from now.

Oh, you're right. Okay. The week following the July 4th holiday, July 12th.

MR. PAUL: I know I will be on vacation that week, but we can't let the R&R needs of one lonely person interfere with the plans of everyone else.

MR. LING: We scheduled the last one and you couldn't come.

MR. PAUL: It's a plot.

MR. HITTE: I think we do have to recognize we're not always going to get everyone, but it's nice to know if there are major things that half the people can come to the week of the 12th besides vacation for Mr. Bernie.

(No response.)

MR. HITTE: The day of or the week of?

MS. KADERLY: I was going to suggest, typically, Mondays and Fridays are hard to get people together. If at all possible, Tuesdays through Thursdays might be best.

MR. LING: Probably the 13th or 15th, so try to keep relatively flexible on those days until

we can get something locked in, which we'll try to do very soon after we get back.

MR. HITTE: And it will always be 1:00 o'clock on because of the West Coast folks.

MR. LING: Any parting thoughts?

MR. HIGGINS: One suggestion for setting up calls, you might use -- pick a day and schedule another couple or three months and then people can adjust their schedule if they need to.

MR. HITTE: In that spirit, do you think we should just set up a monthly call and if we need it we have it? Is that the best way, starting in July and another one in August, et cetera?

MR. LING: Okay. Thank you very much to the Taskforce for participating. I know it was a long day, but I thought it was a very good session. Thanks to everybody in the audience who participated and spoke as well.

With that, have a good trip back everyone.

(Whereupon, at 4:45 p.m., the above-entitled meeting was concluded.)