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LOUISIANA ADVISORY COMMITTEE
TO THE
U.S. COMMISSION ON CIVIL RIGHTS
LOUISIANA STATE UNIVERSITY
PLEASANT HALL, ROOM 148
BATON ROUGE, LOUISIANA 70803
"ENVIRONMENTAL EQUITY"

FACTFINDING MEETING ON ENVIRONMENTAL EQUITY IN
LOUISIANA AT 9:00 A.M. ON WEDNESDAY, FEBRUARY
19, 1992 AND THURSDAY, FEBRUARY 20, 1992,
HELD ON THE LOUISIANA STATE UNIVERSITY CAMPUS,
PLEASANT HALL, ROOM 148, BATON ROUGE,
LOUISIANA 70803.

REPORTED BY: SYLVIA C. PASTRANO
CERTIFIED COURT REPORTER

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P R O C E E D I N G S

MR. KUTCHER: Good morning. The meeting of the Louisiana Advisory Committee to the United States Civil Rights Commission should come to order. My name is Robert Kutcher. I am the chairperson of this committee. With me today are other members of the committee, and I can't see far enough down there, so what I would like to do is rather than introduce everybody, let me ask everybody to introduce themselves.

MS. ROBINSON: I am not a committee member. My name is Farella Esta Robinson. I am a staff person with the regional office in Kansas City.

MR. BLACHE: My name is C. J. Blache, commission member from the Baton Rouge area.

MR. QUIGLEY: My name is Bill Quigley, and I am a member from New Orleans.

MS. REIBOLDT: My name is Kay Reiboldt, member from Shreveport.

DR. FORD: Bob Ford, member from Baton Rouge.

MR. JENKINS: Melvin Jenkins,

1 regional director, U.S. Commission on Civil
2 Rights.

3 MS. MCDADE: Sandra McDade, and I
4 am member from Shreveport.

5 MR. BAKER: John Baker, member
6 from Baton Rouge.

7 MS. ADAMS: Jean Adams, member
8 from Gretna.

9 DR. HICKS: Laurabeth Hicks,
10 member from Baker.

11 MS. MADDEN: Roberta Madden, a
12 member from Baton Rouge.

13 MR. KUTCHER: Also here is JoAnn
14 Daniels, the administrative assistant to the
15 central regional office.

16 I and my colleagues on this committee
17 serve without compensation as the eyes and
18 ears of the commission. The committee is
19 mandated by statute to report on civil rights
20 development in the states to the
21 commissioners. Based in part on those reports
22 of the 51 advisory committees, one for each
23 state and the District of Columbia, the
24 commissioners in turn report to the president
25 and Congress on civil rights developments.

1 We are here today to conduct a
 2 two-day factfinding meeting for the purpose of
 3 gathering information on environmental issues
 4 in minority communities. Although
 5 environmental issues affect every population
 6 group, there is an unprecedented concern over
 7 whether or not the vast majority of hazardous
 8 waste sites and chemical facilities are
 9 located in minority communities and, if so,
 10 what are the socioeconomic effects of living
 11 in and around such facilities.

12 Some of the issues that are going to
 13 be addressed over the course of the next two
 14 days will be identification of predominant
 15 environmental problems in minority
 16 communities, environmental policies and
 17 practices by government and industry. The
 18 effect of these policies on the quality of
 19 life such as health, education, displacement
 20 and the economic well-being of minority
 21 communities and cooperative efforts currently
 22 underway between the government, industry and
 23 environmental groups to address those
 24 environmental concerns and contamination.

25 The jurisdiction of this commission

1 includes discrimination or denial of equal
2 protection of the laws because of race, color,
3 religion, age, sex, handicap or national
4 origin or in the administration of justice.

5 The proceedings of these meetings are
6 being recorded by a public stenographer. They
7 will be used along with the other information
8 collected through interviews and
9 correspondence with individuals, agencies and
10 organizations in the development of a written
11 report with findings and recommendations from
12 the committee which will be released and
13 distributed to the public.

14 At the outset, let me remind
15 everybody of our ground rules. It's a public
16 meeting open to the media, open to the general
17 public. We have a very full schedule of
18 participants, and to fit within the limited
19 time available, the time allotted for each
20 session must be strictly adhered to. Thirty
21 minutes has been scheduled for each
22 participant including questions and answers
23 and dialogue with the committee. To
24 accomodate those persons who have not been
25 invited but wish to make statements, we have

1 scheduled an open session on our agenda for
2 Thursday evening, February the 20th, beginning
3 at approximately 6:30 p.m.. Anyone who wants
4 to make a statement during that period should
5 contact a staff member such as Faye or Melvin
6 or JoAnn for scheduling. Written statements
7 may also be submitted to the committee members
8 or to staff here today or by mail. Mail
9 should be sent to the U.S. Commission on Civil
10 Rights, 911 Walnut Street, Room 3100, Kansas
11 City Missouri 64106. The record of this
12 meeting will close on March 16, 1992. So, if
13 you want to submit anything in writing, you
14 must do it by that time.

15 Though some of the information
16 provided here may be controversial, we want to
17 insure that all invited guests do not unfairly
18 or illegally defame or degrade any person or
19 organization. In order to insure that all
20 aspects of the issue are represented,
21 knowledgeable persons with a wide variety of
22 experience and viewpoints have been invited to
23 share information with us. Any person or
24 organization that feels they have been defamed
25 or degraded by statements made in these

1 proceedings should contact our staff members
2 during the meeting so we can provide a chance
3 for public response. Alternatively such
4 persons or organizations can file written
5 statements for inclusion in these proceedings,
6 and I urge all persons who are participating
7 to be judicious and factual in what they say.

8 The advisory committee appreciates
9 the willingness of those who have agreed to
10 participate and share information with us.
11 The staff of the central regional office would
12 like to extend special acknowledgment to
13 Audrie Evans of the Tulane Environmental Law
14 Clinic who graciously assisted us in
15 identifying data sources for this project. We
16 now ask Melvin Jenkins to share some remarks
17 with you. Melvin.

18 MR. JENKINS: The two days we will
19 spend fact finding on environmental equity is
20 a case of first impression, not only for the
21 Louisiana advisory committee, but also the
22 U.S. Commission on Civil Rights. The idea for
23 the study developed several years ago because
24 of the interest of the advisory committee
25 members and because of several national

1 studies that were conducted. This is only the
2 second stage in this process that we are
3 undertaking. The final stage will be the
4 final written report that will be furnished to
5 the public with appropriate findings and
6 recommendations. Although we would like to
7 have that report out as soon as possible, but
8 given the magnitude of the record that has
9 been developed so far and the information that
10 we have received during over the course of the
11 next two days, we will probably have a record
12 within the next six to eight months. It takes
13 that long to analyze all the information that
14 we have, in addition to the fact that we are
15 working in seven other states concerning other
16 problems on civil rights. We hope the meeting
17 today will be fruitful and add to the fact
18 finding record we have developed so far.

19 MR. KUTCHER: Thank you. We will
20 begin our first session now. I have asked Dr.
21 Beverly Wright who is an associate professor
22 at Wake Forest University to approach the
23 podium. Dr. Wright is going to give us an
24 overview of social justice issues in the
25 environment. Dr. Wright.

1 DR. WRIGHT: Good morning. My
2 charge today is to present an overview of
3 social justice issues on matters related to
4 the environment. It is however, impossible to
5 do so without placing this issue within a
6 broader historical context. The facts are:
7 That African Americans did not enter this
8 country voluntarily. They were brought here
9 to work as slaves and that condition of entry
10 has affected every aspect of life for the
11 descendants of African slaves. It would be
12 impossible to explain the present situation
13 along the river without some details of
14 history, so, in order for me to make my point,
15 I wish that you would just bear with me for a
16 little while. I am a teacher, so it's kind of
17 hard to just jump into facts. This is my
18 style, and I need to do it this way.

19 The American Declaration of
20 Independence signed on July 4th, 1776
21 proclaimed to the world "We hold these truths
22 to be self-evident that all men are created
23 equal, that they are endowed by their Creator
24 with certain unalienable rights, that among
25 these are life, liberty and the pursuit of

1 happiness." Thomas Jefferson who wrote these
2 words of stirring idealism was a slaveowner,
3 and so were many of the men who appended their
4 signatures to the signatures to the document.

5 As the Swedish sociologist Gunnor
6 Myrdal pointed out in 1944 in his classic
7 study of American Race Relations, An American-
8 Dilemma, there has always been a deep tension
9 between the expressed ideals on which the
10 United States was founded and the actual
11 treatment that minorities have received at the
12 hands of the dominant group. This tension
13 Myrdal predicted would ultimately have to be
14 resolved and we are still a long way from a
15 final resolution. American society remains a
16 substantially racist one in which in qualities
17 of power, wealth and prestige tend to follow
18 the lines of racial and ethnic divisions.

19 Black Americans are the largest
20 minority group in the United States. They
21 number over 31 million and represent about
22 12.5 percent of the population. Their history
23 in the United States has been one of sustained
24 oppression and discrimination.

25 Since the Civil War which legally

1 abolished slavery, African Americans have
2 endured Jim Crow laws, that enforced
3 segregation, lynchings, and beatings,
4 prejudice and discrimination.

5 A turning point in American race
6 relations came in 1954 when the Supreme Court
7 ordered that public schools be desegregated.
8 The decision gave momentum to a long-standing
9 issue, racial discrimination. The price was
10 high. Many civil workers were beaten and
11 jailed and some were killed. But eventually
12 Congress passed the landmark Civil Rights Act
13 in 1964 prohibiting segregation and
14 discrimination in virtually all areas of
15 social life such as restaurants, hotels,
16 schools, housing and employment.

17 In the last 28 years the Civil Rights
18 Act has ended many forms of segregation and
19 paved the way for some improvements in the
20 position of African Americans. For example,
21 various studies have shown a significant
22 decline in wide opposition to such issues as
23 school integration, integrated housing,
24 interracial marriage and voting for an African
25 American president, Jessie Jackson, to be

1 specific. The proportion of African American
2 children attending white majority schools in
3 the south rose from less than two percent in
4 1964 to 43 percent in 1980 and 75 percent in
5 1990.

6 From 1961 to 1981, the number of
7 African Americans going to college soared by
8 500 percent. Throughout the 1980's, though
9 their enrollment declined steadily, in 1990,
10 black enrollment continued to go down at
11 predominantly white campuses but surged at
12 historically black colleges.

13 Reasons include increases in racial
14 harassment in white schools and improved
15 recruitment at black schools. In the short
16 span of nine years from 1970 to 1979, the
17 total number of African Americans elected to
18 various public offices more than tripled.
19 That number nearly quadrupled from 1,469 in
20 1970 to 7,226 in 1989.

21 Full equality, however, is still far
22 from achieved. Most evident is the continuing
23 large economic gap between whites and blacks.
24 The latest figures on median family income are
25 13,507 for blacks and 24,654 for whites.

1 Blacks earning only about 55 percent of the
2 amount made by whites. The unemployment rate
3 for blacks is more than twice that for whites,
4 17.8 versus 7.1 percent. Black youths also
5 have more than twice the jobless rates,
6 jobless rate as white youths. 42.7 versus
7 18.3 percent. Over 31 percent of blacks live
8 in poverty compared with fewer than ten
9 percent of whites.

10 Another glaring racial inequality
11 shows up in housing. Most blacks not only
12 reside in segregated neighborhoods but are
13 more likely than whites with similar incomes
14 to live in overcrowded and substantial
15 housing.

16 In fact, residential segregation
17 remains as high today as it was in the 1960's.
18 In some, prejudice against African Americans
19 still exists. They still fall far behind
20 whites in economics and housing, though they
21 have shown compressive gains in education and
22 politics.

23 Race remains a significant and
24 crucial factor in the lives of African
25 Americans regardless of class. As the U.S.

1 Commission on Civil Rights reports, black
2 female college graduates still have a higher
3 jobless rate than do white counterparts, 3.1
4 versus 2.4 percent, and black male college
5 graduates, unemployment rate of 5.5 percent is
6 3.5 times that of their white peers.

7 Moreover, regardless of their
8 economic performance, blacks express less
9 overall satisfaction with their lives than do
10 whites of the same class. Even upper class
11 blacks still report a great deal of
12 discrimination feeling that they must
13 constantly work extra hard to prove their
14 worth.

15 How does any stratification system
16 survive? And what I have just described is a
17 stratification system. For any successful
18 system requires some kind of legitimacy. If
19 the bulk of the people do not regard the
20 social order as legitimate, the system is
21 inherently unstable and will soon collapse.
22 The ruling elite in any stratified society can
23 apply force to try to maintain the system, but
24 in fact most satisfaction -- most
25 stratification systems survive without much

1 use of force. The reason is simple. The
2 system is accepted because it is taken for
3 granted and regarded as natural by all
4 concerned. The legitimacy of this system
5 rests on its habitual unthinking acceptance by
6 the people, including the subordinate as well
7 as the dominant groups.

8 A political system is legitimated by
9 the dominant ideology of the society, that is,
10 the set of beliefs that explain and justify
11 the existing order. The dominant ideology in
12 any society is always the ideology of those in
13 power and it always justifies that class's
14 economics, economic interests. It is easy to
15 see why members of the dominant group should
16 be in the dominant ideology, but what about
17 the members of the subordinate groups?

18 Only if members of the subordinate
19 strata gain a class consciousness, an
20 objective awareness of their common
21 predicament and the reason for it - do they
22 begin to question the legitimacy of the
23 system. They then develop a new ideology, one
24 that justifies their own interest and
25 consequently seems revolutionary to the

1 dominant class.

2 I submit to you that a new class
3 consciousness has been gained along the lower
4 Mississippi River better known as Cancer
5 Alley. But once again we are asked to prove
6 what our eyes already see. Is it class or
7 race? Specifically do hazardous waste
8 storage, disposal treatment policies and
9 practices impact with greater frequency and
10 intensity on minority communities? I truly
11 wish that I could respond in the negative, but
12 that just is not the case.

13 The same factors that created the
14 disparities in income, housing and education
15 previously cited are also determining
16 disproportionate exposure to toxics by
17 minority communities. And this is not an
18 issue that is unique to Louisiana.

19 Issues of environmental racism gained
20 national attention in 1982, when mainstream
21 civil rights organized to protest against the
22 placing of a PCB disposal facility in Warren
23 County, North Carolina. The protest resulted
24 in the arrest of over 500 people including
25 many prominent blacker leaders from around the

1 county. These events resulted in the NAACP
2 requesting a preliminary injunction to stop
3 the placement of PCB's in the landfill on the
4 basis of racial discrimination. The effect
5 was not successful. The landfill was built
6 but an awakening occurred that would not
7 quicken. Congressman Walter Fauntray of
8 Washington D.C. took part in the Warren County
9 demonstration and like others was arrested.
10 However, he requested a report from the
11 General Accounting Office on where commercial
12 hazardous waste landfills were located in
13 eight southern states. That July 1983 report
14 revealed what many had suggested, blacks were
15 disproportionately located near hazardous
16 waste landfills, specifically African
17 Americans comprise the majority population.
18 Around three of the four commercial landfills
19 in the region. Income was also a strong
20 predictor showing 26 percent of those
21 communities sited below income in the poverty
22 level.

23 In 1987, the Commission for Racial
24 Justice in the study "Toxic Waste and Race"
25 based on GAO data found race to be the salient

1 demographic characteristic for the siting of
2 commercial hazardous waste facilities. For a
3 very long time minority and poor communities
4 have been the prime targets for nondesirable
5 but necessary by-products of an industrial
6 society. These neighborhoods are seen as the
7 paths of least resistance making them more
8 likely candidates for bridge or highway
9 buyouts, toxic waste and solid waste
10 landfills, incinerators for chemical plant
11 locations to name a few.

12 A report commissioned by the
13 California Waste Management Board in 1984 to
14 advise the state on how to overcome political
15 obstacles to siting mass burn garbage
16 incinerator finds low income neighborhoods
17 more politically safe. Cerrell and Associates
18 in one chapter of a lengthy technical series
19 concluded that "the state is less likely to
20 meet resistance in a community of low income,
21 blue collar workers with a high school
22 education or less."

23 According to the report: All
24 socioeconomic groupings tend to resent the
25 nearby siting of major facilities, but the

1 middle and upper socioeconomic strata possess
2 better resources to affectuate their
3 opposition. Although racial categories were
4 conspicuously absent from the demographic
5 analysis, the Cerrell report received much
6 criticism for targeting vulnerable sectors of
7 the population, especially minority
8 communities for further environmental harm
9 and, in this particular case, they are
10 speaking mostly on Hispanic neighborhoods.

11 In the State of Louisiana, blacks are
12 disproportionately impacted by environmental
13 pollutants. However, the people who live
14 nearest the chemical plants in the 85 mile
15 industrial corridor that produces one fifth of
16 the United States petrochemicals suffer the
17 most. The people here are mostly black and
18 poor. They live in river towns such as
19 Geismar, St. Gabriel and Plaquemine, and they
20 used to live in small communities such as
21 Revilletown Morrisonville and soon to no
22 longer exist, Sunrise.

23 These communities, bear the the brunt of the
24 discharges from these facilities. they also
25 tend to live closer to the chemical plants

1 than other groups. Or should I say, the
2 chemical plants expanded in a way that brought
3 them closest to minorities. Could this also
4 be a random association or merely a class
5 phenomenon? My investigation into this matter
6 reveals some interesting findings. I asked a
7 simple question of one community member
8 involved in a buyout by a chemical company
9 that had literally moved next door to him. I
10 said, where are the white people? I mean, I
11 am a southern girl, and I remember that white
12 people never lived too far away from us. His
13 reply was, oh, the company bought them out
14 about ten years ago.

15 It seems that even when whites and
16 blacks are of the same social class, the
17 treatment of whites is different. Well, at
18 least in this case, the chemical company's
19 response to the poor white community was more
20 expedient.

21 I submit to you that this is not a
22 what came first, the chicken or the egg
23 phenomenon. We know what came first. History
24 is pretty clear in its delineation of the
25 facts. African Americans were segregated and

1 discriminated against based on their race.
2 This is a historical fact. The result has
3 been a denial of equal access to those things
4 that are necessary for survival -- education,
5 employment income, to name a few. This
6 process of discrimination has resulted in a
7 continuing cycle of poverty for approximately
8 one-third of the nation's black population and
9 half of the nation's black children under
10 seven who are growing up in poverty.

11 This is ugly truth that many
12 Americans cannot accept. Acceptance of this
13 of course will mean taking personal or
14 national responsibility, a psychological feat
15 that seems unbearable for a country that
16 embraces the "Horatio Alger" philosophy. In
17 the end what we are left with is denial and
18 this denial is justified on the basis of the
19 class issue.

20 In the end, however, pain is pain,
21 suffering is suffering. Let's fix this
22 problem for the people.

23 I would like to say at this time,
24 that it really would have been wonderful had I
25 been able to do some kind of scientific

1 analysis of the placing of chemical plants to
2 minority communities. As a sociologist,
3 however, it is impossible for me one person to
4 do this. It seems that no state agency has
5 done it, and so I wonder how much progress you
6 are going to make except for dealing with
7 anecdotal kinds of information in really
8 determining whether or not minorities are
9 disproportionately impacted. I say that it's
10 obvious. It's pretty clear through history
11 that this is very likely the case. In my
12 rides along the river I can tell you that what
13 I have observed for the most part, black and
14 poor people are the ones who are impacted, but
15 who is going to pay for the study? Who is
16 going to actually conduct a study to collect
17 the data the way that the United Church of
18 Christ did for the whole nation on hazardous
19 waste sites. That is what needs to be done,
20 and then at that time we can discontinue this
21 debate that in my mind is not serving the
22 people.

23 In other words, we are spending all
24 of this time talking about whether or not a
25 problem exists? A problem exists. Whether

1 black people are disproportionately impacted
2 or not, it seems obvious to the least educated
3 of us that this is a fact just based on their
4 own experience, so why is it so difficult for
5 those of us who are more educated to have so
6 many problems trying to figure out a simple
7 answer to a very obvious question that a ride
8 up the river could answer for you. I am just
9 really appalled to an extent by this. It's
10 almost an insult in a way because to have to
11 stand up and wear this badge all the time
12 saying, oh, please believe me, we are
13 disproportionately impacted, oh, please
14 believe me, minorities are hurting more so
15 than white people, it's -- I wish I could say,
16 no, we are not, we are doing just fine.
17 Everybody wants us to say that. They want us
18 to say that minority people are not
19 disproportionately impacted.

20 We are. And why is it so hard to
21 prove it? First of all, we need some kind of
22 system to collect the appropriate data to meet
23 the scientific requirement of significance.

24 Thank you.

25 MR. KUTCHER: Thank you. I

1 don't know if the committee has any questions,
2 but if you would mind entertaining some
3 questions.

4 BY DR. FORD:

5 Q. Dr. Wright, you assert that many of
6 the same factors that are responsible for
7 discrimination and housing and educational
8 access, et cetera, are the underlying factors
9 that are responsible for disproportionate
10 impact relative to hazardous waste sitings?

11 A. Yes.

12 Q. You go further to say there should be
13 some type of systematic study to look at the
14 statistical and demographic aspects of
15 sitings. As a social scientist and a
16 researcher, what approach would you offer for
17 carrying out such a study? And I understand
18 that you indicated that resources is a factor.
19 As a body, we are in the position to make some
20 recommendations that hopefully will carry the
21 weight of someone's credibility such that some
22 resources could come forward. It would be
23 good for the record if you could suggest some
24 approaches to such a study.

25 A. Okay. I spent last night in UNO's

1 library. I was there until nearly 12:00
2 o'clock trying to collect the data. The
3 problem is that at this particular time, the
4 data only appears by parishes. So, you have
5 Iberville Parish, little towns like
6 Revilletown Morrisonville don't appear
7 separately, so the data gets skewed by looking
8 at larger groups rather than the smaller
9 communities that are impacted, those that are
10 positioned right next to the chemical plant.
11 What needs to happen of course is that we need
12 to look at block data or track data. We need
13 to have it mapped out, a regional planning
14 office, for example. If you go in and
15 identify the community, they could put it on
16 the map and show you where it is and you could
17 pull those statistics from the census and
18 determine the racial composition of each
19 community that is impacted. That is a lot of
20 work for one researcher.

21 Consequently what has happened is
22 that my colleague and Dr. Bullard have
23 basically focused in on one community at a
24 time. The large scale study that does that
25 kind of tracking would in fact view the data

1 that the committee is looking for. That is
2 why I said I think we could use the United
3 Church of Christ study as a model. It's a
4 demographic study that basically tracks the
5 positioning of chemical plants next to
6 communities. The problem, however, as I said
7 before is the way that the census information
8 appears. It requires some manipulation of the
9 data. In other words, you can't just go there
10 and find Reville town. You have to do
11 something else to get those five blocks or six
12 blocks of Reville townelle Town and pull those
13 blocks off and then look at the data. So it's
14 really -- we are talking about a demographical
15 study being done for the area following the
16 United Church of Christ on that.

17 Q. Are you saying that the data actually
18 exists, it's a matter of manipulation?

19 A. Yes.

20 Q. Geographic information systems for
21 example would offer a tool for pulling out
22 that kind of data?

23 A. The U.S. 1990 census at this time
24 does not have income data yet. It has racial
25 data. In other words, breakdown by races. I

1 guess in another year or six months the
2 librarian told me the income data will also be
3 there. So it's there. It's on computer even,
4 and you can take your own disk, plug it in and
5 get all of the information once you know
6 exactly where to go, and you can do it for
7 every little community that is being impacted.
8 It means, however, that somebody is going to
9 have to get in a car and drive down the river
10 and identify the communities that are situated
11 next to the plants, unless there is some big
12 map that is already doing this. I have seen
13 maps that community groups have where they
14 have pinpointed communities next to, but this
15 is their doing, if you understand, because
16 they have gone down the river and plotted
17 where they are. I have not seen a map that
18 has been produced by the state, for example
19 naming communities that are next to chemical
20 plants. I have not seen that. I have only
21 seen what community groups have done, and I
22 have been in the process of trying to get or
23 tried to map out all of the little communities
24 that are right next to chemical plants. This
25 is required, that I meet with community

1 workers who then have the time to sit down
2 with me with the map, point off the ones that
3 they know and I move from group to group doing
4 that. It's a long process in that sense. I
5 am saying that with all the technology that we
6 have, with all of the problems that we seem to
7 be having with the siting of these facilities,
8 it seems to me that some state agency would be
9 doing this kind of stuff -- the Department of
10 Environmental Quality? I don't know. But
11 somebody should do it. What has been
12 happening is that lone scholars like myself
13 because of our interest have been doing it
14 with very little resources and even less time
15 than that.

16 MR. KUTCHER: Any other questions?
17 Why don't we go down? Does anybody on this
18 side have any questions.

19 BY MR. BLACHE:

20 Q. Dr. Wright, in your studies, did you
21 run across any research or any documents that
22 have been put together that look into the
23 question of health problems associated with
24 people in proximity to these facilities?

25 A. Yes, there are many studies that have

1 been done. Whether or not you -- there is a
2 question of validity, if you understand what I
3 am saying. It depends on who you are looking
4 at. There is a lot of conflict of evidence
5 dealing with communities along the river, and
6 one of the concerns that I have is, once
7 determining the confusion of the results, and
8 I have been talking with some epidemiologists,
9 and toxicologists trying to figure out what it
10 is they are doing. It seems -- and this is my
11 own opinion. It seems that one of the
12 problems that we are having is that the method
13 of science that is actually used by
14 toxicologists and epidemiologists may not
15 allow them to get at the kinds of answers that
16 we need them to get to us.

17 First of all, for anything-- if you
18 are looking for statistical significance, it
19 certainly means that you need a sample that is
20 large enough in size to make some kind of
21 comparison, and oftentimes with the little
22 community that we are talking about, they are
23 not large enough, so they get dumped into
24 larger tracts to look at probability,
25 morbidity, accident probability rates, and

1 then that completely obscures the findings.
2 There is definitely a problem here. I am not
3 a scientist, a physical scientist, so I don't
4 know how to solve it. I will tell you this.
5 I am taking epidemiology, toxicology, risk
6 assessment and one other course I can't
7 remember next year to make certain that I can
8 answer these kinds of questions because then,
9 as a social scientist, if a toxicologist or
10 epidemiologist tells me, oh, look, there is
11 nothing here, look at this significance level,
12 it's nothing here. I mean, the chance of a
13 person contracting cancer is no different than
14 you walking out of your house and being hit by
15 a bus based on this number.

16 I am talking with the the people that
17 are experiencing all these health effects.
18 Many of the health effects that the
19 epidemiologists and toxicologists are not even
20 paying attention to. They are only looking at
21 cancer, not skin rashes and asthma and all
22 other things that community people have. And
23 I am saying that, without that knowledge, as a
24 social scientist, I can't answer that
25 question, so it's causing me to go back to

1 school to try to answer some of your
2 questions. There are lots of problems with
3 this science, in my mind, the way it exists
4 for responding to the needs of community
5 people, and I think this is where so much of
6 the frustration lies. Then you are dealing
7 with the kinds of events that may cause cancer
8 20 years later and you don't know all of the
9 chemicals that community people have been
10 exposed to over a 20-year period. You may
11 know for the last ten years. You don't know
12 what hasn't been reported that has been in the
13 air. There are all kinds of uncertainties
14 involved in this scientific process. So, it's
15 very difficult, but I think that if we can
16 show that certain groups of people live very
17 close to these facilities and are showing a
18 number of health effects, whether or not we
19 can to prove that cancer is higher for them or
20 not, I think we have a good reason for
21 responding in a different way than what we
22 have been doing.

23 MR. KUTCHER: Anybody on this side
24 have any questions? Sandra.

25 BY MR. MCDADE:

1 Q. I think an obvious question: In your
2 research, have you found that the plants or
3 sites tend to be located in minority areas
4 because they feel there will be less
5 resistance or for economic problems and
6 reasons for easy transportation? Do you feel
7 there is actually a motivation to locate in an
8 area where perhaps those people can be bullied
9 as opposed to likely to rise up and object, or
10 is it economic concerns on the part of the
11 plants?

12 A. I think it's some of all of those
13 things. I mean, no corporation makes decision
14 in a vacuum. So, when they go in, I think as
15 the Cerrell study shows, even for the State of
16 California, they were having many problems
17 with siting these undesirable kinds of things,
18 so they had a study done to see what
19 communities were more vulnerable.

20 Q. You do think --

21 A. And that particular study showed that
22 low income communities were more vulnerable.
23 It didn't say minority communities but all
24 that they picked were minority communities and
25 minority communities are more likely to be

1 poor than majority communities. I think --
2 you know, I would say that I cannot speak for
3 one chemical plant manager and say what that
4 person's individual reasons were. I can, as I
5 said, place it within the context of history
6 and that was the only way that I knew to
7 present this to you.

8 In other words, we would look at this
9 historically and how minorities have been
10 treated. They are basically seen as
11 subordinates. And so, since they are seen as
12 subordinates, then, if there is a choice
13 between placing something undesirable in a
14 white community versus a black community, you
15 can bet your bottom dollar it's going to the
16 black community and it's going there
17 regardless of income. The study that Dr.
18 Bullard did on Texas showed that hazardous
19 waste landfills in Houston, Texas, were in
20 predominantly black neighborhoods, even when
21 those neighborhoods were middle and upper
22 middle-class neighborhoods.

23 Q. Do you think it's definitely a factor
24 in their considerations?

25 A. Definitely a factor. And the point

1 is whether it's conscious or not doesn't
2 matter. I guess what I am trying to say is a
3 lot of behavior is institutionalized. In
4 other words, how do you explain the one
5 community, the white community adjacent to the
6 black community being bought out eight years
7 before the black the community was?

8 MR. KUTCHER: Jean.

9 BY MS. ADAMS:

10 Q. I wanted to ask a question about that
11 comment that the whites in the community who
12 were being bought out by a chemical plant were
13 bought out ten years before?

14 A. Yes.

15 Q. There are some implications there and
16 I want to make sure I am understanding. What
17 are you saying by relating that?

18 A. I am saying, even when incomes are
19 exactly the same, whites and blacks are
20 treated differently, at least in this
21 particular case. I haven't been able to do a
22 study of the whole area, but I would suggest
23 that you would probably find the same kind of
24 things.

25 Q. You felt that was significant enough

1 to mention --

2 A. Yes.

3 Q. -- that from your discussion with
4 the one black man, that whites had been bought
5 out ten years before. Is it that they were
6 bought out ten years before or that they sold
7 out ten years before or --

8 A. They were bought out. In other
9 words, the black community was told that they
10 would be bought out soon. In other words, the
11 man involved had property on one lot in the
12 white area which is -- we are talking about --
13 we are not talking about a large amount of
14 space here. He had one lot in that area, so
15 his lot was in that area, so they bought his
16 one lot, but it was the predominantly white
17 section. In the section where he lived, it
18 was predominantly black. It took ten years or
19 eight years -- give them two years, about
20 eight years before the buyout took place and
21 it was a forced buyout. It wasn't a voluntary
22 buyout. In other words, the people had to get
23 lawyers and they had to sue. That is a fact.
24 And I am saying, that may seem shocking to
25 some, it seems quite normal or natural to me

1 living in this area. There is nothing unusual
2 about black people being treated differently
3 than white people, even poor white people
4 getting -- receiving different treatment than
5 white people. There is nothing different
6 about that.

7 MR. KUTCHER: Dr. Hicks, you have
8 a question.

9 DR. HICKS: Yes. I know in your
10 work that you have worked with black
11 environmentalists as well as white
12 environmentalists, and in your observations,
13 share with me, if you will, evidences of
14 extreme tensions that you might have observed
15 between these two groups as they try to
16 address these inequities, as well as evidence
17 of their cooperating, if you can.

18 MR. KUTCHER: Dr. Wright, we are
19 running a little bit short of time, so if you
20 could be a little succinct in your response.

21 DR. WRIGHT: That is hard for a
22 teacher.

23 MR. KUTCHER: I am fully aware of
24 that.

25 THE WITNESS: To be succinct. What

1 does that mean by the way?

2 MR. KUTCHER: To be brief.

3 DR. WRIGHT: What I can say to
4 you is there has been quite a bit of tension
5 between black environmentalists and mainstream
6 environmentalists. We are talking about
7 predominantly white, upper middle class whites
8 who have been extremely interested in the
9 ozone layer, acid rain, and saving some
10 species from extinction to tying themselves to
11 redwood trees, those kinds of issues, and the
12 issues that black environmentalists face.
13 Black environmentalists basically see their
14 struggle as being a struggle of environmental
15 racism or environmental social justice issues
16 relating to the environment. Just about all
17 of them have couched their work within some
18 kind of civil rights contents. We have also
19 found that it's been pretty hard for black
20 people to embrace what they see as esoteric
21 kinds of notions of the environment when in
22 fact they are suffering and they are sick in
23 their own back yards. So, there has been
24 tension. There has been some attempts on the
25 part of mainstream environmentalists to reach

1 out to minority environmentalists. You
2 probably see more of them working together
3 than what you ever had in the past. So, what
4 I can say is that we have seen tensions but
5 relations seem to be improving.

6 DR. HICKS: Thank you.

7 MR. KUTCHER: And Roberta, did you
8 have a question?

9 MS. MADDEN: No.

10 MR. KUTCHER: Thank you, Dr.
11 Wright, I appreciate it.

12 MR. KUTCHER: Our next speaker is
13 Professor Wendy R. Brown. Professor Brown
14 teaches civil rights law at Tulane Law School.
15 She is a member of the National Advisory
16 Committee for the National People of Color
17 Environmental Leadership Summit. Professor
18 Brown is going to share with us legal
19 perspectives on environmental issues.

20 PROFESSOR BROWN: Thank you.

21 MR. KUTCHER: Thank you.

22 PROFESSOR BROWN: First let me
23 thank the Louisiana Advisory Committee of the
24 United States Civil Rights Commission for
25 inviting me to speak at this historically

1 important meeting. I come today wearing at
2 least three hats. First I am a member of the
3 Board of Directors for the National Conference
4 of Black Lawyers that in conjunction with the
5 United Church of Christ, Commission for Racial
6 Justice has and continues to play an active
7 role in keeping the issue of environmental
8 racism on the agenda for social justice. As
9 you know, this past October, the United Church
10 of Christ sponsored a major environmental
11 leadership summit in Washington D.C. One of
12 the things that resulted from that meeting was
13 the adoption of what has been called the
14 Principles of Environmental Justice. And the
15 Principles of Environmental Justice basically
16 called for environmental justice in the area
17 of protecting the rights of racial minorities.
18 Not only in terms of the environmental issues
19 in their own communities but generally
20 speaking, the right to be free from ecological
21 and environmental destruction; and I will
22 share with you, if you are interested later
23 on, some of the principles that this document
24 includes. I am also a member of the Tulane
25 Law School faculty and the Tulane

1 Environmental Law Clinic Legal Advisory Board.
2 My colleague, Professor Robert Kuehn will
3 address more fully the work of the law school
4 and the clinic in the area of environmental
5 law. Finally I am a concerned citizen of
6 Louisiana black community who would like to
7 see the commission and other authorized
8 governmental agencies take active measures to
9 protect the rights of the people of this state
10 and other affected areas against the well-
11 documented ravages on environmental hazards in
12 communities of color.

13 In its proposal for this factfinding
14 studies, this advisory committee notes that
15 there is an unprecedented national concern
16 over environmental problems surfacing in
17 minority communities. While to some extent
18 this is true, I suggest that the scope of the
19 concern is not wide enough. As this committee
20 knows, academic researchers like Professor
21 Wright, Robert Bullard, Charles Lee, Dana
22 Austin of the Panos Institute and the staff of
23 the General Accounting Office and others have
24 repeatedly documented the correlation between
25 race and the location of toxic waste sites and

1 chemical facilities. Moreover, as far back as
2 the mid 1970's, the issue of environmental
3 racism, which has been defined as racial
4 discrimination in environmental policy making,
5 was raised in litigation against waste
6 management corporations and local government
7 authorities.

8 Lead poisoning of course is another
9 form of environmental hazard which has been
10 litigated due to its disproportionate effect
11 on children in inner city communities. This
12 type of litigation continues throughout the
13 country and before concluding, I will address
14 the legal issues and obstacles to proving the
15 well documented correlation between race and
16 siting decisions. In addition, community
17 organizations have been at the forefront in
18 calling attention to this and other related
19 instances of social injustices and corporate
20 disregard for economically and politically
21 disempowered people.

22 Finally, federal state and local
23 governments have begun to recognize the need
24 for concern and have responded to the grass
25 roots legal and academic communities call for

1 action. This committee and concerned staff
2 members of the federal Environmental
3 Protection Agency have framed the question in
4 terms of equity which takes into account the
5 significance of race in the decision making
6 process of corporate action.

7 Missing from this list of concerned
8 citizens and organizations are the
9 corporations responsible for the siting
10 decisions that are in issue here today. In an
11 interview for Barrister Magazine which is a
12 legal publication, Dennis Hayes, the founder
13 of "Earth Day" stated that while "There are
14 some corporate leaders who have begun to act
15 responsibly in cleaning up waste... by and
16 large," industry took its cue from the Reagan
17 Administration's appointment of James Watt and
18 Anne Gorsuch to head the EPA and consequently
19 regressed in their activities to clean up
20 waste. In an article scheduled for
21 publication in the upcoming issue of the
22 Tulane Environmental Law Journal, authors the
23 Kelly Colquette and Elizabeth Henry both 1991
24 Tulane Law School graduate observe that
25 "Despite the many risks involved, the

1 hazardous waste disposal entities highly
2 profitable. The industry continues to thrive
3 on an abundance of waste generation despite
4 increasing federal and state regulation and
5 enforcement action. In fact, although the
6 1991 economy has declined and the gross
7 national product staggers along at three to
8 four percent a year, the waste management
9 business is booming."

10 The authors go on to note that "the
11 burden of housing hazardous waste facilities
12 is not shared equally" because "commercial
13 hazardous waste sites tend to be constructed
14 in rural community of the southern Blackbelt"
15 which includes Texas, Louisiana, South
16 Carolina, North Carolina and Alabama. "As a
17 result, the minority communities surrounding
18 hazardous waste facilities bear the brunt of
19 the most of the nation's generation of
20 hazardous waste." This results in
21 disproportionate rates of cancer, birth
22 defects, genetic damage and other health
23 problems, exposure to contaminated food and
24 water, missed school for children, adverse
25 psychological consequences, displacement and

1 dislocation of communities due to lost
2 property value. The industry counters by
3 alleging that these facilities create job
4 opportunities in economically depressed areas.
5 However, the trade-off is unbalanced and
6 often overstated. Yet, the political system
7 has failed to adequately protect the
8 constituents of these affected areas because
9 the political influence of the polluters
10 outshines that of the residents whose
11 communities they invade.

12 And, as an aside, the legal resources
13 of these polluters outshine those of the
14 residents which I will address when I address
15 some of the case law that has occurred.

16 Massachusetts, Rhode Island,
17 Wisconsin and a handful of northeast and
18 midwest states have enacted hazardous waste
19 siting process statutes (which require the
20 negotiation of siting agreements with members
21 of the host community). New York State
22 requires environmental impact statements that
23 take into account the impact of facilities on
24 the health and safety of the surrounding
25 community. The vast majority of states,

1 however, including Louisiana, make no
2 provision for community participation or
3 opposition.

4 The struggle between the citizens of
5 Wallace, Louisiana, a 95 percent black
6 community and Formosa Plastic Corporation,
7 which others will testify about in detail is
8 only one example of the blatant disregard for
9 human life in the African American community
10 displayed in this state. (This of course is
11 equally true in Hispanic communities and in
12 native reservations in towns). There is a
13 serious need for government intervention, both
14 at the local, state and federal level to
15 support the efforts of community leaders and
16 residents to keep their homes free of
17 environmental hazards. This is especially
18 true in light of the judiciary's failure to
19 address these concerns. I will now briefly
20 address the problems encountered by plaintiffs
21 who have attempted to use the documented
22 correlation between race and siting decisions
23 to prove violations of their civil and
24 constitutional rights.

25 Despite the research and the

1 conscious targeting of lower socioeconomic
2 communities by the chemical and waste disposal
3 industries, courts have been reluctant to
4 acknowledge discrimination as a factor in
5 corporate decision making and government
6 approval of corporate conduct. In the words
7 of Barry Commoner, "There is a functional link
8 between racism, poverty and powerlessness and
9 the chemical industry's assault on the
10 environment."

11 This requires, and lawyers have done
12 so, the adoption of an expansive definition of
13 the environment, which includes the totality
14 of the surroundings and circumstances in
15 communities of color. And I believe that Dr.
16 Wright has given some examples of the kinds of
17 studies that can and need to be done in order
18 to paint a full picture of the totality of
19 these circumstances.

20 Between 1978 and 1990, several
21 lawsuits were filed challenging the placement
22 of hazardous waste sites in communities of
23 color. Generally speaking, these suits have
24 attempted to prove environmental racism in a
25 court of law using what has been made obvious

1 through the research.

2 Plaintiffs have challenged corporate
3 and governmental disregard for the adverse
4 impact of environmental abuse that falls
5 disproportionate on people of color; the
6 failure of local, state and federal agencies
7 to involve community representatives in the
8 decision making process and; third, the
9 failure to inform residents of the potential
10 harms which would be fall them if hazardous
11 wastes came in their community.

12 So, there are three bases for
13 objecting or challenging these corporate and
14 government decisions. The most renowned case
15 and the one in which the court actually did
16 acknowledge that the 14th amendment does
17 protect communities -- black communities
18 against discrimination in environmental
19 decision making is Bean versus Southwestern
20 Waste Management Corporation which was decided
21 in the Southern District of Texas District
22 Court in 1979. Although, the court found that
23 the statistical evidence was insufficient to
24 establish intentional race discrimination in
25 the selection of hazardous waste sites, it did

1 recognize the validity of the claims brought
2 by the plaintiffs.

3 Now, in addition to the use of the
4 14th amendment to challenge discrimination
5 based on race, there are other constitutional
6 theories that have been used. First it has
7 been argued that corporate entities, with
8 government approval have denied procedural due
9 process to parties challenging the siting of
10 hazardous waste by failing to follow the
11 hearing requirements which are usually
12 prescribed by government statutes or
13 regulations. Now, you recall that at least at
14 the state level, those regulations are
15 virtually nonexistent in Louisiana, but of
16 course there are certain procedures that are
17 followed in zoning hearing and other local
18 hearings, as well as the requirements of the
19 federal environmental statutes. And, of
20 course, "In order to hold a private
21 corporation liable under the United States
22 Constitution, it must be established that they
23 were acting on behalf of, or with the
24 condonation of the government. This concept
25 is known as 'state action'."

1 A second theory that plaintiffs had
2 used has been to argue that their substantive
3 due process rights have been violated when
4 sites have been approved without regard to
5 public health, safety, morality, or general
6 welfare. Third, plaintiffs have argued that
7 their property was taken without just
8 compensation. And, finally, it has been
9 argued that the choice of a landfill or other
10 hazardous waste sites denied community
11 residents equal protection of the law because
12 it had a disproportionately adverse effect on
13 communities of color. The courts have
14 accepted these as legitimate legal theories,
15 but they have yet to uphold any challenge
16 based on these constitutional claims.

17 There is currently litigation going
18 on in California under the California state
19 constitution and so there have been attempts
20 to use state constitutions as a basis for
21 challenging environmental siting decisions.
22 In Richmond, Virginia, a community
23 organization used a similar theory,
24 unfortunately unsuccessful in 1991. And in
25 the case of East-Bibb Twiggs Neighborhood

1 Association versus Macon Bibb Planning and
2 Zoning Commission in Georgia, the court found
3 no proof of discriminatory intent behind
4 placement of non-putrescible landfill in the
5 black community.

6 The most difficult hurdle to overcome
7 in proving violations of equal protection have
8 been satisfying the requisite proof of intent
9 to discriminate which is required under the
10 14th amendment to the United States
11 Constitution. As Dr. Wright pointed out,
12 even though what may be obvious to any
13 thinking person is not necessarily sufficient
14 evidence in a court of law, especially when
15 the standard of proof is intent. The courts
16 have consistently rejected the statistical
17 proof offered to establish racially-motivated
18 decision making. Thus, lawyers should explore
19 with community activists and residents,
20 historians, sociologists, psychologists, and
21 persons from other disciplines ways in which
22 to use the expansive definition of
23 "environment" to prove intent on the part of
24 corporate and government decisions makers.
25 This means creating cumulative evidence of

1 racial animus in health care delivery,
2 housing, education, voting to demonstrate how
3 policy makers historically disregard
4 communities of color. A good model is found
5 in voting rights litigation where proof of
6 discrimination and social injustice in
7 housing, education and health care is relevant
8 to proving that a redistricting plan has the
9 effect of diluting minority voting strength.
10 This type of evidence of effect has also been
11 held sufficient to prove intent.

12 Another approach would be
13 legislative. Environmental law is primarily
14 statutory. On the federal, state and local
15 levels, the government has the authority to
16 legislate environmental protection in order to
17 protect public health, safety and welfare.
18 The development of legal strategies therefore
19 should also include drafting and lobbying for
20 legislation to insure the fair and equitable
21 distribution of hazardous waste sites and to
22 prohibit the disproportionate placement of
23 sites in poor communities and communities of
24 color. This is not to suggest that we should
25 accept hazardous waste sites as a permanent .

1 fact of life. The primary effort is to clean
2 up the physical environment so that all people
3 can live without threat to life and limb. In
4 the interim, however, the consequences of our
5 consumer-oriented life style, which are waste
6 and pollution, should not be
7 disproportionately borne by those who are
8 already overburdened and disenfranchised."
9 Also, there is current legislation that can be
10 interpreted to prohibit the adoption of
11 corporate or governmental policies and the
12 siting of hazardous waste if it would result
13 in disproportionate adverse effects on
14 communities of color. Other theories have
15 been suggested including local, state public
16 nuisance law as well as the Civil Rights Act,
17 Section 1983 which prohibits the deprivation
18 of property based on race.

19 The public nuisance theory has not
20 been successful, however, there is no
21 litigation under Section 1983 of the Civil
22 Rights Act -- I am sorry, Section 1982 of the
23 Civil Rights Act, but it seems like a fruitful
24 avenue, given the fact that the statute goes
25 directly to protect people's property

1 interest, and you have heard examples of where
2 that property interest has been interfered
3 with.

4 In conclusion the civil rights
5 commission has a long and distinguished
6 history of bringing civil rights violations to
7 the attention of the national government and
8 the public. Clearly, the siting of
9 hazardous waste and chemical facilities in
10 Black, Hispanic and Native American
11 communities is a civil rights violation. The
12 courts have acknowledged the validity of this
13 claim, despite their failure thus far to
14 accept the proof offered as adequate.
15 However, this issue has yet to be raised in
16 the courts of Louisiana. Undoubtedly, it will
17 as it is inevitable that such challenge will
18 have to be launched in order to protect Black
19 citizens of this state who are virtually
20 politically powerless.

21 The commission can assist in seeing
22 that its goal of investigating and studying
23 civil rights violations is furthered in this
24 state. These hearings alone are sending a
25 message to both the private sector and elected

1 officials: the people of Louisiana will no
2 longer continue to drown in toxic waste,
3 ingest polluted air and drink contaminated
4 water. Every citizen in this country has an
5 inalienable human right to a pollution-free
6 environment. As eloquently stated by Ms.
7 Colquette and Ms. Henry in their article,
8 "Social justice cannot be purchased." The
9 call for environmental equity is growing
10 louder and we thank this committee for
11 providing the opportunity for those of us who
12 are truly concerned with the future of this
13 nation to have a voice here today.

14 . MR. KUTCHER: Thank you, may I ask
15 John Baker to lead off the questions.

16 MR. BAKER: Professor Brown.

17 PROFESSOR BROWN: How are you, Mr.
18 Baker?

19 MR. KUTCHER: Law professor
20 should be a lot of fun.

21 THE WITNESS: We have debated
22 before.

23 MR. KUTCHER: I am sure but the
24 rest of us are in for a treat.

25 BY MR. BAKER:

1 Q. Professor Brown, this is a fact-
2 finding hearing. Our jurisdiction is based on .
3 discrimination and race based on other -- and
4 other characteristics, but we are looking at
5 race right now. You have mentioned a number
6 of theories. Some of them -- due process
7 substantive, procedural and equal
8 protection -- fall under the 14th amendment.
9 The others -- nuisance statutes, state
10 constitutions are all out of our jurisdiction,
11 so we are focused on anything having to do
12 with discrimination. We are looking at the
13 14th amendment. You said, is it not true,
14 that main obstacles that the lawsuits have
15 faced are one, state action, and two, proof of
16 intent?

17 A. Yes.

18 Q. Is that right?

19 A. Well, I think that proof of intent
20 has been the primary obstacle. In the Bean
21 case the court did find there was state
22 action.

23 Q. Isn't there a problem on state action
24 at least in some cases because state action
25 requires the action of a state entity, and to

1 the extent we are talking about private
2 corporation, there is some difficulty in
3 establishing state action depending on the
4 theory you use and the involvement of local
5 government?

6 A. Yes. There can be difficulty, but I
7 think whenever a private corporation has to go
8 to some governmental entity either for a
9 permit or some permission --

10 MR. KUTCHER: Let her finish.

11 A. -- then your chances of proving state
12 action are better.

13 Q. But you know the line of cases and
14 utilities and everything else have not found
15 state action in that line of cases.

16 Let's move on to intent. Regarding
17 intent, if this issue has been litigated in
18 the courts and the courts have not been able
19 to, as a matter of fact, find intent, what
20 facts are you able to bring to us? What facts
21 is Dr. Wright able to bring to us from which
22 we could possibly find what the courts have
23 not been able to find?

24 A. Well, first of all, at least in the
25 Bean case, the information that professor

1 Wright presented, even from the GAO study was
2 not available. The case was decided in 1979
3 and in the more recent cases, in particular
4 the Bibb case and the case that was recently
5 litigated in Virginia, the court was not
6 satisfied with the local data that existed in
7 those communities. What I would suggest is
8 that, in order to assist any litigation
9 effort, that the commission take seriously
10 Professor Wright's call for the kinds of
11 community, by community studies to take place,
12 because in litigation that would take place in
13 the state. Although the GAO study would be
14 helpful, the United Church of Christ study
15 would be helpful, it is not site specific, and
16 the problem is getting the site specific
17 evidence that you need to prove intent.

18 Now, the other aspect of proving
19 intent is this, and there are documents that
20 probably exist and would be available from in
21 the process of discovery which would go on
22 after the case was decided. Just as in the
23 asbestos cases and most recently in the
24 silicone breast implant cases, corporations
25 have documents which they certainly are not

1 going to make public unless required, in which
2 their thought processes are revealed, and at
3 least one corporate document was described in
4 the article that is going to be published in
5 the Tulane Law Review in which the corporation
6 admitted that in its siting decision process,
7 it looks at the socioeconomic and racial
8 composition of the community in order to
9 decide where to make a placement.

10 So, many things can be done at the
11 front end in terms of the kinds of studies
12 that Professor Wright suggested but, once
13 litigation gets started, the discovery process
14 is available to gain access to the thought
15 processes of those corporations which would
16 also help to prove intent.

17 Q. Would you agree that you would have
18 to get access to that kind of information to
19 successfully prove intent?

20 A. I don't think that would be
21 conclusive. I think if the kinds of studies
22 that Dr. Wright did suggest were done on a
23 census track basis, coupled with the general
24 information, it would have to be coupled with,
25 because clearly the United Church of Christ

1 study is not enough to prove intent in a
2 specific community, but coupled with those
3 things, the track, census track studies and
4 the studies that have been done nationwide
5 would certainly go a long way in proving
6 intent coupled with the kinds of information
7 that you could obtain in discovery and which
8 clearly I would say exist, given the history
9 of litigation against corporations in the
10 toxic tort area.

11 Q. But you would link it to discovery we
12 are not able to engage in?

13 A. Well, hopefully you would take
14 seriously Dr. Wright's suggestions and that
15 would certainly go a long way in helping
16 anyone who was involved in litigation because
17 we all know that courts want evidence.

18 MR. KUTCHER: Anybody else on this
19 side have any questions?

20 BY DR. FORD:

21 Q. Yes. From a legislative remedy side,
22 what is the probability of an approach that
23 would involve local communities, like some
24 named by Dr. Wright, incorporating themselves
25 such that now they would have authority

1 relative to land use decisions, zoning? Is
2 that a viable strategy in terms of protecting
3 communities from unwanted sitings?

4 A. Well, I think it's one possibility
5 legislative strategy. The statutory
6 enactments in Wisconsin, Rhode Island, and
7 Massachussetts where the communities were
8 actually given authority to negotiate with
9 corporations that come in include a
10 requirement that that negotiation -- that the
11 the negotiators include community organizers,
12 so that it's just not government entity, like
13 the city counsel or some committee of the city
14 counsel, but actual citizen participation in
15 the negotiation process. So that could be
16 done legislatively, and that is one step at
17 the most local level that would be important.
18 Of course, this state could enact its own
19 environmental protection statutes that would
20 require the kinds of environmental impact
21 statements that the state legislation in New
22 York and the city legislation in New York
23 requires which calls for there to be -- them
24 to look closely at the socioeconomic and
25 racial composition of the community and

1 determine whether there are going to be any
2 undue burdens placed on those communities.
3 So, there are various models available, but I
4 think the most important model is the
5 empowerment of the local community that would
6 include not just the elected officials but
7 representatives of the community groups.

8 Q. Which is more practical in Louisiana?

9 A. Yes.

10 Q. The latter you are saying is more
11 practical?

12 A. Yes, I think so.

13 MR. KUTCHER: Bill, do you have a
14 question?

15 BY MR. QUIGLEY:

16 Q. I would just ask -- since we are
17 collecting data, and I do believe that what is
18 happening here will be happening in other
19 states as well -- ask if you could provide us
20 with a copy of the Principles of Environmental
21 Justice?

22 A. Yes.

23 Q. A copy of the cites on the cases that
24 you talked about, and between you and Dr.
25 Wright, if you could just give us a list of

1 some of these studies that show the
2 correlation and the documentation that has
3 already occurred so that we would be able to
4 build on that, and that would allow us to beef
5 up the record.

6 MR. KUTCHER: Actually let me
7 expand a little bit. What we would really
8 like is, if you have copies of the studies
9 themselves, and not the citations, but the
10 actual cases, and also on the same subject, if
11 all the speakers would entertain written
12 questions that may come up at a later date and
13 respond by the March date, that would be
14 appreciated as well.

15 Does anybody else have any questions
16 on this subject? (None)

17 Our next speaker is Dr. Robert
18 Kuehn. Is that correct?

19 DR. KUEHN: Yes.

20 MR. KUTCHER: Dr. Kuehn is the
21 director of the Tulane University
22 Environmental Law Clinic. He is a former
23 trial attorney in the Environmental
24 Enforcement Division of the Justice
25 Department. Dr. Kuehn is going to provide

1 information on legal activity of the clinic,
2 black communities, and on the ability or
3 inability of environmental lawyers to remedy
4 currently existing problems. Dr. Kuehn.

5 DR. KUEHN: Thank you. I
6 appreciate the opportunity to speak here
7 today. I am approaching you not simply as an
8 academic who teaches environmental law, but
9 also as one as the director of our
10 Environmental Law Clinic that has represented
11 over the past three years over 60 community
12 organizations in Louisiana on approximatley
13 75 different cases. Many of the organizations
14 that we have represented are minority
15 organizations, and many of the issues that
16 arise are issues that seem to be, if not
17 particularly problematic in the minority
18 community, at least more problematic in those
19 communities. I want to warn you up front, I
20 am not a civil rights lawyer, I am not here to
21 talk about 14th amendment issues, but I would
22 like to share with you what I think are some
23 of the shortcomings of existing environmental
24 law, particularly public law, to address
25 issues of environmental discrimination. And I

1 would also like to leave you with some ideas
2 and some solutions because I think there is a
3 frustration as one who represents communities,
4 that we see the problem. Like Professor
5 Wright, we may not be able to document it
6 statistically, yet we are often frustrated at
7 finding way to resolve the problem.

8 First of all, it's important, I
9 think, to address the issue of lack of
10 information to minority communities on exactly
11 what either they are already facing or what is
12 being proposed. There is an amazing lack in
13 environmental law of warning people in advance
14 of the risk that they are about to encounter.
15 Most laws require legal notice, but it is only
16 notice in the most perverse sense. It tends
17 to be a very small printed notice put in the
18 back of the classified section. It uses
19 language that has been very interestingly
20 described as linguistic detoxification that
21 will talk about air emissions. It won't tell
22 you how much the air pollution is going to be,
23 it won't tell you what the chemicals are, it
24 won't tell you what the toxicity is. So, even
25 if you are able to find that notice in the

1 back of the paper, you surely don't know what
2 you are about to face. In fact, it may only
3 even give you a description of the facility in
4 terms of legal description, not even street
5 description. Once you see that notice, if you
6 are so fortunate, you will find, if you get
7 into the issue, that the process of approving
8 the site or the facility has been going on at
9 the agency for a year or two, and that you are
10 likely to be presented with a permit that has
11 been negotiated and everything has been
12 finalized, and the ability of you to get that
13 changed after a year or two into that process
14 is very, very, very difficult. So, first of
15 all I think that it is extremely important
16 that, if minority communities are to become
17 involved and take action on their own behalf
18 that we have a better way of getting
19 information to them, and I will describe some
20 solutions in a minute.

21 Second, even if information is
22 provided, there is a problem of access to
23 agency decision making, and I use access in
24 the terms of political and economic ability to
25 influence decisions. Decisions regarding

1 siting and permitting involve engineers,
2 lawyers, and other experts. If you are a
3 politically or economically disadvantaged
4 community, as articulate as you may be and as
5 impassioned as you may be in your concerns,
6 there is a tendency of government agencies to
7 discount that because you have not framed the
8 questions, you have not framed the issues in
9 the proper format.

10 Moreover you will find, if you can
11 get a meeting, the number of meetings that you
12 will get will fail in comparison to the
13 meetings that have gone on and are going on
14 with the applicant, so there is clearly a
15 problem of unequal access, and if you get that
16 access, with unequal ability in those meetings
17 to speak the kind of language that decision
18 makers want to hear.

19 Third, is a siting problem. I very
20 strongly believe and I teach that pollution
21 follows the path of least resistance, and
22 that, if waste or harmful facilities are going
23 to go in someone's back yard, they will most
24 likely go in the back yard of minorities or low
25 income communities cause they are either less

1 organized or have less economic or political
2 power. The issue therefore is one, not just
3 one of, in my back yard, but in anybody's back
4 yard. We need to address the issue that these
5 sort of activities ought not to be in
6 residential areas. They simply don't belong
7 there.

8 And, fourth, what you see with
9 minority communities is that they are
10 suffering the risks of the burdens, yet they
11 are getting very few of the benefits from
12 either the waste facilities or the toxic and
13 air pollution that results from the
14 manufacturing operations. Tax breaks are
15 given to facilities to go locate in their
16 communities, meaning, there is less money
17 available for their schools, police
18 protection, their roads and other infra-
19 structure. Jobs don't tend to be given to the
20 people that live right next to the community.
21 One need only go out to Geismar, one of the
22 most industrialized areas of our state. Stand
23 in the front yard of a gentleman you will hear
24 speak tomorrow, Amos Favorite, be there when a
25 shift change occurs. Watch the workers in

1 their pickup trucks primarily drive through
2 half the black neighborhoods to homes that are
3 not in that area, or the managers. The jobs
4 are not being given to the people that work
5 there. Instead what they find is decreased
6 property values, decreased quality of life.

7 Let me suggest some solutions to
8 these problems. Perhaps this is outside your
9 charge to make these sorts of recommendations
10 but perhaps you could at least observe. In my
11 opinion the solution is not more lawsuits
12 under the 14th amendment, but also some
13 changes in the way the public environmental
14 laws are written and administered.

15 First of all, dealing with the issue
16 of lack of information, people need to get
17 good information. They need to get it early,
18 it needs to be accurate. Why shouldn't, if
19 someone is going to site a hazardous waste
20 facility in a neighborhood, why shouldn't they
21 be required to have a full page or half page
22 ad that tells them the truth, that tells them
23 names of the chemicals, that tells them they
24 are toxic chemicals, tells them they cause
25 cancer, tells them there are thousands, if not

1 millions of tons, that tells the people of
2 Monroe right now that is finding hazardous
3 waste from Texas is being shipped in, that a
4 consequence of that permitting decision is
5 that that will happen. What is wrong with
6 giving people information? Yes, they will be
7 upset. Yes, the agency will have to deal with
8 it. But, what I find is, if you don't give
9 the information to the people up front and in
10 advance, later when they find out about it,
11 they are twice as angry, and anger tends to
12 turn towards government because they feel they
13 have been taken advantage of.

14 I also think that it's important that
15 the agency come out, get out of the meeting
16 room, come out into the community, hold those
17 meetings in the community, hold them at
18 convenient times and places so that they can
19 hear, hear the concerns of the community in
20 advance and not simply hear from one side as
21 is too often the case. I think we need to
22 figure out a way to get resources, financial
23 resources to the people who could represent
24 communities in these sorts of decision making
25 processes. We need to make sure that the

1 decision to go there is not because the
2 community cannot afford lawyers and engineers
3 to represent them in the important decisions.
4 There is an interesting concept that EPA has
5 been using technical assistance grants where
6 communities can file to hire their own
7 engineers and lawyers when a hazardous waste
8 site is going to be cleaned up. Why should
9 part of the application process not be to
10 require someone to pay extra, so the community
11 that is going to have to deal with this will
12 have representation they need. New Jersey has
13 someone called the public advocate whose job
14 it is solely to represent the citizens of the
15 state, not to represent the state itself in
16 these sorts of proceedings.

17 I think all of these are ideas
18 that -- the time has come -- need to be
19 addressed. We need to have stringent siting
20 restrictions, we need to make sure we locate
21 away from residential areas, schools and
22 health care facilities. Some areas are
23 thinking of doing that with one-mile and two-
24 mile siting restrictions.

25 Between the facility and adjacent

1 property, we need to insure that we have
2 buffer zones -- 500 feet, a thousand feet , so
3 that no one has to be too close to these. We
4 need to give local communities the authority
5 to decide when they have had enough, the
6 authority to decide that we have had freeway
7 sites, we want no more.

8 The issue of preemption is a very big
9 problem in environmental law where the federal
10 government says, I am sorry but we know what
11 is best, state, you can't do anything, or
12 where the state says, we know what is best,
13 local government you can't do anything. I
14 think that when we have siting decisions we
15 need to make sure that people are aware of the
16 racial and socioeconomic makeup of the
17 community so that these aren't made blindly,
18 so that someone can't say we didn't know what
19 the community looked like when we decided
20 this. Let's address the issue head on.

21 Finally, I think we need to start
22 thinking of impact fees. We need to think
23 about development fees when they talk about
24 locating large subdivisions. Sometimes as a
25 condition of giving them a right to build that

1 subdivision, they have to provide money to
2 insure that the school in the area and the
3 roads will be able to handle the additional
4 burden. I think for particularly large
5 facilities, that is a very wise concept. For
6 example, in Geismar where you have a number of
7 facilities with hazardous waste landfills
8 where they are injecting billions of pounds of
9 toxic chemicals into the ground, why shouldn't
10 as a condition of doing that they be required
11 to donate money to insure that that community
12 gets a public water system and don't have to
13 rely on well water as they now do and not
14 always worrying about what they are drinking.
15 I think we should allow local government to
16 impose waste taxes if it's appropriate and
17 surely should be very careful as we seem to
18 not be very careful of in Louisiana of having
19 tax exemptions given to these large facilities
20 where we are taking money out of what
21 otherwise would be available for schools.

22 I don't propose that any one of these
23 will solve the problem, but I do hope that at
24 least we will begin to think about the issues
25 of information access, siting and making sure

1 that the benefits of -- that communities enjoy
2 some of the benefits and not simply all the
3 risks. Thank you.

4 MR. KUTCHER: Thank you. Roberta,
5 you want to start up any questions?

6 BY MS. MADDEN:

7 Q. Yes. Some of the advance material we
8 received for this hearing related to the IT
9 decision. For those of us who are not
10 lawyers, it would be helpful if you could
11 explain briefly what that decision was and
12 whether that is being enforced?

13 A. At the federal level there is a
14 statute sometimes known as NEPA, the National
15 Environmental Protection Act that requires,
16 before a major federal activity that
17 significantly affects the environment, that
18 agency has to take into account the
19 environmental impacts, look at alternatives,
20 look at ways to minimize it, and one of those
21 provisions includes the socioeconomic impacts.
22 We don't have that in Louisiana. We do
23 however in Louisiana have a constitutional
24 provision that theoretically guarantees each
25 individual state protection, public health,

1 and the natural resources of the state. And
2 in a decision by the Louisiana Supreme Court
3 in 1984, NEPA, the decision sometimes also
4 known as the Save Ourselves Decision, that
5 constitutional provision was interpreted by
6 the Supreme Court to mean that, any time a
7 governmental agency makes a decision that may
8 significantly affect the environment, that
9 agency needs to consider a number of factors.
10 That is, be alternatives less harmful,
11 mitigation measures that can be taken to lower
12 the risks, the cost benefits involved.

13 Unfortunately in the eight years
14 since that decision came out, very little has
15 been done by state government to push it to
16 the limit to make sure that some of these
17 issues are taken into account. I think it's
18 possible that one could argue that that
19 decision requires state agencies to consider
20 adverse impacts on minority communities. The
21 problem we may get into with the decision is
22 the same problem with the federal government
23 and NEPA, is that some people argue, it's a
24 procedural requirement than substantial
25 requirement. So you may consider the fact

1 that you are impacting minority community, but
2 it doesn't necessarily say that you can't do
3 that.

4 So, I think that aggressive
5 implementation of that law and an expanded
6 view of that decision to cover some of the
7 issues you are going to hear about for the
8 next two days would be useful, but then we
9 somehow need to prod government to go to the
10 next step which is, when you see these things
11 occurring, perhaps you ought to back off and
12 tell the applicant, this is not a good idea.

13 MR. KUTCHER: Jean.

14 BY MS. ADAMS:

15 Q. Yes, Dr. Kuehn, you mentioned I think
16 that you said that your organization has since
17 1989 represented about 60 community
18 organizations?

19 A. Yes, ma'am.

20 Q. And that many of these organizations
21 were minorities or minority communities. Since
22 we are really focusing on racially motivated
23 environmental decisions, to me that seems to
24 suggest -- when you said many, rather than the
25 majority or the overwhelming number of

1 minority communities -- seems to suggest that
2 decisions are still primarily based on
3 socioeconomic factors rather than a deliberate
4 intentional decision to pollute in a minority
5 community?

6 A. This is obviously the \$64 question
7 you have today that you addressed to Miss
8 Wright and also Professor Brown.

9 Q. But I am looking at your actual
10 experience to see what that suggests to you?

11 A. My own personal view is that I find
12 it hard to believe that some of the decisions
13 could be explained in any other way, but I am
14 not a sociologist. I can't prove it. It's
15 hard to find what has been done, so I can't.

16 Q. But, you have seen a variety of
17 communities with this problem?

18 A. Without question, yes, and I think
19 Professor Wright's observation that one need
20 only drive the river and see the sort of
21 pattern, that you see of a lot of
22 petrochemical facilities and poor minority
23 neighborhoods right next to it to see why
24 these problems are existing.

25 MR. KUTCHER: Dr. Ford.

1 BY DR. FORD:

2 Q. You mentioned this issue of class
3 versus race is one that is difficult to
4 unravel, but isn't it true, at least in
5 Louisiana, that there is a strong correlation
6 between race and income and, therefore, if in
7 fact real correlation between sitings is that
8 of income, at least in Louisiana, that amounts
9 to sitings based on race as well?

10 A. I think that is true.

11 MR. KUTCHER: Mr. Quigley.

12 MR. QUIGLEY: Just a point to the
13 chair, I don't think that the scope of our
14 investigation is -- at least as I
15 understood -- is to determine racially
16 motivated decision. We are not here to try
17 and talk about proving that the head of a
18 company decided site. they wanted to put it in
19 a minority community, but the impact and
20 actual effect of what is going on. Are we
21 restricted to racially motivated decisions?

22 MR. KUTCHER: No.

23 MR. BAKER: I would like your
24 ruling why that is not correct.

25 MR. KUTCHER: I don't think we

1 need to do this in response to Mr. Kuehn's
2 statement, which is where we are, so perhaps
3 that is something we all could address at
4 lunch hour. The question is, does anybody
5 have any questions for Mr. Kuehn?

6 MR. QUIGLEY: I do if we are not
7 restricted to racially motivated issues.

8 MR. KUTCHER: Certainly not in the
9 question, Mr. Quigley.

10 BY MR. QUIGLEY:

11 Q. One of the things -- this is
12 important to all the members of the commission
13 and to the people who are interested in this,
14 is the issue of jobs, and you said you have
15 represented 60 organizations, and in '75
16 different instances, and I am sure the issue
17 of employment opportunities. Obviously our
18 state has an investment in making sure people
19 have jobs, and these jobs occur in some
20 industries that we may not necessarily like.
21 My question is, would there be any impact on
22 the jobs available to people of the state if
23 these hazardous waste sites or the chemical
24 plants were put in communities other than
25 where we have a disproportionate amount of

1 minorites and low income people? Would the
2 jobs go away if they were in more isolated
3 areas than where they are right now?

4 A. Well, I am very strongly of the
5 opinion -- I am a tremendous advocate of
6 siting restriction, because I think you just
7 avoid so much conflict and you don't get into
8 the problems we have today. Without question,
9 if we had stringent siting requirements,
10 property would probably cost more for the
11 facilities that need to be built. I don't
12 think that means they couldn't be built. I
13 don't think that means that the extra cost of
14 having to purchase that land would be so
15 prohibitive that the activity wouldn't be
16 profitable, so I don't think that by imposing
17 siting requirements that we are going to find
18 ourselves any worse off than as we are now,
19 which is literally no site restrictions. You
20 would be shocked at how little has to go into
21 showing the state that you chose the right
22 location. A state just doesn't care about
23 that. It's just not a concern of theirs at
24 the present time.

25 MS. REIBOLDT: Can I follow up?

1 Q. That was basically a part of my
2 question. Would you think that there would be
3 places that these sites would be appropriately
4 put, and I think you kind of answered that,
5 and then also you mentioned and gave the
6 example of the man who watches the cars drive
7 by and the jobs are out of the neighborhood,
8 and is that important? I mean, if we are
9 having a negative environmental impact on this
10 community, it seems to me that wouldn't matter
11 whether the jobs are out of the the community
12 or within the community because that is not
13 going to help the health. Is that a
14 significant factor, or is that just an excuse,
15 and then I would like some examples of some of
16 the 60 organizations that you talked that you
17 represented over the years.

18 A. Sure. One of the concepts I have
19 been working on that I didn't mention here
20 today because you haven't quite crystallized
21 it is the idea of distributing the risks, not
22 just making sure the community gets the
23 benefits but distributing the risks, such that
24 perhaps we have to work towards establishing a
25 level of risk above which no community should

1 be subjected to. For example, perhaps a
2 decision is made that a community should not
3 have to suffer greater than one 100 thousandth
4 or one ten thousandth risk of contracting some
5 sort of cancer from a manufacturing, operating
6 or a waste site. If that is the case, that
7 that community is already at that risk level,
8 then you cannot build a new facility there,
9 you have to go elsewhere, so that quite
10 frankly my uptown neighborhood in New Orleans
11 may have to start accepting those facilities
12 because the places that used to have them put
13 there are now risked out. They have accepted
14 all the burden of society's manufacturing that
15 they have to suffer, so I think that that is
16 an idea that I am working on, and that is an
17 idea -- I mean, what I am concerned about is
18 that we not get into sort of an economic
19 blackmail or economic bribery where low
20 economic communities sort of have to take
21 these sites because you are offering what
22 about this? Let me give you this, if we take
23 it now, you know, and I have not worked
24 through that, I am not an economist, I don't
25 know you distribute risks and making sure the

1 benefits flow to the people who are suffering
2 the most risks. I am just a lawyer. I can
3 come up with the words for it when someone can
4 tell me how to do it.

5 . As far as the groups we represent.
6 We represent groups that span the spectrum
7 from organized large -- if you want to say
8 traditionally white environmental groups like
9 the Sierra Club, the Wildlife Federation, the
10 Audubon Society, groups that have been around
11 for years, and their sole charge is
12 environmental issues. We represent much
13 smaller groups that may only have a dozen or
14 two dozen members that may usually worry about
15 getting street signs and street lights, but
16 suddenly something happens and they need help
17 or just a group that form over a particular
18 issue. And we have been working for
19 example -- one organization -- again, you will
20 hear Mr. Favorite, a parish resident talk of
21 pollution which has been the most active and
22 longest standing minority run environmental
23 group in the state. Let me add this, so it's
24 on the record. We don't charge for this.
25 This is a free service, part of the law school

1 program as a way of having students practice
2 lawyering skills and learn how to be a lawyer
3 while at the same time providing free legal
4 assistance to these communities.

5 MR. KUTCHER: Thank you. Our next
6 speaker is Natalie Walker. She is the
7 attorney for the Louisiana Sierra Club Legal
8 Defense Fund. The Legal Defense Fund is a
9 national, nonprofit law firm serving the
10 nation's environmental community. And she
11 will provide an overview of some of the legal
12 work they are involved in connected with
13 environmental issues of the state.

14 MS. WALKER: Thank you. It's my
15 pleasure to be here today. As Mr. Chairman
16 said, our organization is a nonprofit law
17 firm, so that we provide legal services free
18 to individuals and organizations with respect
19 to environmental matters, and therefore it has
20 been our privilege, since we have been here in
21 Louisiana, to be able to represent small as
22 well as large groups who other than that
23 simply don't have the money to hire attorneys.

24 On my current docket of cases are two
25 matters which involve issues of environmental

1 equity. And as you have just heard from the
2 previous speakers, the civil rights laws as
3 they now exist do not make it easy to use the
4 courts to remedy environmental inequities
5 suffered by minority communities.

6 To put a human face on what we are
7 discussing here today, I would like to
8 describe for you the two cases that involve
9 these issues which I am handling: The Formosa
10 case and the Louisiana Services Energy
11 Services case. Both of these cases involve
12 the siting of an industrial facility right in
13 the heart of minority communities. These
14 communities may be economically impoverished,
15 but they are culturally, historically and
16 environmentally very rich communities.

17 Let me start with the Formosa case.
18 Formosa Chemicals and Fiber Corporation, which
19 is a huge Taiwanese conglomerate wants to
20 build one of the world's largest pulp and
21 rayon facilities in St. John the Baptist
22 Parish. Other heavily industrialized areas in
23 the parish were and are available for this
24 facility. But Formosa decided instead to ask
25 the local parish folks to rezone a residential

1 area in Wallace, Louisiana right along the
2 beautiful Mississippi River Road to a "heavy
3 industrial" classification. The parish did
4 it. Now the plant, if it's constructed will
5 loom over this small, century-old community.
6 Local residents have organized to fight this
7 plant. Certain members of one local group,
8 which is the River Area Planning Group or RAP,
9 and you will hear from them later, have
10 retained my law firm to represent them.

11 The community of Wallace has
12 approximately 750 residents and nearly all of
13 them are African American. The people who
14 have not sold their homes to Formosa now find
15 themselves within a few yards of, or directly
16 abutting the Formosa property. Important
17 community landmarks, such as the first public
18 school for African American children in the
19 parish, and also the local cemetery which
20 dates from the very beginnings of this
21 community are now going to be surrounded by
22 the proposed plant.

23 And beyond the fact of having a large
24 manufacturing facility located in their back
25 yards -- with all of its traffic and noise and

1 smells and visual impacts -- Wallace residents
2 are rightly worried about numerous health
3 concerns.

4 Formosa's plant will use toxic
5 chemicals and it will produce toxic pollution.
6 Groundwater pollution is all too common a
7 byproduct of industrial plants, and we have
8 plenty of examples here in Louisiana where
9 groundwater pollution in the community has
10 turned out to be a horrible problem. In
11 Wallace, groundwater is a primary source of
12 freshwater for farmers and others in the area
13 who use the water for watering their livestock
14 and for various household uses and also in
15 some agriculture projects. And Formosa's
16 manufacturing process as it has been described
17 thus far will involve the discharge of dioxin
18 and chloroform into the Mississippi River.
19 dioxin is among the deadliest pollutants known
20 to man and chloroform is suspected of causing
21 cancer in humans. And because it gathers in
22 increasing concentrations as it moves up the
23 food chain, it's a particular threat to
24 Louisiana fish and shellfish and people like
25 the residents of Wallace who catch, buy and

1 eat these fish.

2 Residents of Wallace are also
3 concerned because Formosa has what might
4 charitably be deemed an extremely poor record
5 of compliance with environmental laws
6 everywhere where they have ever had a plant.
7 Formosa's chemical plant in Point Comfort,
8 Texas was just last year assessed one of the
9 stiffest fines in the history of the EPA. It
10 was negotiated down to \$3.5 million for
11 violations of waste laws under the Clean Water
12 Act. Just about three weeks ago, OSHA hit
13 Formosa again with respect to their Point
14 Comfort plant with a huge fine for violating
15 all sorts of OSHA regulations and all those
16 were either willful or serious. In Baton
17 Rouge, the Formosa Chemical Plant also has an
18 extensive history of violating its permits
19 through toxic releases. And Delaware
20 authorities had to shut down Formosa's plant
21 there for a while based on what the justice of
22 Delaware Supreme Court called "an almost
23 complete disregard by Formosa of the state's
24 environmental regulations." So, based on this
25 record, Wallace residents are rightly

1 skeptical about Formosa's assurances that it
2 plans to build a state-of-the-art pollution-
3 free facility in their community, and I
4 emphasize, in their community. It is smack
5 dab on top of these folks. But most
6 importantly, residents of Wallace are deeply
7 disturbed by the fact that their residential
8 community was selected in the first place as
9 the site for this huge industrial facility.
10 Under any scenario, this important century-old
11 community, and you have to see it to
12 understand what a marvelous community it is,
13 will be destroyed and many of its residents
14 are going to be displaced if this plant is
15 built.

16 Let me now briefly give you the
17 background facts involved in the Louisiana
18 Energy Services's case we refer to as LES to
19 abbreviate Louisiana Energy Services. This
20 case involves what would be the first
21 privately owned uranium enrichment plant in
22 the United States. This plant is going to be
23 located in the middle of two minority
24 communities. It's opposed by a local citizens
25 group called Citizens Against Nuclear Trash or

1 CANT. And my law firm again has been retained
2 to represent CANT in the licensing proceedings
3 before the Nuclear Regulatory Commission which
4 are currently underway.

5 In June of 1989 an entity named LES
6 decided they were going to construct this
7 plant. And they decided they would put it
8 just outside of Homer, Louisiana which is in
9 northern Louisiana.

10 Homer is a very small town. It's in
11 Claiborne Parish which is a poor rural parish
12 where 50 percent of the population is African
13 American. The LES facility will be located on
14 a four hundred and fifty acre tract of land
15 located less than 100 yards from Forest Grove
16 which is an African American community just on
17 the outskirts of Homer. Less than two miles
18 away from the plant is another African
19 American community called Cedar Springs. Both
20 of these communities are very old communities
21 and their families are very close knit and
22 extended families. The two communities are
23 physically linked by a road that joins the
24 communities together and has since the time
25 that communities first came into existence.

1 But the local officials have now agreed they
2 are going to close the road that links these
3 two communities to accomodate the LES facility
4 that is going to be -- that may be brought
5 into the community.

6 Uranium enrichment, that is what this
7 plant is all about is one of the steps
8 involved in the conversion of natural uranium
9 into fuel for nuclear power reactors. So that
10 is what we are talking about here. This plant
11 is going to produce four thousand tons of
12 radioactive waste every year. It will be in
13 the form of uranium hexafluoride. This waste
14 is highly toxic and it has a hazardous life of
15 hundreds of thousands of years.

16 Unless the radioactive waste can be
17 sold, LES plans to store the waste on site in
18 cylinders. That obviously does not please the
19 folks of these communities. In an attempt to
20 appease local citizens, LES has from time to
21 time stated that the waste could be sold for
22 breeder reactors, but in fact then President
23 Jimmy Carter because of technical problems and
24 proliferation risks canceled the breeder
25 reactor program. So obviously that suggestion

1 that this dangerous material would not be
2 stored on site, that is not explained by that
3 suggestion. LES also claimed that there is a
4 market for this waste that is so dangerous in
5 armor-piercing bullets and airplane ballast.
6 That is statement they have made on several
7 occasions. If anyone who has followed this
8 issue at all knows that market for these
9 things is ridiculously low and in fact the
10 Department of Energy has all the material
11 anyone could ever possibly need for either
12 armor-piercing bullets or airplane ballast.
13 So, the fact of the matter is that a more
14 honest assessment is that this radioactive
15 waste will remain on site in these communities
16 in the front yards of the residents of Forest
17 Grove and just down the road from Cedar
18 Springs.

19 Again, the threat of groundwater
20 contamination by this plant looms very large
21 for the 40 homes within five miles of the
22 plant site which rely on wells for their
23 drinking water. Also, there are many many
24 elderly resident who live near the plant site
25 and don't have any transportation and they are

1 very concerned about how they will get out of
2 the area in the event there is an accidental
3 release of uranium hexafluoride at the plant
4 as happened in another similar plant in
5 Oklahoma in 1986. One worker was killed in
6 that case, several others were injured, and
7 toxic and radioactive contamination was spread
8 across the surrounding areas.

9 It's also of great concern to these
10 local residents that the LES plant will be
11 discharging its waste water into one of their
12 local streams which is part of a pristine
13 watershed that receives no industrial
14 discharges whatsoever.

15 The members of CANT like the citizens
16 fighting the Formosa plant are deeply
17 disturbed an area right in the middle of two
18 established communities like theirs was
19 selected as the site for the plant.

20 So, what are the residents that are
21 fighting Formosa and LES going to do? They
22 certainly believe they are being discriminated
23 against. And it is indisputable that
24 minorities are exposed to a higher level of
25 pollution than are whites. So how did the

1 civil rights laws help these people fight this
2 form of discrimination?

3 As the previous speakers mentioned,
4 at present, the two principle mechanisms for
5 remedying official racial discrimination are
6 the Equal Protection Clause of the Fourteenth
7 Amendment and Section 1983 of the Civil Rights
8 Act are fraught with all kinds of problems.
9 To be successful in bringing a claim under
10 these laws minority residents have to prove,
11 for example, that decision to site the plant
12 in their community was motivated by purposeful
13 racial discrimination. That is what they have
14 to establish. That is a very heavy burden.
15 It forces minority residents to produce
16 evidence of intentional racial discrimination
17 when they have the least access to such
18 evidence. And if they are going to get any,
19 it will be in the context of probably
20 complicated and protracted litigation as
21 Professor Brown testified. But, this is also
22 an outdated and unrealistic approach to
23 preventing discrimination in the environmental
24 arena and certainly with respect to siting
25 decisions.

1 Companies select sites for their
2 plant for several reasons including innocuous
3 reasons, like access to highways, land price,
4 flood risks, proximity to the source materials
5 they are going to need use. And even in those
6 instances where a company does include in its
7 siting decision the fact that adjacent
8 population is a poor minority community which
9 may not have the resources to oppose their
10 plant, that factor is only going to be one
11 prohibitive factor among other legitimate
12 considerations and a case will not likely be
13 made that racial animus was the motivating
14 factor in the siting decision.

15 So the problem with traditional civil
16 rights approaches in the context of
17 environmental equity is that only the reason,
18 and the overriding motivation behind a siting
19 decision is examined, and not the
20 consequences. But it's the consequences of
21 such decisions that are important. Numerous
22 studies have documented that the consequences
23 of far too many siting decisions is that
24 environmental ills disproportionately fall on
25 the shoulders of minority communities.

1 That is not to say that we cannot
2 make out a claim of racial discrimination in
3 the two cases which I have been discussing
4 here today. I don't give up that easily. We
5 are still developing new facts and theories
6 which will, I believe, help us to make such a
7 claim. There are some disproportionate impact
8 arguments that we might be able to make, and
9 therefore we wouldn't be stuck with the burden
10 of establishing direct and -- the clearly
11 direct and intentional racial discrimination
12 motive. And we have some claims under our
13 state constitution and the IT decision which
14 we are perfecting. But, I guess the point is
15 that I am here today addressing you, the
16 United States Commission on Civil Rights to
17 let you know that there is a form of
18 discrimination that is occurring daily out
19 there against minority communities, and it's
20 not as readily addressable under the civil
21 rights laws as it ought to be.

22 MR. KUTCHER: Thank you. Dr.
23 Hicks, do you have any questions?

24 DR. HICKS: Yes, I do, thanks very
25 much for sharing that information.

1 MS. WALKER: My pleasure.

2 BY DR. HICKS:

3 Q. Also, I noticed that you just became
4 established in this state a year ago.

5 A. Right, we have been here about a
6 year.

7 Q. And for the most part -- well,
8 completely you have talked about situations
9 where minorities have been negatively
10 impacted. You have said it, but I want to
11 draw attention to this again. Do you believe
12 that there are inequities in how black
13 communities are treated in terms of zoning
14 practices, permitting practices and permitting
15 practices, state and federal law enforcement
16 and in industry policy making?

17 A. That is a big one?

18 A. Let's start with zoning.

19 Q. Any part.

20 A. Yes, I think in fact there is
21 discrimination against minority communities
22 with respect to zoning. The problem as
23 lawyers that we sometimes face is that you
24 will run across a community that hasn't had
25 comprehensive showing for very long, a couple

1 of years. Even though you run across one or
2 two cases like perhaps the Formosa case where
3 the zoning of this century-old minority
4 community suddenly changed to heavy
5 industrial. You run across one or two
6 instances. What do you do with it? Look at
7 the case law under the Civil Rights Act and
8 it's pretty clear that, so, you have one or
9 two instances where perhaps you could make it
10 out. That is not going to constitute or rise
11 to the level of a pattern from which you can
12 then infer the requisite discriminatory
13 intent, so yes, I do think discrimination with
14 regard to local zoning, absolutely.

15 Q. What about state and law enforcement?

16 A. What I run across most often is that
17 state agencies here in Louisiana are not
18 taking as seriously as I think they should
19 their obligations under our constitution and
20 under that IT or save ourselves decision.
21 Under that case law, for example, DEQ is not
22 supposed to go ahead and issue the water
23 permits and the air permits to Formosa simply
24 because they reviewed their application and
25 all this stuff they will be spewing out into

1 the environment is within the limits set by
2 Louisiana. That is only the first thing they
3 have to assure is true. Above and beyond that
4 they are supposed to say, we as public
5 officials are holding the natural resources in
6 this state in a public trust for the citizens
7 of this state. And are we really honoring
8 this trust by allowing this particular
9 facility to go forward in this community, or
10 are we instead ignoring some important
11 aesthetic and cultural and historical things
12 that are going to be severely impacted? At
13 the state level I think that is a major
14 problem.

15 DR. HICKS: Thank you.

16 MR. KUTCHER: Professor Baker.

17 BY MR. BAKER:

18 Q. I wonder if you could tell us a
19 little bit more about the Formosa case. In
20 that situation we had a company that was
21 already here in the state and had a record.
22 As I recall, former Governor Roemer went out
23 and heavily recruited Formosa to build another
24 plant here. Under his administration, Mr.
25 Templet was not exactly popular with industry.

1 I wonder whether you know what attempts were
2 made on the part of people in the affected
3 area of Wallace to get through politically to
4 the Roemer administration? Were these
5 concerns raised? If they were raised, what
6 kind of reactions did you get? I ask all this
7 in light of the fact Mr. Templet is our next
8 speaker after our break.

9 A. I can't speak precisely for what the
10 Department of Environmental Quality did, but I
11 can tell you what the environmental community
12 did for the last year that governor was in
13 office. We tried repeatedly to get meetings
14 with the governor and not that he was
15 intentionally putting us off. He was very
16 busy, he had an election to deal with, so we
17 were able to talk with some of his staff
18 people that kept assuring us that we were
19 going to get a meeting. We were also told by
20 some of those people that a meeting was
21 important because in fact the governor didn't
22 have the background information that he needed
23 on Formosa. Just at the point where we were
24 told that a meeting was within weeks of
25 happening, the polls started looking not so

1 wonderful for our governor and it never
2 happened. There was no meeting.

3 Q. Was the racial aspect of the question
4 raised with the administration?

5 A. Well, we never in fact had our
6 meeting with the governor himself.

7 Q. But I mean to the staff? In addition
8 to the general environmental concern, was the
9 specific concern regarding the racial aspect
10 of the situation, the impact on the residents
11 of Wallace and this being a largely minority
12 community? Was that raised?

13 A. I was privy to every contact that
14 members of the environmental community had
15 with staff members. I feel confident that
16 several of those groups did probably include
17 that in their discussion. Not only --
18 everyone would have included the background
19 facts on Formosa's poor record anywhere in the
20 world they have ever gone, but I feel
21 confident that several people mentioned one of
22 the things they would like to discuss with the
23 governor was the fact that we were talking
24 above and beyond everything else about a real
25 important minority community being involved

1 with this facility.

2 MR. BAKER: Thank you.

3 MR. KUTCHER: Miss McDade.

4 BY MS. MCDADE:

5 Q. Two things. What is the relationship
6 between the Louisiana Sierra Club Legal
7 Defense Fund and the advocacy group, the
8 Sierra Club?

9 A. None.

10 Q. We tried to establish that last
11 night. I just wanted to get that from you.

12 A. Let me tell you, in fairness to the
13 club, we represent them as clients and work
14 with them on occasions as we do with other
15 environmental groups. About 20 years ago, it
16 was members of the Sierra Club who got the
17 idea to start a nonprofit environmental law
18 firm.

19 Q. The other thing I was interested in,
20 the Homer situation, my mother, my family is
21 from Homer. The City of Homer itself is kind
22 of interesting. I did some work for my
23 congressman in that area and I find that the
24 black and white communities are sort of
25 meshed. They are right there together. What

1 impacts the white community is going to impact
2 the black community as well. But, in my work
3 interviews that I did in the Homer area, I
4 think we must have been talking to some
5 different people, because the people I talked
6 to, they are so economically depressed that
7 they were actually excited about the idea of
8 anything coming in that would keep people in
9 Homer because people are leaving Homer in
10 large proportions, and I am wondering if -- I
11 am wondering if we have a huge ground swell in
12 Homer opposing this or maybe just a few?

13 A. I would say you have a significant
14 number of people concerned there. CANT was
15 started by members of the black community.
16 Thereafter members of the white community also
17 joined that organization. They meet every
18 single month out in the black church. There
19 are a lot of folks who are concerned. And I
20 might say, I have never run across an
21 unpopular siting decision case where the
22 economic blackmail of jobs wasn't used to
23 encourage folks who didn't really have all the
24 facts to come out in favor of the plant. We
25 have addressed with local citizens with

1 respect to the Formosa facility on a number of
2 occasions -- again RAP has monthly meetings
3 out there, this whole issue. Folks in Wallace
4 will not be getting any of those jobs.
5 Formosa is advertising all over the country
6 for this facility here, notwithstanding when
7 they first came into the local community they
8 said, we are bringing you jobs. Throughout
9 the radioactive industry in the country there
10 are people who will go anywhere, move their
11 families anywhere to get a job. People in
12 Wallace are not experienced, don't have the
13 training, are not going to compete with them.

14 BY MS. REIBOLDT:

15 Q. Just to add on, it's not so much the
16 fact you will get a job there, the fact people
17 move into an area and they promote the
18 business economy and we will all benefit from
19 that?

20 A. If I might. In the Formosa case we
21 need to keep in mind they are getting \$425
22 million in tax breaks. I think it's going to
23 take a long time before this state realizes
24 some economic benefits from this facility
25 coming into this state in light of that.

1 Q. In Shreveport we are saying the same
2 thing about McDonald Douglas. Let me tell you
3 this, and the fact we are up in Shreveport, we
4 heard a whole lot about the Homer situation.
5 I can see in this case more than any I am
6 familiar with, and maybe you are and some
7 people from down here are, but this was one
8 close to home on TV every night and on the
9 front page of the paper everyday. The
10 community there was very involved, everybody
11 was involved in Homer on this, and it was a
12 decision, back to the speaker that was before
13 you, that we could look at when he talked
14 about community involvement, economic impact,
15 sharing the problems that are going to exist.
16 All of these things entered in, and they
17 fought it out, as you probably know, or had to
18 have police there at these meetings and
19 everybody attended. I guess what I am saying
20 to you is, when a community comes to that
21 decision and that decision is made by the
22 community and everybody has been involved, and
23 everybody was in Homer, is it right for us to
24 go in and would it be correct for groups --
25 there is always going to be opposition -- to

1 use litigation no matter what it's based on to
2 override the decisions of that community?

3 A. Well, we have to remember that under
4 the law, you are not supposed to be
5 discriminating against minority communities
6 when you make decisions like siting decisions.
7 As long as we believe that facts are there to
8 suggest that that happened, then I think
9 litigation is certainly legitimate.

10 Q. So, back to the same old thing in
11 whoever's view is participating, even though
12 it's going to override the views of the
13 community and they may have considered those
14 views and may have considered whether
15 discrimination would take place because in
16 Homer everybody is going to be affected, not
17 just the black community, the white community.
18 I keep coming back to that.

19 A. In fact, there are a number of local
20 citizens who think the facility will not
21 affect them whatsoever. They believe there
22 will be no pollution. So, you have to keep
23 that in mind when you talk about folks locally
24 who may be in favor of the facility.. You will
25 hear later from one representative from CANT.

1 Unfortunately because they are so far away and
2 because of the money involved, the entire
3 organization I believe was able to only
4 designate one person to come down and talk to
5 you. You may want to address some issues of
6 local support to him.

7 Q. Do you think that those laws or that
8 the process these people will use that is
9 based upon discrimination because of an impact
10 on the minority community would be the
11 appropriate way to go about this rather than
12 addressing the laws or lack thereof of the
13 fact that these type of environmental
14 inequities will take place and they are indeed
15 violating laws that are even established now?

16 A. I am sorry? I don't think I
17 understood the either/or there.

18 Q. Well, which would be the best way to
19 go about that in light of the people that
20 would be harmed?

21 A. Ah, to go forward with litigation or
22 instead step back and look at a bigger picture
23 of a new model.

24 Q. Why are you choosing that particular
25 road, based upon discrimination?

1 A. Litigation?

2 Q. Yes.

3 A. Because if we don't get involved
4 right now and get ourselves in a posture to
5 litigate, it will be too late. I mean, it's
6 the best tool that we have available now.

7 Q. Really?

8 A. Yes, it's the best tool that we have.

9 DR. FORD: I think what she is
10 trying to get at, though: are there other
11 legal approaches that aren't based on race?

12 MS. WALKER: Oh, sure, sure. When
13 you are talking about a facility that is going
14 to have radioactive toxic waste like this
15 facility, yes, absolutely. We are going to be
16 paying close attention to the technology they
17 propose to use which, by the way, our
18 volunteer scientists from throughout the
19 nation have suggested have some flaws, have
20 some problems. One of the principals groups
21 that is part of LES cause, LES Consortium of
22 American and European Countries, one of the
23 companies is trying to keep secret the fact
24 that their centrifuge technology has turned up
25 over in Iraq, so there are questions whether

1 this facility should be licensed when in fact
2 we are gathering evidence demonstrating that
3 they are not able to keep this very important
4 technology away from countries that are not
5 supposed to have it under the international
6 law.

7 MS. REIBOLDT: He really asked the
8 right question cause that is what I am getting
9 at. So that discrimination in this particular
10 case is not based upon whether there is any
11 discrimination but really based more upon a
12 problem with what is happening regarding
13 environmental impact everywhere in the
14 community?

15 MS. WALKER: I really think it's
16 all of that. I really think it's all of that.

17 DR. FORD: Now I get to ask my
18 question. That was her question.

19 Q. Since this is a nuclear production
20 facility, you would think the Nuclear
21 Regulatory Commission or the Department of
22 Energy would have some criteria or locations
23 where such sites would be situated. Have
24 those avenues been pursued?

25 A. NEPA applies to NRC siting decisions

1 so we are back to the old NEPA stuff. We
2 intend to challenge their failure to do a
3 thorough and adequate consideration of
4 alternative sites. All of these facilities
5 when they file what they call their license
6 application with the NRC, these license
7 applications are 15 volumes. Notwithstanding
8 the fact we are talking about volumes and
9 volumes of information, you go to the section
10 where they talk about the alternative sites
11 they considered, it's not particularly
12 thorough or impressive, so the typical NEPA
13 approach; and we think there are problems
14 there that we can challenge.

15 MR. KUTCHER: Anybody else? None)

16 Thank you.

17 We will take a lunch break and resume
18 at one p.m. this afternoon.

19 (A lunch break was taken.)
20
21
22
23
24
25

1 MR. KUTCHER: Ready to begin? Why
2 don't we reconvene the forum?

3 Our next speaker is going to be Dr.
4 Paul Templet. Dr. Templet is the former
5 Secretary of the Department of Environmental
6 Quality. He is now teaching at LSU in the
7 Environmental Studies Department. Dr. Templet
8 is going to discuss with us today the
9 government decision making process, the
10 effects and activities of the DEQ.

11 Dr. Templet, please, if you would,
12 for the convenience of the court reporter, if
13 you have a prepared copy of your text, if you
14 can give it to her. She has assured me it
15 will reduce the number of errors in the
16 transcription, which is not to say that there
17 would be any.

18 DR. TEMPLET: Thanks. I have
19 given her a copy. Thank you, Mr. Chairman.
20 It's a pleasure to be here, ladies and
21 gentlemen of the committee.

22 In the next few minutes I would like
23 to discuss with you some of the things that I
24 did when I was with DEQ, and those things were
25 aimed at improving Louisiana's environment.

1 Where possible I will relate the situation and
2 the events to effects on minorities. However,
3 pollution is often color blind in that it
4 affects everyone negatively. However, there
5 are indications that minority may bear a
6 larger burden of the total risk due to
7 pollution.

8 The environmental scene in '88 and
9 '89 was dismal. DEQ received information that
10 Louisiana was ranked No. 1 in the nation in
11 total toxics released to the environment, and
12 there is a report by the EPA called the Total
13 Toxics Release Inventory. At the same time we
14 were ranked fifth in the nation in the quality
15 of our environmental programs. Data showed
16 that the vast majority of the toxic emissions
17 originated with the petrochemical industry.
18 Second place Texas, also a home for that
19 industry is a much larger state and presumably
20 has a lesser risk to the people due to its
21 larger land area. Largely underfunded the
22 state has no formal mechanism for determining
23 priorities, no planning capability, and thus
24 was constantly in a crisis management mode.
25 One of the first needs was solved by creating

1 a Division of Policy and Planning, putting
2 them to work developing data including risk
3 factors for the various problems that we knew
4 existed.

5 The existing cancer mortality maps
6 exhibited some of the highest lung cancer
7 rates along the Mississippi River corridor
8 between Baton Rouge and New Orleans and in the
9 southwestern part of the state, both of which
10 is heavily industrialized. Average cancer
11 mortality rate for trachea, bronchus, and lung
12 for 70-79 was 25 percent higher than the
13 national average. And in '89, we got some
14 data unofficially from EPA on high risk
15 facilities which showed significantly elevated
16 risks associated with certain industrial
17 facilities in some of those same areas. The
18 risk factors were as high as one in a thousand
19 in some areas. What that means is we can
20 expect one additional cancer above normal per
21 a thousand people that are exposed from that
22 particular chemical. Over time we have had
23 unofficial report from others such as EPA's
24 Office of Research and Development which have
25 noticed elevated cancer rates along water

1 bodies here and other parts of the United
2 States. A study on Louisiana's zip codes seem
3 to show patterns relating to nearby hazardous
4 waste sites. And I noted one of your handouts
5 shows much the same thing; however, for the
6 table in Louisiana, they say they are ranked
7 eighth in the nation. However, we know of 650
8 such sites, so I expect we could be rated
9 higher than any of the nation.

10 The health agency (DHH) had conducted
11 several related epidemiological studies,
12 however, the results were generally
13 inconclusive since the case numbers involved
14 were relatively rather small and the usual
15 statistical practices resulted in an impasse.
16 The effect, or response, had to be very large
17 to be significant. Increases in various kinds
18 of human ailments, including cancer and
19 miscarriages were found to be elevated in
20 certain areas were ruled "insignificant" to
21 the delight of some who erroneously took the
22 inconclusive or insignificant language to mean
23 no effect.

24 A few studies did show elevated lung
25 cancer rates around various industries in

1 Louisiana and nationwide correlations for
2 counties with industry, but industry sponsored
3 studies suggested there was no significant
4 increase in cancer as a result of
5 environmental pollution. One researcher noted
6 clustering of high lung cancer parishes in
7 Louisiana and determined that 27 of our
8 counties out of a total of 64 were among the
9 100 U.S. counties with the highest rates for
10 lung cancer among white males.

11 The situation was that comprehensive,
12 conclusive epidemiological studies were
13 limited or nonexistent and still are to this
14 day. This uncertainty produces a cause and
15 effect inaction trap, in which advocates of
16 the status quo say that we should not act till
17 we conclusively prove damage. The proponents
18 of that theory want victims and the smoking
19 gun. It's unlikely we will ever have enough
20 of either to convince them that there is a
21 problem.

22 Louisiana has been among the top five
23 states in toxic pollution emission in every
24 TRI category every year since its inception in
25 '87 and first overall for two years, that is,

1 846 million pounds of toxics in '87. As I
2 mentioned, the data is submitted by industry
3 to EPA and compiled and then sent back to the
4 state. The government GAO estimated that TRI
5 emissions are only five to ten percent of the
6 total releases to the environment.

7 Risk assessments performed by the DEQ
8 on air toxics at some of the large production
9 facilities located in Louisiana show risk in
10 the one in 1,000 range from a single chemical
11 facility. This single chemical, single
12 facility scenario is in no way conservative
13 nor representative of the way people live in
14 certain parts of Louisiana where exposures to
15 multiple chemicals from multiple facilities
16 and exposure routes are common. The DEQ
17 routinely monitors some 23 air toxics and
18 carcinogens and at least 50 other air-borne
19 chemicals noted but not routinely quantified.

20 DEQ routinely receives anecdotal
21 reports from physicians in certain areas of
22 the state that their cancer caseload is many
23 times higher than expected, that they see
24 inordinate numbers of rare cancers, that they
25 see cancers of the nose and lungs and brain.

1 Let's talk about some results. The
2 cumulative affect of all of these concerns
3 about excessive emissions, perceived health
4 problems, risk screening numbers, preliminary
5 epidemiological evidence, etc., lead one to
6 feel it is necessary to move quickly to reduce
7 emissions of toxics and the corresponding
8 exposures. And a number of steps have been
9 taken.

10 The first major step is what we
11 called End of Pipe Approaches where we are
12 talking about putting a piece of equipment on
13 the end of a pipe rather than reducing the
14 waste as is generated. New regulations
15 restrict discharge of organic chemicals into
16 the water and the land, and a new Air Toxics
17 Bill passed in 1989 will regulate 100
18 chemicals, including several substances which
19 the Federal Air Toxics Act does not cover.
20 Regulations covering the disposal of hazardous
21 wastes onto or into the land, as the land ban,
22 were also developed. The new water
23 regulations and the land ban regulations have
24 been challenged by industry. The land-ban
25 regulations were stayed for two years pending

1 a court hearing but a recent court decision
2 ruled that Louisiana could be more restrictive
3 than EPA in regulating hazardous wastes
4 disposed of on or in the land. The decision
5 is subject to appeal.

6 The DEQ has promulgated 81 sets of
7 regulations since March of 1988 and other sets
8 are in progress.

9 Let's talk about Beyond End of the
10 Pipe. It's become apparent to many, that
11 command or control and end-of-the-pipe
12 techniques no longer work effectively enough.
13 We must find other more innovative solutions.
14 The DEQ has put several into effect. One of
15 these is requiring waste minimization plans
16 from every industrial site. The second is
17 publicizing the names of the top 12 emitters
18 to land, air and water in Louisiana each year
19 as TRI data is released and calling for
20 reductions from these industries in
21 particular.

22 Third, all new air permits require
23 modelling to determine individual chemical
24 concentrations off property and associated
25 risks. If risk exceeds 15 in a million for

1 carcinogenic chemicals, then an area of impact
2 is determined and all like chemicals from
3 other sources are added so cumulative risk is
4 considered. If the risk is greater than one
5 in a million, at that point in the area of
6 impact an analysis of the land usage must be
7 provided for the affected area. This data is
8 then used to decide on permit limits.

9 The fourth approach is an
10 environmental score card in which we
11 conditioned the facility's tax exemption, to
12 its environmental compliance record and to its
13 emissions to job ratio. If the company did
14 poorly in either of those two categories, they
15 lost percentage points of their tax exemption
16 which could mean significant dollars. We gave
17 them bonus points in five different
18 categories, each representing a state
19 objective, but the one that was the most
20 successful was granting bonus points for an
21 effective waste minimization plan which
22 required known and verified percentage
23 reductions waste per year. The results of
24 this carrot approach to risk reduction have
25 been excellent. And we estimate there are

1 some 30 million pounds of reduction that
2 occurred because of that one year, however the
3 new administration has scuttled the program
4 because of industry complaints.

5 The chief result of the various
6 approaches has been a massive reduction in
7 toxic emissions which should result in
8 Louisiana industries emitting less than 200
9 million pounds of toxics by 1995. This is
10 down from 846 million in 1987, assuming the
11 programs stay in place. This will move
12 Louisiana out of the top five on the TRI list.
13 The results to date indicate that toxic
14 emissions have been cut in half since 1987 and
15 thus the risks to the people of Louisiana have
16 been halved.

17 Let's talk about the equity issue.
18 That is the results of the last four years.
19 What are the indications that the pollution
20 and hence the health risk falls more heavily
21 on minorities? My observations are that the
22 siting of the facilities generally impacts
23 poor black communities more than white
24 communities. There are two reasons for that:
25 1) property values are generally lower in

1 black communities and 2) blacks have had less
2 access to government in the past when most
3 siting decisions were made. I hope that is
4 changing as blacks get more involved in the
5 political process. Some examples of these
6 impacts are Sunrise, Revelle Town, North Baton
7 Rouge along Scenic Highway, the River Road
8 community near Dow, Plaquemine and Wallace,
9 Louisiana where Formosa Chemical is attempting
10 to locate. These communities are poor and
11 generally black and have been bought out, are
12 in the process of being bought out or a
13 facility is attempting to locate there.

14 Siting is generally a local
15 government prerogative through their zoning
16 authority, but local governments are generally
17 reluctant to involve themselves in determining
18 locations of polluting facilities until the
19 pollution becomes intolerable after the plant
20 is built and the citizens are calling for
21 political action. By then it's too late.
22 It's unrealistic to expect industry to move
23 and it's not possible to completely eliminate
24 the pollution, even with a proactive DEQ, so
25 the citizens near the facility suffer or

1 accept a buyout if it comes.

2 I recognized this and tried to do two
3 things to alleviate the situation. The first
4 was to give local governments the tools to do
5 planning and zoning by providing funding to
6 hire a local environmental planner. Each year
7 the money was cut out of the DEQ budget at the
8 fiscal community at the urging of industry but
9 I was able to provide some funds for local
10 recycling efforts from Oil Overcharge Escrow
11 funds. Even those local funds are under
12 attack now.

13 The second approach was to use the
14 authority implied in the IT decision to
15 require better siting analyses and that
16 approach still offers the best hope. The
17 Louisiana Supreme Court ruled in SOS Save
18 Ourselves versus IT Corp. in 1984, that the
19 agency had to consider the broad implications
20 of cost versus benefits and other factors in
21 making its decisions. The social and
22 environmental equity considerations should
23 come under the IT rubric. The DEQ uses an IT
24 analysis but has been unable to develop
25 regulations to adequately implement the IT

1 decision due to conflicts between the various
2 interest groups we picked to serve on the
3 advisory committee. Giving agencies of state
4 government that kind of authority is very
5 controversial here in Louisiana though other
6 states have begun to consider these factors.
7 Until Louisiana implements the IT decision, we
8 will continue to have inequitable decisions.

9 Finally, I would like to comment on
10 minority hiring at the DEQ. Over the four
11 years we were able to increase minority hiring
12 substantially but it was a constant struggle.
13 There are now four times as many blacks at DEQ
14 at all levels, professional and clerical, and
15 the agency has doubled in size. One reason it
16 happened is that we were able to get
17 unrestricted hiring approval from Civil
18 Service so that we could hire on the spot when
19 recruiting at black colleges. The traditional
20 three-month hiring period is too slow to
21 recruit black professionals who are in demand.
22 Reporting requirements were instituted in the
23 DEQ to insure that minority applicants were
24 adequately considered in the hiring process.
25 Having a black Assistant Secretary was very

1 instrumental in seeing that black hiring was
2 given continuous priority among the many
3 priority actions underway during the four
4 years.

5 I have tried to give you a review of
6 what has transpired over the last four years
7 and how it relates to environmental equity.
8 The upshot of it all I believe is that until
9 we get good siting requirements on the books
10 in Louisiana, we will continue to allow
11 various kinds of polluting industries to
12 locate in areas at their own choice and that
13 is what is happening now. The IT decision,
14 local government zoning authorities are the
15 two tools, two mechanisms that I think should
16 be used to insure that equity considerations
17 are built into the siting process. Thank you
18 for allowing me to address you today, and I
19 will be glad to try and answer any questions
20 you may have.

21 BY MS. REIBOLDT:

22 Q. Right before we broke for lunch, Miss
23 Natalie Walker, spoke to us about a case they
24 are working on concerning Formosa, and
25 basically what we heard about that is that

1 Formosa is just bad, bad, bad for the
2 community, and that they in the past have
3 broken all kinds of regulations in other areas
4 that they have existed in, and that they are
5 locating to the Wallace area would have put a
6 negative impact on primarily minority
7 community. Now, we know that the Roemer
8 administration under which you serve made the
9 Formosa deal a very attractive deal in order
10 to be able to come to Louisiana, and just from
11 experience during all of this, what were the
12 considerations of your -- or that particular
13 administration concerning this particular
14 company? What were the -- so to speak, what
15 is the other side of the story? What did you
16 see good in Formosa that would allow them to
17 be made such attractive deals to come? Did
18 you consider minorities in this area, and did
19 the administration ask the input of minorities
20 in this area, set up meetings or whatever?
21 Just give us a little background cause I get
22 the impression of two sides of the story.

23 A. Sure, I understand. Let me first say
24 that I don't speak for the entire Roemer
25 administration. Industrial inducement

1 bothered me the whole four years because those
2 people are advanced people to a large extent.
3 They go out long before anybody ever asks for
4 a permit from the DEQ or from any other
5 agency. They tell the company we'd like to
6 locate in Louisiana, and it looks good on our
7 talley sheet if we are getting industry to
8 come in. Come, we will help you find land, et
9 cetera. All they consider is jobs,
10 investments, so on. That is one reason I
11 tried to tie that industrial tax exemption to
12 environmental criteria, I did do it. We did
13 it for a year and operated for a year, now it
14 has been taken out. It is no longer
15 operating.

16 So, you have to misphase, if you
17 will. You have the front-end people who are
18 the advanced people going out trying to bring
19 in industries and Formosa was one they went
20 out and recruited. Much later the DEQ gets
21 involved and when the permit applications are
22 submitted. That is why I am suggesting that
23 we do more with the IT decision because then
24 it would say, okay, for these broad questions
25 now that DEQ has to consider, that is, what is

1 the overall benefit to the state from Formosa,
2 what are the overall costs and how do you
3 balance those. DEQ would have to get involved
4 much sooner. That doesn't exist now and
5 didn't exist within the last four years. Two
6 different agencies, one doing one thing, one
7 doing another tried to bring it together with
8 the environmental score card we called it. At
9 some point, DEQ will have to make some call on
10 Formosa but you can be pretty sure after a lot
11 of efforts by other states to bring this
12 industry here, there will be enormous pressure
13 by the DEQ to approve those permits. My guess
14 is they will be approved because I don't know
15 of any that haven't been approved after that
16 early part of the process. Formosa has some
17 problems and I would be asking some very tight
18 questions if I were there, but I guess those
19 permits will be approved.

20 Tourism could be a big industry in
21 Louisiana. When you are making that balance
22 of what are the benefits versus the cost of
23 the IT decision calls for that, is when you
24 build in tourism, build in equity
25 considerations.

1 Q. Did you all consider the last part of
2 the question?

3 A. Remember the DEQ hasn't been
4 activated yet because nobody has submitted a
5 permit to the DEQ, so the DEQ is not involved
6 yet about the whole decision whether Formosa
7 locates here or not.

8 Q. Concerning Formosa or any other
9 company previous, did you all have provisions
10 whereby you would consult or somehow look into
11 minority impact?

12 A. Minor impacts, no, no. Thus if DED
13 did any, I don't know of any. I know DEQ
14 didn't. If I got involved in permit decision
15 I would look to that issue, but it is not
16 formalized and not done very thoroughly at the
17 present time. That is why we need rules on
18 the books about those IT questions. There are
19 two different state agencies doing two
20 different jobs and when you try to bring them
21 together you incur the wrath of industry which
22 we did and they work very hard to keep those
23 things separated for very good reasons. They
24 don't want the environmental considerations
25 built into the siting considerations. They

1 would like to bring them separate because then
2 decision is in the hands of the private
3 sector. Those decisions made purely by the
4 private sector don't necessarily serve the
5 public interest. What you are referring to is
6 the public interest. They prefer it purely to
7 be in the private sector.

8 MR. KUTCHER: Anybody else on this
9 side? Mr. Quigley.

10 MR. QUIGLEY: One.

11 Q. One brief clarification and a
12 question. You said one of the studies that we
13 had been presented had the wrong number on the
14 site that had been presented. There is really
15 650. Can you explain what that is? And then
16 the second thing I would like you to touch on
17 to the extent that you can is what is the
18 history or why is Louisiana number one in all
19 of the areas that we have set out in our
20 statement of purpose -- toxic service water
21 discharge? What historically brought us to
22 this point? I appreciate that your comments
23 talk about some of the solutions we can do,
24 but I would like to hear about some of the
25 history, too. The report?

1 A. The report I was referring to is
2 called toxic waste and race by Commission for
3 Racial Justice. Page 54 is a table that gives
4 the ranking and states. Yes, table C 2, and C
5 2 lists Louisiana as No. 8 in the nation in
6 terms of blacks living in waste site areas and
7 the next column is number of sites in the
8 state. It says 299.

9 DR. FORD: That is 1986, am I
10 correct?

11 A. Presumably, yes. The number in
12 Louisiana is 650. So presumably it would
13 change the ranking, but it's hard to tell how
14 much at this point.

15 Q. Where could we get documentation on
16 that 650 figure?

17 A. Harold Etheridge in Land and Sites,
18 Division of DEQ.

19 MR. KUTCHER: What was your second
20 question, Bill.

21 Q. How?

22 A. How did we get here?

23 Q. Yes.

24 A. We wanted industry and jobs so baddly
25 we gave up everything else and dropped our

1 concern for everything else. I think one is
2 -- the previous governor said we made a
3 bargain with the devil, and there was -- I
4 think in the early days of environmental
5 things, there was a thought that somehow
6 environment and industry couldn't coexist and
7 always had to go head to head. I don't think
8 that is the case. As Roemer used to say, a
9 clean environment is good for business.
10 Business does have to look a little longer
11 down the road, like five years rather than
12 just the next quarter, cause it may cost money
13 next quarter. But in five years things will
14 be better for everybody, then more industry
15 will want to locate here. In fact, during the
16 Roemer years, while all these 81 sets of
17 regulations and new laws and better
18 enforcement went up by a factor of two to
19 three, while all that was happening,
20 investment in Louisiana went up by a factor of
21 two and a half.

22 That is just Angola, but it is some
23 indication that nobody is really hurt.
24 Although the industries left the state because
25 of rigorous enforcement, I know of some that

1 left the state because of too much pollution.

2 So, how did we get here? We

3 weren't paying attention, too much

4 consideration for short-term gains, not enough

5 consideration for long-term benefits.

6 Meaning, it gets down to who makes campaign

7 contributions to political office, too, but I

8 don't want to get into all of that. You know

9 our history there.

10 BY DR. FORD:

11 Q. In your opinion, what is the best way

12 to implement the IT decision, given that it's

13 a Supreme Court decision and it is not a state

14 law, how do you operationalize the premise?

15 A. Well, the court was interpreting the

16 state law, so there is a state law that backs

17 that up. And in fact, it's more than just

18 law: it's a constitutional provision. DEQ has

19 the constitutional authority, so you would

20 have to draw on the constitution and on the

21 state law that the court was interpreting, and

22 say -- and you promulgated regulations. These

23 regulations are being promulgated in response

24 to state law X, Y, Z. Just find out what law

25 the court was referring to when they were

1 interpreting. That is all they were doing was
2 interpreting.

3 Q. The next step would be to promulgate
4 and enforcement?

5 A. Yes. It's going to be real tough
6 because the big industries don't want those
7 considerations siting and making siting
8 decisions. As I say, they preferred much to
9 be still totally in the private sector rather
10 than public involvement. Public involvement,
11 I mean citizens and agencies of government
12 helping to make those decisions. Many states
13 have already moved in that direction --
14 California, Georgia, Florida. It is all
15 growth management now. It used to be called
16 land use planning but every time you said that
17 something said you were communist. Now they
18 call it growth management. In essence it
19 makes the growth better. I think that is what
20 Florida is finding. If you have enormous
21 growth you have to find some way to manage the
22 negative effects. And they are negative
23 effects of growth. You have more sewer
24 plants, you have more air pollution, all those
25 things happen. If you build in ways to fix

1 those problems as they are developing what you
2 have in 20 years is much better society than
3 if you don't fix those problems as they are
4 developing what you have in 20 years is a much
5 better society than if you don't fix those
6 problems. Mass transit is the way to solve
7 those environmental problems. Get the cars
8 out of downtown area, so you don't have air
9 pollution. Remember, if you are not in an
10 area of ozone as East Baton Rouge is and the
11 seven parishes around, you can't bring in new
12 industries into those areas. It is against
13 federal law. So, pollution hurts industry in
14 the long run. But, the short-run
15 considerations are generally the ones that get
16 the most attention.

17 MR. KUTCHER: Faye, did you have a
18 question?

19 MS. ROBINSON: Yes. Thanks for
20 coming today.

21 Q. During my interview with you, you
22 talked about some of the unfinished business
23 of DEQ. Could you recite some of the
24 unfinished business of DEQ, and also indicate
25 to us what are some indicators whether or not

1 progress is continuing that we should look
2 for.

3 A. Unfinished business. The IT
4 questions are probably the most important
5 piece of unfinished business. As I say, we
6 started and tried to get some rules on the
7 books but the committee self-destructed cause
8 it was so controversial. And I have never run
9 into any agency saying, well, now we are going
10 to start having some conditions on where you
11 put plants and hazardous waste facilities and
12 so on. That is one of the biggest ones.

13 The other is to get local government
14 involvement, because without local
15 governments, through some sort of growth
16 management folks like, Florida and Georgia and
17 a few other states are doing, I am afraid we
18 are going to keep repeating mistakes of the
19 past, especially in siting facilities and,
20 then once they are here, they are going to
21 trash the place and then leave. There is a
22 fair amount of that. That is why we have
23 those 650650 sites. They dumped stuff and
24 they left. They are bankrupt. You can't find
25 the owners or they are gone bankrupt and

1 sought protection under the law, Chapter 11,
2 some other mechanism. So getting local
3 governments involved. There is a lot of
4 opposition to that. Industries don't like
5 local governments doing environmental things
6 but local governments have that authority now.
7 I am not suggesting giving them more
8 authority, just saying, let them exercise the
9 authority they have. That is major unfinished
10 business.

11 Indicators of progress -- funding,
12 state general funds into the DEQ, number of
13 people. Even with doubling the size of the
14 DEQ, we are still the smallest environmental
15 agency per pound or million pounds of waste
16 that the agency has to handle. That is what
17 the agency does. It is responsible for making
18 sure that waste is handled properly. So, we
19 are still a very small agency. Backtracking
20 in that area would be very bad and in funding.
21 The third thing would be the amount of
22 enforcement. If you don't enforce the laws on
23 the books they will not be there. There was
24 very little enforcement there in '87. All
25 you had to do was ask for a hearing, and

1 everybody had a right to ask for a hearing.
2 And you put a penalty on them and it went
3 away, because there were no hearing officers;
4 now there are four, and they are busy. Last
5 time I heard they had four hundred hearings
6 scheduled. So, enforcement is important.

7 The toxic release inventory data is
8 showing this kind of decline and will continue
9 to show that kind of decline at least through
10 '95, as far as we can tell, if the industries
11 carry out the promises they made under these
12 various programs that I described. If they
13 don't, then it is going to bottom, level off
14 or start to rise again. You can watch that
15 curve and that data is available. It is all
16 national data. Number of regulations
17 promulgated per year is easy indicator. It
18 tells you the agency is doing its job. There
19 were probably in the 25 or 30 sets per year
20 for the four years I was there. And prior to
21 that there was about five sets per year, as I
22 recall.

23 So, it was just some number things --
24 bean counting: if you will, but it tells you
25 what the level of activity is.

1 Q. I have another question.

2 A. Sure.

3 Q. Could you explain your relationship
4 with or DEQ's relationship with the oil and
5 gas industry and what your responsibilities
6 were there. I know they are limited, but
7 could you briefly describe that limited
8 responsibility and what your ongoing
9 relationship was with the oil and gas
10 industry?

11 A. Sure. The responsibility is, if they
12 discharge anything into the water, the air, or
13 the land, they are supposed to be involved
14 with DEQ. Now, the injection wells was
15 primarily under the Department of Natural
16 Resources prior to that, and the dredge and
17 the wetlands, that too was under the DNR. The
18 DEQ had started when I got there to require
19 permits on oil and gas. They had no permit
20 before, they only had a letter saying it's
21 okay to discharge from their rigs that were
22 located in the coastal zone primarily. This
23 is produced water that comes up with the oil.
24 In the northern part of the state, they had
25 been reinjecting it for years, because it does

1 damage on land and it is very visible what it
2 does. - It does damage in the wetlands too, but
3 it is just not quite so visible, unless you
4 start looking on the bottom and do scientific
5 studies. So, we put regulations on that. We
6 discovered there are high levels of
7 radioactivity near some of their sites. This
8 is from radioactive materials that come out of
9 the ground. And they are not so bad. They
10 kind of dilute at first but they tend to
11 concentrate in scale and the pipe. Those
12 levels get pretty high. They were of concern
13 so we put regulations on NORM, and we are the
14 first state to do that. NORM is Naturally
15 Occurring Radioactive Materials.

16 There were other discharges of drill
17 cuttings and things they were putting, dumping
18 in the water. Essentially we put regulations.
19 Nobody likes to be regulated. It makes for a
20 very rocky relationship. Oil and gas people
21 don't particularly like DEQ, they don't
22 particularly like regulations. I understand
23 that. I don't like regulations either, but I
24 know for the broader public good, they are
25 necessary. You try to balance them off. You

1 don't make them too onerous. We didn't do
2 anything that other states weren't already
3 doing except for NORM waste. We were first
4 there but those levels were pretty high and
5 those pipes were ending up in school yards.
6 They were building pipe ground equipment and
7 fences out of them, and you could get your
8 yearly dose by sitting on one of those pipes
9 for about an hour. So we were concerned about
10 children and we did put those regulations in
11 place. But other states will come along and
12 they will put their regulations in place also.
13 So, in that case, that is the only case we are
14 ahead of the other states, but they will soon
15 have regulations in those areas, also. So the
16 oil and gas guys didn't like it too much. I
17 understand that. That is the way the system
18 works.

19 The chemical industry didn't like us
20 either because we had all these waste
21 reduction programs. Those cost money. There
22 are some anecdotal stories that indicate maybe
23 they save some money in the long run because
24 stuff going in the air could be used and we
25 can be more efficient in the way we use our

1 materials. But in general there is an
2 adversarial relationship and probably should
3 be an adversarial relationship when you are
4 regulating a group or an agency. Like kind of
5 like the cop on the interstate. You tend to
6 have an adversarial relationship even if he
7 doesn't give you a ticket. If he is behind
8 you, you tend to go the speed limit. The same
9 thing here. There is not that much
10 difference.

11 MS. ROBINSON: I have one more
12 question. I am sorry.

13 MR. KUTCHER: That is all right.
14 You will use up all your chances for the rest
15 of the afternoon. No, go ahead.

16 BY MS. ROBINSON:

17 Q. I have one more question on the oil
18 and gas, and that is, what is your position on
19 oil not being considered a hazardous waste by
20 the federal government?

21 A. You mean waste oil?

22 Q. Yes.

23 A. I don't think it should be a
24 hazardous waste. If it's going for recycling,
25 I think that is what it should be used for.

1 Maybe call it a special waste, and mining
2 waste can be considered special waste, other
3 kinds of waste. And put some reasonable
4 requirements on it, but by God let's start
5 recycling it, otherwise people tend to throw
6 it in the water or pour it down the culverts
7 and it winds up in the local lakes. I think
8 it's better not to call it a hazardous waste.
9 If you call it a hazardous waste, disposal
10 costs get very high. And I am not for
11 increasing the number of compounds that are
12 considered to be hazardous unless they truly
13 are. Oil and gas waste typically and waste
14 oil typically have a fairly low level of risk,
15 so they don't bother me that much. There
16 should be some regulation but a reasonable
17 level. Not hazardous.

18 MR. KUTCHER: Jean, you have a
19 question.

20 MS. ADAMS: Yes, I do.

21 Q. I am trying to understand -- you can
22 tell me if I understand this correctly, but
23 before DEQ involvement and long before you
24 reached the permit stage, the economic arm of
25 state government has gone out and done

1 industrial inducement but, at the point which
2 you say, we have not even gotten to the point
3 with Formosa yet where there is a permit?

4 A. I don't believe it's been submitted.

5 Q. And yet the economic arm has, as Miss
6 Walker reported, made some concessions or
7 agreements for \$425 million tax exemptions
8 from a specific corporation in the industry
9 who is known to have major compliance
10 violations. I guess at what point does the
11 state, the economic arm and the environmental
12 arm who conceivably report to the same
13 governor, when do they start looking at this
14 minority impact issue? Isn't it too late by
15 the time it gets to the DEQ?

16 A. Yes.

17 Q. And you are looking at the site where
18 they want to put it, what is the population of
19 the community? It almost seems like it's too
20 late at that point to then say what is the
21 impact of all of this going to be.

22 A. I guess I am interested in this
23 because if I understand what Miss Walker said,
24 one of the argument has been that economies
25 like the right to be free from environmental

1 destruction is sometimes overwritten by the
2 state or the community or the individual's
3 right to be free of economic destruction which
4 in the state we have had some problems in the
5 past several years, and that one of the
6 arguments is that this is good for the
7 community, it is good for the community to
8 have Formosa or LES or someone else come into
9 the community. But I think Miss Walker said
10 that that is really not true, that the \$425
11 million worth of tax exemptions, that
12 community is not really going to benefit
13 economically. Who is benefiting from this,
14 and why would the state do this if we are
15 going to ruin the environment and not get any
16 economic benefits?

17 A. That is a very good question. And if
18 you make a piecemeal analysis which is what
19 happens, the DED says, we want this industry
20 that is going to bring this and willing to
21 give this and this. Nowhere in there do they
22 build equity considerations or environmental
23 considerations. I am afraid that even their
24 economic analysis is terribly flawed. One
25 thing, if you give away all of the local

1 taxes, which is what we do, that is what our
2 tax exemption program does, it gives away
3 about four hundred million dollars a year back
4 to the industry that could be going to local
5 governments. Local governments use it for
6 education, for roads, for sewer plants,
7 whatever the local governments use money for.
8 That four hundred million dollars goes back to
9 those industries. It goes to the bottom
10 line-- profit margins, profits go to the
11 shareholders. Where are the shareholders?
12 They are not here. If we had our fair share
13 of shareholders, we would have ten percent
14 that would come back. I doubt we would even
15 have that. So the tax exemption program is a
16 reverse Robin Hood effect. It's a pipeline
17 which is taking money from a poor state,
18 Louisiana tax money, and shipping it to rich
19 states. That is one reason I was interested
20 in tapping into about ten percent of it. That
21 is all that tax exemption thing I put together
22 ever did was to get ten percent of it for the
23 big industries that did have big emissions,
24 that small amount. But that so infuriated the
25 industries, they have gotten it overturned.

1 The question you are asking is a very
2 good one and one we all ought to all be
3 asking, what is the point of bringing in these
4 industries. If indeed the tax money goes
5 away, we do create a few jobs, but typically
6 these industries are not very job intensive.
7 They are very affluent intensive. There are
8 some construction jobs, a few of those, a lot
9 of those, a thousand or so; but after that you
10 are talking about 100, 200 jobs over the life
11 of the project. And at the same time all the
12 local citizens have to accept whatever
13 pollution comes. It's real hard for anybody
14 to take a big view, and that is the problem.
15 The IT decision. the IT questions require that
16 big view, in my opinion, but until the DEQ is
17 brought in very early in the process, I don't
18 think that big view is ever going to be taken.
19 I do think the IT questions apply also to DED
20 and they should be developing their own rules
21 to figure out how to implement. If they
22 don't, then we will have to see other ways to
23 sort of get that kind of consideration into
24 state government. These are very valid
25 questions you are asking, and very hard to

1 deal with. The only solution I can offer was
2 to pull together DEQ and the DED, at least for
3 part of that tax exemption, and then when we
4 did that, we began to talk to the DED, and
5 that was the first time. Agencies of
6 government don't talk to each other typically.
7 That was the first time we got together, and
8 they didn't like what I was suggesting. They
9 could see how it was going to slow down what
10 they considered to be their mission. In fact,
11 I think it would improve their mission, but
12 that is another story. And it took Roemer
13 himself stepping in to make the DED agree to
14 do that, to condition part of the tax
15 exemption, only a small part. It's real hard
16 to make these kind of things happen but they
17 are very important. Excellent question.

18 BY MS. MCDADE:

19 Q. As you know, the charge of this
20 committee is to put together facts that either
21 prove or disprove or say or do not say that
22 blacks or nonwhite communities are more
23 adversely impacted by environmental problems,
24 and we have heard a lot of words like many and
25 some and often. You yourself said that these

1 hazardous areas are put in areas where quote,
2 who are often black. Would the opposite not
3 also could be accepted, they are often white
4 as well? Because "often" does not denote an
5 overwhelming impact on blacks. Could you have
6 been saying that they are often black but of
7 course we have to realize that they are often
8 white as well?

9 A. I would say they are sometimes white.

10 Q. How far does often go then? Explain
11 the term often to me.

12 A. As a scientist I would like to have
13 those numbers, the kind you seem to be asking
14 for, and somebody should develop them; and
15 this study is an attempt to do that.

16 Q. Does often mean the majority of the
17 time to you?

18 A. Yes. You would have to condition and
19 normalize that data for the percentage of
20 blacks in the population. For instance, of
21 the communities that are being bought out, and
22 I read you a list of five or six names, of
23 those communities all are black communities.

24 Q. Totally black or mixed communities?

25 A. (There was a pause.)

1 Q. I know Homer community is very evenly
2 mixed.

3 A. I didn't mention Homer.

4 MR. KUTCHER: That was mentioned
5 earlier.

6 A. The ones I mentioned are
7 predominantly black but the North Baton Rouge
8 has some white.

9 Q. So often to you means the majority?

10 A. For the population, and I think it is
11 because of low property values. I don't think
12 industry is going out there and saying, let's
13 point this down to the black community.

14 Q. Not an intent?

15 A. No. I think they are looking for low
16 property values. I think in the back of their
17 heads they may realize. they may realize that
18 blacks have less access to government.

19 BY MR. JENKINS:

20 Q. Concerning the IT decision you
21 indicated, one thing the state could do is
22 write regulations to implement the IT
23 decision. What regulation would you write in
24 order for the IT decision not to be just a
25 procedural step but a process, but making it

1 an operational step? So often you can say
2 this is just one step in the process.

3 A. What DEQ has now is the questionnaire
4 that we send out to big sites. Solid waste
5 landfill, any other kind of landfill, we send
6 this out, and when they send us the answers
7 back and we look at them and consider them,
8 but that is what the secretary is doing. And
9 you are saying, how do you put numbers on that
10 process so that you can have some
11 predictability about what the result is going
12 to be. There are ways to do that. What you
13 do in environmental planning, what you do in
14 the university, you develop matrices for each
15 of the five IT questions, give away how
16 important is this one compared to this one, on
17 a scale of one to ten. You get a bunch of
18 experts. take the average of what they say.
19 There are techniques for doing that. We were
20 going to use some of those techniques, but we
21 never got to that point. We couldn't get any
22 agreement out of the committees. If you can't
23 have agreements from the interest group, that
24 is, the people you are regulating, it means
25 you are going to have to fight with the

1 legislature over it and try to avoid that as
2 much as possible. We had enough fights going
3 on at the time, and IT was one of the more
4 difficult things that we tried to do in those
5 four years, and it just didn't get done. I am
6 hoping it will get done in the next few years.
7 But there are techniques, scientific
8 techniques for making it rationale, making it
9 predictable, and it would take me a long time
10 to explain them, but there are techniques.

11 MR. KUTCHER: Thank you, Dr.
12 Templet.

13 DR. TEMPLET: Thank you.

14 MR. KUTCHER: Our next speakers
15 this afternoon are from the U.S. Department of
16 Environmental Protection, the Dallas office.
17 They are Dr. John Carney who is a toxicologist,
18 and Don Jones who is a program analyst. These
19 gentlemen have indicated that they would like
20 to split their time basically and discuss the
21 toxicology issues and the regulatory issues,
22 and we certainly would like them to do that.
23 I think that Mr. Jones is going to speak
24 first; is that correct?

25 MR. JONES: Yes.

1 MR. KUTCHER: The EPA is the
2 enforcement arm for environmental policy for
3 the federal government. It is responsible for
4 monitoring effectiveness of the state
5 complaints program as well, and welcome the
6 gentlemen from EPA this afternoon. I think
7 what we will do, gentlemen, if it's okay with
8 you, why don't each of you make your
9 presentations, then if you will both sit at
10 the table and we will take questions at that
11 time.

12 MR. JONES: Mr. Chairman, thank
13 you, Mr. Jenkins, Faye Robinson, and members
14 of the advisory committee. My name is Don
15 Jones, Donald K. Jones. I am the program
16 policy analyst with the Environmental
17 Protection Agency Region VI in Dallas. I
18 reside in the policy and in the planning and
19 analysis section of the agency. Our duties in
20 that section are regulatory review of the
21 initiatives from headquarters in Washington,
22 to review and implement and peer review. Also
23 in our section of pollution prevention is
24 strategic planning and issues that relate to
25 the management of the region. I am happy to

1 be here today to follow up on the issue of
2 environmental equity. It's a rather new
3 initiative, and a lot of effort is being put
4 into this initiative that has come out of
5 Washington to all regions throughout the
6 country, and we are in a posture at this time
7 of waiting for the final report. The
8 Environmental Equity Report Implementation
9 Plan that has had peer review three times now
10 and is in headquarters being prepared to go to
11 the administrator for public offering.

12 Since I have been here today, I have
13 been told that some people have learned about
14 this report from national public radio or
15 so-called, we use the term, "leaks" and so
16 forth. It doesn't matter a bit. Everything
17 we have in this report is not to be cited or
18 quoted at this time because it's barely out of
19 peer review and to be given to the
20 administrator to go public with probably in
21 March or early April. Where does the EPA
22 stand on environmental equity issues and its
23 initiatives? William K. Reilly,
24 administrator of the United States
25 Environmental Protection Agency committed the

1 agency to the issue of environmental equity in
2 his April 9th, 1990 address before the
3 National Minority Environment Career
4 Conference at Howard University in Washington,
5 D.C.. Bill Reilly's subject was involving
6 minorities in environmental protection, an
7 urgent matter. Since Administrator Reilly's
8 speech, EPA has organized within the Office of
9 Policy Planning and Evaluation, OPPE -- that
10 is office that we report to in Washington --
11 the national work group to drive the
12 environmental equity initiative. Each
13 regional office has in turn organized regional
14 work groups that are broad based with each
15 regional office having a representative from
16 each operating division, the Equal Employment
17 Opportunity Office and the Office of External
18 Affairs.

19 Now, what is expected of the regional
20 offices? We are just one of ten. And I think
21 you are all aware of the fact that our
22 regional office encompasses five states of
23 which Louisiana is one, Texas, New Mexico,
24 Arkansas, and Oklahoma. Work groups within
25 each regional office have been charged with

1 the task of developing a regional project.
2 These project will be directed to address
3 environmental issues that affect minority
4 communities. The regional offices are also
5 expected to advance the ethic of environmental
6 equity within the day-by-day operations in the
7 regional office.

8 The EPA national strategy for
9 environmental equity consists of the
10 following: Official EPA policy states: The
11 consequences of environmental pollution should
12 not be borne disproportionately by any segment
13 of the population. EPA operations must be
14 guided by the following two related goals:
15 Assurance that protection of public health and
16 environment is available to all communities.
17 Implementation of national environmental
18 statutes in a manner that equitably confer
19 benefits and risk reductions on all population
20 groups within the United States and its
21 territories.

22 Our objectives. The work group has
23 identified four objectives that would
24 accomplish the above stated goals with respect
25 to low income and racial minority groups.

1 Number one: Develop and implement procedures
2 to better characterize risks to all population
3 groups, especially those which live in
4 maximally exposed communities. Number two,
5 identify factors in the implementation of
6 statutes and the direction of research that
7 might give rise to inequitable risk reduction
8 and develop solutions. Number three, insure
9 that risk communication is accessible and
10 appropriately conveyed to all groups. Number
11 four, engage in dialogues with low income and
12 racial minority groups to discuss
13 environmental issues and develop an
14 environmental agenda.

15 Within Region VI, the environmental
16 equity initiatives are as such: A regional
17 work group has been established. The members
18 on this group represent each regional division
19 that include hazardous waste management, air
20 and toxics, water management, environmental
21 services, general counsel, external affairs,
22 management and the Equal Employment
23 Opportunity Office. The Office of Planning
24 and Analysis has stated the office within the
25 management division has the lead in this

1 initiative and chairs the work group. We have
2 biweekly meetings. The work group is in the
3 process of selecting a regional project.

4 However, at this time, there are many projects
5 and activities that are ongoing. I will site
6 these and not go into the details of each
7 project. If you want the details, I will be
8 glad to read them to you or talk about them.

9 In Indian programs, the regional Indian
10 program coordinator Region VI
11 to work with the Cherokee Nation
12 in Oklahoma in determining a hazardous
13 waste team.

14 In hazardous waste, a representative
15 in Houston's city council. His contact has
16 contacted Region VI regarding development of
17 environmental fair for Houston area to
18 increase public awareness of the issues and 12
19 Superfund Clean sites within an hour's drive
20 of Houston. The U.S./Mexico border colonias
21 are rural and unincorporated subdivisions of
22 U.S. cities characterized by substandard
23 housing and inadequate plumbing, sewerage
24 disposal against the U.S./Mexico border. And
25 there are numerous towns and colonias we are

1 dealing with on this issue across the border
2 from El Paso to Brownsville. Worker
3 protection standards from agriculture
4 pesticides. Working under Code
5 effect CFR Part 170 has been deemed
6 inadequate, and this is being upgraded and
7 updated.

8 Regarding equal employment
9 opportunity, we are working closely with
10 minority academic institutions and in creating
11 the hiring of minorities throughout the entire
12 region. I might state that at this time, we
13 just received a report from headquarters that
14 27 percent of our 18,000 that work for EPA are
15 minority. That is 5,000 of the 18,000. In
16 external affairs, they are coordinating and
17 implementing with the program divisions all of
18 these programs throughout the public affairs
19 arena.

20 Even though not considered an
21 initiative at this time, the environmental
22 concerns of Cancer Alley are being addressed.
23 And, of course, we are all aware of Cancer
24 Alley in Baton Rouge, the heavy petro-
25 chemical industrial area between Baton Rouge

1 and in New Orleans with many smaller
2 communities located within the industrial
3 mass. They involve largely populated below
4 median income citizens considered having
5 ethnic minority inhabitants. The trips
6 between these two cities are often referred to
7 as Cancer Alley. This area has been analyzed
8 as part of the region's toxic release
9 reduction project.

10 To provide you a bit of visibility on
11 environmental equity, I cite from a memorandum
12 from Gordon Binder, chief of staff, to Mr.
13 Reilly in November of '91 stating, and I read
14 this in context: Let me underscore the
15 seriousness with which we take this issue,
16 environmental equity. As Bill said at the
17 meeting, the environmental movement has had
18 high moral high ground to date. We must
19 address the environmental equity issues or we
20 risk losing that position. To insure that
21 environmental equity issues receive the
22 attention they deserve, I would appreciate if
23 you would do the following to get the report
24 finalized by the end of the year. He is
25 referring to the report that I mentioned

1 earlier in my talk. That is now under its
2 final peer review ready to go upstairs.

3 Environmental equity is on the lips
4 of everybody in our region, and when I use
5 that term, "on the lips of everybody," it's to
6 the point of saying it's the way you are
7 supposed to do business. When you go to work
8 in the morning from 8:30 or 8:00 or whatever
9 time you come in, and the time you go home,
10 environmental equity to be molded, folded,
11 meshed into decision making and pragmatic
12 operations no matter what division or area you
13 are involved in. Environmental equity is not
14 a piece of legislation, it is not mandated by
15 the Congress. it is not a regulation. It's a
16 way to do business. It's a way to address the
17 daily operation of the regulatory agency of
18 which we work. It's a tough issue, and it's a
19 very sensitive issue. but as we -- we were in
20 a small meeting yesterday with a few people
21 before Gerald and I came over. One of our
22 people, and I cite this because it was just
23 recent. One of our people in environmental
24 service federal activities who does
25 environmental impact statements, that is his

1 job, one of several, he said, X number of
2 years ago, what are we talking? Ten, 12?
3 Doing an environmental EIS, Environmental
4 Impact Statement, the word environmental
5 equity wouldn't have come to surface, we will
6 say. But he said, today, and recently,
7 meaning the last couple of three years, during
8 the preparation of the statement, that ethic
9 is folded in, meshed in to the implementation
10 or the statement they are trying to come up
11 with. So, I leave you with that. Mr. Winn,
12 our administrator, Bob Winn approaches it this
13 way: In his terms -- by the way EPA
14 apportions its resources to address
15 environmental problems, and we base that on
16 our risk assessment, comparative risk study of
17 which Dr. Carney will get involved with
18 addressing the technical side of those issues.
19 I welcome any questions and I appreciate your
20 time.

21 MR. KUTCHER: Dr. Carney, why
22 don't you make presentation and then we will
23 take questions?

24 DR. CARNEY: I also thank you for
25 the opportunity to speak to you today. As Don

1 has said, EPA is addressing concerns that are
2 environmental concerns at the highest levels,
3 but I'd also like you to know that staff level
4 in the region also is addressing environmental
5 equity issues. I think some of the things we
6 are doing might be of interest to you in
7 Louisiana in specifically. EPA has
8 responsibility of implementing laws passed by
9 Congress, but even though specific laws do not
10 correctly or may not directly address
11 environmental equity issues, EPA has the power
12 to address these issues through interpretation
13 of the laws, data collection, research,
14 environmental research and enforcement
15 initiatives. These activities become the
16 tools to incorporate environmental equity into
17 the regional process. One of these tools is
18 EPA's implementation of a community
19 Right-to-Know legislation which immediately
20 empowered local communities by setting up
21 local action committees that can monitor the
22 storage and use of chemicals in specific
23 industrial facilities.

24 The law also requires the facilities
25 to report their annual emissions of specific

1 chemicals to the environment. For the first
2 time massive amounts of chemical release
3 information were made available to the public.
4 There is no other law in the world like this.
5 EPA has made this data available by computer
6 access. Contact person in Region VI, to
7 become more aware of this data and uses of it,
8 is Dr. Warren Lanning (phonetic). I brought
9 this annual report entitled "Toxics in the
10 Community," which is a compilation of the
11 Toxic Release Inventory data from the
12 community Right-to-Know legislation. The
13 assessment environmental equity reports such
14 data from this data source would be very
15 important. EPA collects this data in addition
16 to its census data and other regulatory data
17 which can be directly used to evaluate
18 environmental equity issues. We have used
19 such data to perform comparative risk studies.
20 Such studies are used to direct our resources
21 to the problems creating most risk in our
22 five-state area. The Region VI study has
23 identified areas in Louisiana as high
24 potential risk locations. It has also
25 identified specific populations as being

1 potentially exposed to higher levels of
2 pollutants. These populations included inner
3 city populations and farm workers. The
4 studies identified Louisiana wetlands as being
5 a high risk area for ecological damage. The
6 study did not take into consideration minority
7 groups or low income populations. The study
8 results can be the basis for examination of
9 the demographic makeup of these high risk
10 areas and populations. Region VI has
11 published its Comparative Risk Report. EPA is
12 trying to direct its resources to these high
13 risk problems identified in this report. I
14 have also brought a copy of the overview of
15 that report. The report looked at the risk to
16 human health, the risk to the area's ecology,
17 its economics, and the overview is a summary
18 of those separate studies.

19 I am presently incorporating
20 population information on demographic
21 information into the analysis of risk. Some
22 factors such as age, pregnancy,
23 preexisting disease, individual income and
24 ethnicity are part of the methodology being
25 developed in the region. Another agency

1 activity which is a valuable tool for those of
2 us interested in environmental equity issues
3 is environmental impact statements or studies
4 which address among other issues the
5 demographics of those populations possibly
6 effected by regional regulatory decisions.
7 These environmental impact statements can be
8 valuable in assessment of environmental equity
9 also.

10 Region VI may have perhaps the most
11 power in its enforcement area. EPA scientists
12 have been called upon to gather all the data
13 that I have mentioned and assess potential
14 harm of industrial pollutants or to perform
15 risk studies on specific industries. Those
16 industries judged to be capable of producing
17 potential high risk to the human health and
18 ecology were selected for multimedia
19 inspections. The first of such risk studies
20 and multimedia inspections were conducted in
21 Louisiana areas last year. These inspections
22 have sent a strong message to industries and
23 have resulted in voluntary reduction of
24 emissions by many of these industries.

25 I have tried to share with you some

1 of the tools that EPA uses to direct its
2 regulatory power. These same tools can become
3 very valuable in the assessment of
4 environmental equity concerns.

5 MR. KUTCHER: Thank you. Dr.
6 Ford, do you have any questions?

7 DR. FORD: Yes, I would like to
8 ask a question of -- is it Dr. Jones?

9 A. No, not yet, not quite.

10 Q. Mr. Jones?

11 A. Yes.

12 Q. You described a very impressive
13 general approach to developing environmental
14 equity initiative for Region VI. I have two
15 questions relative to that. One, you talked
16 about advancing environmental equity ethic. I
17 am curious about what strategies you propose
18 to do that. And the second part of the
19 question is, at what point do you involve
20 public and citizens in carrying out the
21 initiative? You described the work group
22 consisting of EPA employees.

23 A. To address the first part of your
24 question, within the regional office,
25 addressing the environmental equity question

1 will come from senior management down to all
2 that work within the regional office. We have
3 nearly nine hundred people now, six divisions.
4 But having it addressed by regional
5 administrator and in turn to the division
6 directors and in turn to the branch chiefs and
7 section chiefs into what they do in their
8 siting decisions, their permitting decisions,
9 everything they do in water and hazardous
10 wastes in wetlands and environmental services,
11 that is the so-called ethic. When you make a
12 decision, you should, you must consider
13 equity. environmental equity. No segment of
14 the population should disproportionately bear
15 the brunt of environmental problems. It isn't
16 black or white. It isn't rich or poor. No
17 segment of the population, no matter where
18 should bear disproportionate burden. And, as
19 I mentioned previously. Gerald and I heard our
20 good coworker, Joe, allude to that in
21 Environmental Impact Statement he was doing.
22 We weren't asking a direct question about it.
23 He brought it up. He says, we mold that in
24 everything we do now. Well, that is kind of
25 new, new compared to ten years ago, say. Our

1 public affairs people are considered a
2 division.

3 In other words, public affairs is in
4 counterpart with the Hazardous Waste Division,
5 different things they do, of course, but the
6 same level of management, same level. And
7 they in turn then will do the same in their
8 public statements and also their purview of
9 Environmental Protection Agency as a
10 regulatory agency getting out into the public.
11 And that is about how it will happen. It's
12 about the only way it can happen. We are a
13 regulatory agency. And decisions are made
14 within that agency.

15 Q. Could I follow up just a little bit?

16 A. Yes.

17 Q. On the first question again I gather
18 you are indicating the administrator will
19 pronounce his position on the issue. What
20 measures do you have, though, that in fact
21 managers and others responsible for carrying
22 out the policies of EPA are in fact following
23 in this ethic?

24 A. I hear you. Good question.

25 DR. CARNEY: I would like to add

1 something to that.

2 MR. JONES: What bench marks, what
3 measures, is Joe or Fred is it, going to
4 follow through with?

5 DR. CARNEY: The agency is
6 currently looking at where it puts its
7 resources based on risks, and the way that
8 came about is a similar initiative that we
9 looked at and did a study to see where the
10 real risk was, and looking at where we were
11 putting our efforts. I would fully expect it
12 to work the same way, that everything that we
13 do at present, whenever actions are to be
14 taken. they usually check with us to say,
15 where was this on the risk scale? If we put
16 our efforts here. does this address risk?
17 Well. I think that following the scenario. the
18 same thing would happen as far as
19 environmental equities. The question would
20 be, what other equity usually appear, and are
21 we appropriate. And that tends to be the
22 process working on these initiatives as far as
23 rolling it and melting it into everything we
24 do. And we do that with risk, we do it with
25 equity. It's a good system.

1 BY DR. FORD:

2 Q. Equity would show up in your annual
3 report next year, as I can see the risk?

4 A. I would ask for it.

5 MR. JONES: Right, it would show
6 up.

7 MR. KUTCHER: Anybody else have
8 any questions?

9 MR. KUTCHER: Dr. Hicks.

10 DR. HICKS: I have.

11 Q. And you can make it brief. How would
12 you describe Louisiana's environmental record,
13 and how effective have DEQ and DNR been in
14 reducing environmental contamination, as you
15 see it?

16 A. Well, and as Dr. Templet touched on
17 this previously, you need a measure criteria,
18 and the data was the criteria in my estimation
19 started, turned a lot of heads and gave us the
20 bench mark when you start ranking states as
21 far as their emissions and the like in
22 government including the EPA has to address
23 that. I think this is in line with the
24 question that you just asked. If you look at
25 that data which the companies were required to

1 report their emissions to land, air and water,
2 then Louisiana and Texas did rank very high on
3 their emissions. When you break that data
4 down which is another good part of that
5 legislation, you can see where the pollution
6 is centered. There are a lot of important
7 things that happened there. Underground
8 injection, I think Louisiana had more than any
9 other state by far, and that was rolled over
10 into the overall estimate. But, when you
11 break everything down, they still had some
12 areas as far as emissions that needed to be
13 directly addressed.

14 As far as my opinion, I was
15 coordinator of the implementation of community
16 right to know four years ago whenever we
17 started it. I since worked on the other end
18 of it in risk estimates such as that. My
19 opinion about Louisiana in the last four years
20 is they made an honest direct straight effort
21 to address that report, and I think that was
22 evidenced by Dr. Templet's presentation, also.
23 It was a very honest attempt.

24 Q. You like the results?

25 A. Well, that is why we have this annual

1 reporting. I would like them if they are in
2 fact being reduced. And being a scientist,
3 that is what you have to have. You have to
4 have a criteria. I think this legislation and
5 others allow us to lay on the table all the
6 numbers, and if those numbers are not coming
7 down, then we have to say something.

8 MR. KUTCHER: Miss McDade.

9 BY MS. MCDADE:

10 Q. I would like to say that I personally
11 feel you have offered a lot of meat for the
12 factfinding we are trying to do. I have two
13 questions for Dr. Carney. You showed us two
14 reports here that I feel could be very helpful
15 to that committee. Would it be possible for
16 you to provide those reports to us and the
17 members of the staff?

18 A. Yes, and they are fine tools for
19 beginning to look at this.

20 Q. The other question is that you
21 mentioned that you are currently looking at,
22 certain factors as age, pregnancy, preexisting
23 disease, income, et cetera. That fascinates
24 me because I can see age as being a real
25 factor in what we are talking about, but what

1 I want to know, on preexisting decisions, is
2 your research going to go on into family
3 histories and predisposition to certain
4 diseases through family history as well, and
5 when will that be available?

6 A. Well, after doing the community right
7 to know areas and comparative risk study, I
8 sat back and took a hard look at the available
9 methodologies and data that environmental
10 human health toxicologists have to work with.
11 I realized two things. One was that
12 vulnerability of individuals would be ethnic
13 group, age group, whatever weren't taken into
14 account strongly enough, so that I started at
15 that time to develop the methodology which
16 took that into consideration. We are at the
17 fledgling stages of that. It looks -- I am
18 very impressed with that. I can't say, but
19 that is reason that we went that direction.
20 And I am sorry I forget --

21 Q. I was wondering if you were going to
22 go take into account on preexisting disease
23 the family histories of the people?

24 A. The greatest limitation that you have
25 to these type of studies is the availability

1 of information. What I had to do with
2 preexisting disease was to look at vital
3 statistics data and make certain assumptions.
4 One assumption would be, if there were so many
5 deaths in a particular area of one type of
6 disease, then you would have to assume there
7 was some preexistence there. The point I am
8 trying to make is that kind of data is very
9 difficult to get, but with the computer age
10 and all these methodologies computerized, I
11 think, and I am glad you brought this up cause
12 it was brought up this morning is that, the
13 data is there and, yes, it does cost to get
14 it. It's not necessarily always as in depth
15 or the quality that we would like, but we can
16 get it through the -- obtain it through the
17 computer, so it's possible.

18 Q. Quickly for Mr. Jones, and I don't
19 know if this is an appropriate question for
20 you or not, and I realize I am referring to a
21 study that is only in draft form, but I think
22 we have had some interesting word usage
23 problems today. that words mean one thing to
24 one person, hot means something to somebody in
25 Alaska and something different to somebody in

1 Louisiana. But, you mention the fact -- it's
2 quoted here as saying: One of the findings
3 concluded that minority communities experience
4 quote "greater than average" exposure to some
5 environmental conditions. Now, this is in our
6 briefing book. I assume that is a quote from
7 the preliminary report, and I guess my
8 question is, you know: Greater than the
9 average as opposed to what? What does average
10 mean in this instance?

11 A. I am not familiar with that quote.
12 Is this.

13 MS. ROBINSON: She is referring to
14 the unofficial release of the Environmental
15 Equity Report and some of the preliminary
16 conclusions that have been made in terms of
17 what is happening in minority communities.

18 MR. JENKINS: From a newspaper
19 article out of the Washington Post and
20 National Public Radio and some of the.

21 MR. JONES: This is the leak.

22 MS. MCDADE: The leak. I was
23 interested in what greater than the average
24 meant or what are we talking about.

25 MR. KUTCHER: Talking about Yogi

1 Bear. Do you feel comfortable commenting on
2 that given the disclaimers that she gave
3 earlier?

4 MR. JONES: I have no -- I make no
5 amends about disclaiming. When I have a
6 federal paper come down and not cite a quote,
7 I am not going to go cite a quote.

8 BY MS. MCDADE:

9 Q. I was not trying to put you on the
10 spot, I was just curious what that might mean.

11 A. I have no problem with your question.
12 State it again.

13 Q. What was in our briefing said that:
14 In January 1992, a draft of the report was
15 unofficially released. We know how that
16 happens. "One of the findings concluded that
17 minority communities experienced quote
18 "greater than average" end of quote exposure
19 to some environmental poisons including lead,
20 air pollutants, toxic waste and tainted fish."

21 A. Disproportion was the word --
22 disproportionately was the word that seemed to
23 be the buzz -- not the buzz word but the word
24 that seemed to be more acceptable.

25 Q. I was just curious as to what that

1 might mean.

2 A. I think it would be difficult.

3 DR. CARNEY: Average is a
4 statistical term and I am not sure what they
5 looked at to get there.

6 MR. KUTCHER: Maybe that is why
7 one said.

8 MS. ADAMS: Let's try to keep this
9 down to a minimum.

10 MR. KUTCHER: So, is what you are
11 saying that the word now contained, rather
12 than "greater than average", would be
13 "disproportion"?

14 MR. JONES: Perhaps for the record,
15 why don't you explain from a statistical
16 toxicologist point of view what
17 "disproportionate" means, and perhaps we could
18 get that out of the way for future
19 discussions. Does that make sense to you?

20 DR. CARNEY: I would be more
21 comfortable with average.

22 MR. KUTCHER: That is fine.

23 MR. JONES: Mr. Chairman, may I
24 read three paragraphs to go into the record on
25 environmental equity, that will address that

1 word.

2 MR. KUTCHER: Would it be easier
3 simply to submit that as part of the record
4 since we are already a little bit beyond.

5 MR. JONES: I could.

6 MR. KUTCHER: We would ask you to
7 put that in the record.

8 MR. JONES: I will tell her how
9 much.

10 MR. KUTCHER: We are seriously
11 behind.

12 MS. ROBINSON: Just one question
13 to address the major thing that is issued here
14 in terms of your work and analysis. Are
15 industrial and hazardous waste facilities
16 located disproportionately in minority
17 communities and which, in this case in
18 Louisiana, would be black communities? What
19 is EPA's position on that?

20 DR. CARNEY: I see a two-part
21 question. I do not know and do not have the
22 data to say that that first comment is true.
23 I think many of us here, that is the
24 suspicion. I am at this time gathering that
25 information to look at it. A lot that you ask

1 is a site specific question. You have to go
2 down to -- as was mentioned earlier -- track
3 level and block level census data. That is
4 possible, and that is part of the initiative I
5 think is to look at that and to say. I think
6 frustration, that word was used earlier this
7 morning. It's a frustration this wasn't done,
8 and I think it can be done, and we are working
9 as fast as we can. The second part of your
10 question?

11 Q. Does EPA intend -- and I don't know
12 how to say this -- intend to track racial
13 demographic of the communities nationwide? Is
14 that one of the efforts in terms of your
15 environmental equity program?

16 A. Since we don't have the final, I
17 can't say for sure, but I would be very
18 disappointed as a scientist if they didn't,
19 and I am sure. feel comfortable that will be
20 part of it. I don't see how they can make
21 decisions without that.

22 MR. KUTCHER: You have a question?

23 MR. JENKINS: One quick question
24 to Mr. Jones quickly.

25 Q. You indicated that you have

1 environmental equity cash flows operating in
2 the region now in Region VI. One: How many
3 members on the task force? Two: Can you
4 break it down as to whether they are women and
5 minorities, blacks?

6 A. Good. On the work group?

7 Q. Yes.

8 A. I have --

9 Q. You can submit that for the record if
10 you want.

11 A. Yes. Two female -- the most
12 important thing with our work group regionally
13 is a representative from the divisions, having
14 somebody come out of the division, hazardous
15 waste division, that will participate in that
16 work group.

17 Q. Would I be safe in assuming that
18 majority of those would be white males or
19 white?

20 DR. CARNEY: We had a meeting
21 before we came here as part of the process,
22 and we had probably seven people there. There
23 were two Hispanic ladies, a black gentleman,
24 Dr. Nordyer who is a toxicologist that I work
25 closely with.

1 MR. JENKINS: You can submit that
2 for the record.

3 MR. KUTCHER: As any lawyer will
4 tell you, the court reporter can't pick up
5 more than one voice at a time. Thank you. If
6 you have any written statements --

7 MR. JONES: I will let her have
8 these couple paragraphs for the record:

9 (The following was submitted for the record):

10 "Within the context of the current
11 debate, environmental equity means that no
12 racial minority or low-income community bears
13 a disproportionate share of the environmental
14 risks faced by society as a whole.
15 Nevertheless, in the past few years, several
16 studies have suggested that environmental
17 inequities may indeed exist and that may be
18 related to racial as well as socioeconomic
19 factors. This problem was discussed early in
20 1990 at the Conference on Race and Incidence
21 of Environmental Hazards held by the
22 University of Michigan's School of Natural
23 Resources. Shortly after the conference,
24 Administrator Reilly met with key participants
25 and received information on environmental

1 equity that he found "especially disturbing."
2 In response, the administrator formed the EPA
3 Environmental Equity Work Groups in July 1990.
4 Composed of 30 staff experts agency wide, the
5 work group undertook four major tasks: One,
6 review and evaluate evidence that racial
7 minority and low-income people bear a
8 disproportionate risk, burden; two, review
9 current EPA programs to identify factors that
10 might give rise to different risk reduction,
11 and develop approaches to correct such
12 problems; three, review EPA risk assessment
13 and risk communication guidelines with respect
14 to race and income-related risks; and four,
15 review institutional relationships, including
16 outreach to and consultation with racial
17 minority and low-income organizations to
18 assure that EPA is fulfilling its mission
19 with respect to these populations.

20 MR. KUTCHER: Our current speaker
21 is Mr. James Welsh, director of Injection and
22 Mining Division for the Office of Conservation
23 in the Department of Natural Resources. The
24 Office of Conservation is responsible for
25 regulating the oil and gas industry. The

1 Commissioner of Conservation grants permits to
2 drill oil and gas and decides how landowners
3 including the State share royalties.

4 Mr. Welsh, we thank you for coming.
5 Again, as we did all the other speakers, if
6 you have written comments that you have
7 prepared, comments, if you would please give
8 them to the court reporter at the conclusion.
9 That would be appreciated.

10 MR. WASCOM: To clear the record,
11 I must say that Mr. Welsh is not here today.
12 My name is Carroll Wascom. I am his
13 assistant, assistant director of the Injection
14 and Mining Division. and I am presenting this
15 information which he prepared. I will present
16 to you today and be prepared to answer
17 questions.

18 He has been a friend and foe. I am
19 also glad to see Miss McDade. I have seen her
20 many times on the steps of the state capitol
21 in a cause we agree upon, and I am glad to be
22 here today to present this to her.

23 Like I said, my name is Carroll
24 Wascom, assistant director at the Louisiana
25 Office of Conservation which is in the

1 Department of Natural Resources. I have been
2 asked to talk regarding our office's decisions
3 regarding practices and efforts to address
4 issues such as identification of the
5 environmental problems in minority
6 communities, environmental policies and
7 practices, the effect of these policies on the
8 quality of life, and the cooperative efforts
9 currently underway between government
10 industries and the environmental groups to
11 address environmental contamination and our
12 agency's efforts to improve and hire
13 minorities.

14 MR. KUTCHER: If you would slow
15 down just a little bit.

16 MR. WASCOM: Our agency has the
17 statutory authority to regulate the oil and
18 gas industry, portions of the chemical
19 industry and the coal lignite mining industry.
20 These industries are regulated under the
21 provisions of state law and regulations with a
22 different set of regulations for each
23 industry. These regulations are promulgated
24 under state law and contain provisions that
25 meet the full intent of state and/or state or

1 federal law are applicable. The regulations
2 are approved by the state's legislature prior
3 to being adopted. Our agency administers
4 these regulations which have the effect of law
5 according to the courts.

6 Now, these regulations have no
7 specific requirements as regards to locating
8 or not locating regulated facilities in or in
9 proximity to minority communities. An
10 applicant is not required to provide
11 demographic data to our agency for
12 consideration. Permit decisions are made on
13 the technical merits of the application,
14 including an applicant's ability to comply
15 with our regulations. Politics do not enter
16 into permit decisions.

17 As we all know, no one wants to be
18 living next to a commercial facility or a
19 solid waste facility or any type of waste
20 disposal facility. However, such objections
21 in and of themselves are not the reason to
22 deny a permit. State law allows waste
23 disposal in this state, provided a company is
24 in full compliance with the laws and
25 regulations. Our job is to enforce the rules

1 as they are written.

2 Environmental problems may not occur
3 until a facility has been operating for a
4 length of time. Environmental problems, if
5 they occur at all, happen at any facility
6 regardless of whether the facility or activity
7 is located approximately proximate to a
8 minority community. Our agency is responsible
9 for investigating and resolving environmental
10 complaints regarding facilities or activities
11 within our jurisdiction.

12 The Office of Conservation may or may
13 not be aware that a proposed facility is
14 planning to locate near a minority community.
15 Sometimes at our public hearings held during
16 the permitting process, we become aware of
17 some issues regarding minority sites or
18 communities. Our agency makes sure that all
19 requirements of the law and regulations are
20 being followed prior to issuing any permit,
21 including those rules regarding location
22 criteria of which we do have some in our
23 regulations.

24 As to existing facilities and
25 activities in Louisiana under the jurisdiction

1 of our division, we have made no estimates or
2 studies as to the number that may be located
3 near a minority community. There are,
4 however, over four thousand such facilities
5 and activities that we regulate, and we have
6 neither the personnel nor funds to conduct
7 such a study nor do we have any guidance as to
8 what constitutes, near to or in a minority
9 community.

10 In addition to that, separate from
11 our regulations, Louisiana's constitutional
12 Article X, Subsection 1 of the Louisiana
13 constitution imposes a duty of environmental
14 protection on all state agencies and officials
15 which requires a balancing process in which
16 environmental policy benefit must be given
17 careful consideration along with economic,
18 social and other factors. The balancing
19 process would require that state agencies, by
20 *Save Ourselves, Inc., et al* versus the
21 Louisiana -- I think it's the -- Stream
22 Control Commission -- Environmental Control
23 Commission et al, 452 SO Second 1152 LA 1984
24 known as SOS decision. The following
25 questions are required to be answered

1 regarding the SOS decision: Have the
2 potential and real adverse environmental
3 effects of the proposed project been avoided
4 to the maximum extent possible? Does the cost
5 benefit analysis of the environmental impact
6 costs versus the social and economic benefits
7 of the proposed project demonstrate that the
8 latter outweighs the former?
9 Are there alternate projects which would offer
10 more protection to the environment than the
11 proposed project without unduly curtailing
12 nonenvironmental benefits? Are there alternative
13 sites that would offer more protection to the
14 environment than the proposed project site
15 without unduly curtailing nonenvironmental
16 benefits? Are there mitigating measures which
17 would offer more protection to the environment
18 than the project as proposed without unduly
19 curtailing nonenvironmental benefits? A
20 Merit Information Division recently denied an
21 application for a hazardous waste injection
22 well based on inadequate information being
23 submitted with the applicant regarding SOS
24 decision information. The matter is under
25 appeal at this time.

1 As to how these policies have
2 affected the quality of life in and around
3 minority communities, our office has not made
4 such determination. The location of such
5 fault should be the same no matter what the
6 racial makeup of communities may be. There
7 have been several attempts to correlate high
8 rates of cancer to people living near chemical
9 plants when such studies are considered
10 incorrect, but critics opposing studies site
11 the cancer rates are caused by smoking and
12 eating habits and possibly correlate certain
13 racial makeups. but these studies are
14 considered in incorrect by still other
15 critics. The matter is unresolved. Indeed
16 there is some question whether will there is a
17 higher than normal cancer rate near chemical
18 plants.

19 As regards the efforts of industry
20 and environmental groups concerning
21 environmental contamination, our agency
22 conducts public hearings on pending
23 applications prior to reaching a decision.
24 The public hearing is publicly advertised in
25 both the State journal and local newspapers.

1 The complete mailing list is maintained that
2 notifies interested persons of a pending
3 action by our agency. Additionally, our
4 agency works closely with Louisiana
5 environmental interest groups by providing
6 them a complete copy of pending applications
7 for their scrutiny and information in the
8 comfort of their own home, so to speak.

9 Our agency maintains facility files
10 and records which are available to the public
11 for study and copying during normal office
12 hours. Indigents are given special
13 consideration regarding costs for copy, files
14 and records. Our agency does not publish a
15 monthly newsletter of activities of our
16 office. But we feel that such would be a good
17 idea should funds be made available.

18 As regards our agency's efforts to
19 recruit and higher minorities, our division
20 must follow hiring rules established by the
21 department of Civil Service. When vacancies
22 occur, a list of eligibles is requested from
23 Civil Service. We have no control or say as
24 to who appears on the list nor does the list
25 mention the race of the people on the list.

1 Our division presently employs 24 persons of
2 which two are minorities: one is a geologist
3 responsible for hazardous waste injection well
4 review and the other is a technician
5 responsible for tracking oil field waste
6 shipments throughout the state. Both of these
7 jobs command high levels of responsibility.
8 Our agency is not actively recruiting any type
9 of personnel mainly because there are
10 extremely few positions. Also, all vacant
11 positions have been recently taken away due to
12 severe budget constraints. For promotions
13 within our agency, Equal Opportunity
14 requirements are followed. The Department of
15 Natural Resources has adopted an affirmative
16 action plan pursuant to Title 7 of the Civil
17 Rights Act of 1964 and other acts. This
18 affirmative action plan sets forth the basic
19 guidelines for achieving the goal of equal
20 employment opportunity within DNR.
21 Additionally, I have with me today copies of
22 DNR current policy statement as regards equal
23 employment opportunity.

24 I appreciate the opportunity to be
25 here today for the committee and I hope I have

1 addressed some of the issues, and I hope I can
2 answer questions. I would also like to say,
3 our agency and our division in particular, we
4 regulate injection wells, construction siting
5 and operation under a program mandated by the
6 federal government, Environmental Protection
7 Agency. Our overseers are out of Region VI in
8 Dallas, Texas, and so we are operating that
9 program under their governing rule. We also
10 regulate the disposal of oil field waste
11 generated in the drilling and production of
12 oil and gas wells within the state, in
13 particular disposal wells which produce salt
14 water, commercial oil, field waste disposal
15 sites of which we have approximately 45 in the
16 state. And if you have any questions, I will
17 be happy to answer them.

18 MR. KUTCHER: I am sure we do.
19 Thank you. Miss McDade.

20 BY MS. MCDADE:

21 Q. You mentioned -- it's nice to see
22 you again, by the way. You mentioned some of
23 the SOS decisions, some of the criteria that
24 you now must look at -- cost effectiveness,
25 are the sites profitable, are other sites

1 perhaps better. Do you ever have a situation
2 where you would look at a site and say, this
3 site in such a blatant way impacts minorities
4 to the point where we will recognize another
5 comparable site? Has that ever happened with
6 your agency or do you have the power to make
7 that recommendation, and have you ever had a
8 situation come up to your office where a
9 particular permit may be considered or issued
10 and people complained on the basis of racial
11 inequity?

12 A. To my knowledge there has been none
13 recently. Several years ago, if I am not
14 mistaken, in the re-permitting of a hazardous
15 waste injection well in the Lake Charles area,
16 the facility apparently was located in a
17 minority community, and the issue was raised
18 at that point in time by citizens at a public
19 hearing with comments such as we do not want
20 this in our area, but the same comments we get
21 with any application in any location in this
22 state.

23 Q. Have you ever seen a situation where
24 you had an applicant that you actually felt
25 was making an effort to go into a minority

1 area because they wanted to go into a minority
2 area or because it was based on economic
3 considerations? Do you feel that also more of
4 a consideration rather than going into a
5 minority area?

6 A. I would think it would be more of an
7 economic consideration than wanting to go into
8 a minority community and locate there, that
9 really the topic is has not been discussed or
10 brought up in those terms in any application
11 that I know of in recent past.

12 Q. And you haven't received multiple
13 complaints on that level?

14 A. No, ma'am, not on that basis.

15 MR. KUTCHER: Dr. Hicks.

16 BY DR. HICKS:

17 Q. Did I understand you appropriately to
18 say that that is not really a basic concern to
19 take a close look at the extent to which the
20 locations are situated where there are
21 minorities? That, that is not a real issue?

22 A. In reading Mr. Welsh's comments, what
23 I understand him to say is that our
24 regulations do not require that degree of
25 review.

1 Q. If you received substantial responses
2 that the locations were in areas largely where
3 minorities are located, would it be of
4 concern?

5 A. If we looked at what the regulations
6 require for the siting construction of the
7 facilities that we regulate, those regulations
8 do not address those concerns. Those
9 regulations address environmental concerns:
10 will the well be constructed properly, will
11 the injection zone or the area utilized for
12 disposal protect groundwater. Our focus is on
13 groundwater. Our focus is on environmental
14 protection specifically and not whether or not
15 it's in a minority community.

16 BY MR. KUTCHER:

17 Q. You basically have no way of knowing
18 whether there is in fact a disproportionate
19 impact on a minority population as opposed to
20 the majority population of the state?

21 A. No, sir.

22 BY MR. FORD:

23 Q. Or any population of the state?

24 A3 A. No.

25 Q. You don't care?

1 A. I don't think that is what we said,
2 sir.

3 Q. The regulations don't speak to that?

4 A. No.

5 MS. REIBOLDT: I guess that is
6 what I was going to ask and follow up on, but
7 I kind of look at it differently. If you are
8 into considering the oil and gas wells and any
9 waste facilities that may accompany them and
10 whether they are going to get into the
11 groundwater which is going to affect whoever
12 lives around those facilities, whether they be
13 black or white or whatever, that this is what
14 you do, that it really doesn't matter to you
15 whether they are black or white, whatever.
16 Your concern, it seems to me, is that that be
17 treated appropriately and that that situation
18 not occur?

19 MR. WASCOM: That's correct.

20 MS. REIBOLDT: I think that is
21 admirable.

22 BY MR. QUIGLEY:

23 Q. How long have you been in the job
24 that you are in right now?

25 A. 11 years.

1 Q. In the 11 years, how many permits
2 have you reviewed in that amount of time? I
3 mean, just roughly, if you would know?

4 A. Personally?

5 Q. Yes.

6 A. Which type of facility?

7 Q. The ones that you were describing
8 here.

9 A. Well, we permit approximately three
10 hundred injection wells a year. We permit
11 approximately one commercial disposal well a
12 year. We permit approximately one to two
13 hazardous waste injection wells a year. As an
14 administrator, I don't personally review any
15 applications at this present time. Earlier on
16 I did, so I really can't answer that question.

17 Q. In the last five years, how many
18 permits have you denied for any reason?

19 A. I cannot give that number to you at
20 present. I would have to research and get
21 that. I do know that injection well permits
22 are denied quite often. I do know that one or
23 two hazardous waste or industrial waste
24 disposal, waste applications have been denied
25 over the 11-year period, and approximately the

1 same number of oil field waste disposal site
2 applications over the same period of time, and
3 each denial would be because they did not
4 comply with the requirements of the
5 regulations. They were not constructing it
6 properly, they were not locating it according
7 to our location criteria to protect
8 groundwater.

9 Q. And the final question is, is that
10 sort of information readily available to
11 people in the public? Is that compiled
12 somewhere, and do you keep a running total of
13 permits and projections?

14 A. We are required to give EPA a
15 quarterly report of all permits issued as far
16 as injection wells are concerned. As far as
17 the commercial oil field waste site is
18 concerned, that data is available. It would
19 have to be reviewed and pulled together. But
20 the injection well information is readily
21 available.

22 BY MS. REIBOLDT:

23 Q. Let me follow up on what you asked,
24 Bill. It seems there is a lot more here, even
25 than what may meet the eye. Mr. Welsh states,

1 there are many permits denied that never get
2 to the hearing stage because people comply
3 with what you ask them to do, so there is a
4 lot more that goes on than may be in a report
5 readily available or regarded in public
6 interest?

7 A. I am not sure --

8 Q. Well, he says that a lot of denials
9 are issued based upon their willingness to
10 comply later with the rules and regulations,
11 and that they are in turn doing that, they are
12 comply with the rules and regulations?

13 A. I guess the permit application may be
14 denied and could be applied for if they make
15 corrections in the way they are going to
16 construct the facility to make sure it's done
17 according to the reg.

18 MS. ROBINSON: For the record,
19 since you don't have that information now, we
20 would like to get an overview of your
21 enforcement efforts within the last year
22 1990-91 in terms of penalties imposed,
23 penalties denied, and how the IT decision may
24 have been affectd in some of those denials
25 over the last year.

1 MR. KUTCHER: I don't know if you
2 were here this morning. We are going to keep
3 this record open until March the 16th or
4 thereabouts. So, if you can do it any time
5 before then, that would be very much
6 appreciated.

7 MS. ROBINSON: I have one more
8 question.

9 Q. One of the issues that we asked to be
10 addressed, and I don't remember hearing it in
11 your presentation was the hiring practices of
12 DNR in terms of the racial breakdown of your
13 department.

14 A. I don't have that data available
15 except for my own division. I am sure that
16 can be made available from DNR.

17 MS. ROBINSON: Yes, absolutely.

18 MS. MCDADE: Could I quick clarify
19 the question with the responses regarding
20 racial equity. You do receive complaints or
21 requests that you deny certain permits on
22 other bases, don't you, or do you?

23 A. Yes, ma'am.

24 MR. KUTCHER: Thank you very much.

25 Our next speaker is Mr. William

1 Fontenot. Mr. Fontenot is environmental
2 specialist in the Citizens Access Unit for the
3 Attorney General's Office. He has been there
4 for 14 years. He is responsible for community
5 outreach, and we welcome him today.

6 MR. FONTENOT: Thank you. It's a
7 real pleasure to be here today and I hope you
8 are getting what you need. I don't have a
9 prepared text, but I will be glad to put
10 something together.

11 MR. KUTCHER: Go a little slower.

12 MR. FONTENOT: Yes.

13 MR. KUTCHER: Thanks.

14 MR. FONTENOT: Let me talk a
15 little bit about my job because I probably
16 have the only job like this in the United
17 States. Fourteen years ago, then Attorney
18 General William Guste asked me to work for him
19 to help develop some way for the public to get
20 better access to government, particularly on
21 environmental issues. I am in the
22 environmental section in the Attorney
23 General's Office, and they felt the public was
24 not getting adequate access to government and
25 had a difficult time understanding complex

1 issues and rules and regulations. In the last
2 14 years, I have worked with thousands of
3 individuals and groups across the United
4 States, and my job is not limited to
5 Louisiana, and I have helped to organize about
6 three hundred groups who were organizing
7 basically from scratch on just a whole variety
8 of environmental issues -- air, water,
9 hazardous waste problems, siting of
10 facilities, and those have been in Louisiana
11 and about 34 other states, so my experience is
12 not just in Louisiana. By and large, I think
13 it's very difficult to draw conclusions about
14 what kinds of impacts industry or waste sites
15 have had on minority communities or any other
16 communities. and the difficulty is that we
17 don't have a lot of good information by way of
18 comparison or way of example, I guess.

19 Two years ago, in January, there was
20 an evacuation in an apartment complex in
21 Shreveport, Louisiana, and it turned out that
22 all electric apartment complex of about 240
23 units within a matter of a few weeks, 50
24 apartments were evacuated because of high
25 levels of gas that were found in the

1 apartments. That is kind of hard to find,
2 high levels of gas in an apartment complex.
3 It could come from one of several places --
4 few pipelines in the area, middle of an oil
5 and gas field, large storage tanks in the
6 area, underground storage tanks, but this
7 particular apartment complex was built in
8 1988, so a fairly new facility sits on top of
9 an old oil refinery dismantled in the late
10 60's -- or early 60's, late 50's. Four
11 thousand people living on 230 acres that made
12 up the old oil refinery.

13 When that refinery was dismantled, we
14 will say in 1960, there were no regulations at
15 the time about how you handled the waste and
16 cleanup of that type, but this is a facility
17 that was operating through the 30's, 40's and
18 50's. And in those time periods, they were
19 not real careful about leaks, spills, leaks in
20 storage tanks, leaks in pipelines, and
21 cleaning of railroad cars and things like
22 that, a lot of sloppy operations going on, so
23 that you have a situation where there is
24 product, 17 people on the surface. There are
25 old sludge pits that were basically covered

1 over, and homes and businesses and buildings
2 were built on top of them. It is a racially
3 mixed area but predominantly white. It has
4 half a dozen new motels on top of it, a large
5 church complex, and a lot of other things.
6 But the site has never been properly
7 evaluated, categorized. The extent of the
8 waste contamination is unknown, and so you
9 have information in the files of Environmental
10 Protection Agency and state agencies that
11 indicate that this site was clearly identified
12 as a potential hazardous problem as far back
13 as at least 1981. To some extent information
14 was gathered as a result of some street
15 construction where waste was encountered but
16 very little was done to deal with this problem
17 and prevent people from constructing on top of
18 contamination.

19 So that I don't know what the answer
20 is, but I can tell you from working in
21 groups -- and I have worked with a lot of them
22 that live near petrochemical facilities, that
23 most of the people that have these kind of
24 problems, exposure to air pollution or
25 chemical fumes or waste site, find it very,

1 very difficult to get information about their
2 problems. There is a lot of information out
3 there. It's not always, I would guess, that
4 people would describe the agencies in computer
5 parlance as not being user friendly. It's
6 very hard to find out which agencies have
7 jurisdiction, it's difficult to find out what
8 the laws and regulations are. Once you find
9 them, it's very difficult to understand what
10 they mean. Many times public information
11 meetings are held miles away, and because
12 people are frustrated with their situation,
13 they tend to distrust government and come in
14 feeling that big facility has got politicians
15 in their pocket and it has the industry --
16 they have the inside track or governmental
17 agency that is going to be behind the big guy
18 instead of the citizens, so there is a
19 tremendous amount of distrust. When they
20 can't figure out exactly how to make the
21 system work, they get very frustrated.

22 I think if you were going to do
23 anything it would be to look at these programs
24 and agencies and figure out how to make the
25 agencies more responsive to the public. The

1 job I have as far as I know, it's the only job
2 in the country where someone in a government
3 agency goes out, helps to organize citizens,
4 and works with them to get into agencies and
5 meet with officials and agencies and say, hey,
6 this is the person in charge of this program,
7 this is how they run this division, this is
8 how you can get information. The
9 Environmental Protection Agency has a public
10 participation, public information program.
11 But their public participation program is
12 primarily dealing with small community
13 sewerage construction program. They have no
14 comparable program that goes out and helps
15 citizens group and groups concerned about a
16 pollution problem. There is no program that
17 encourages state agencies such as the
18 Department of Environmental Quality to set up
19 a similar program, and the money is not there.
20 Until you have agencies that are able to bring
21 people in, and I think that would be
22 particularly true of poor communities where
23 they don't have maybe access to public
24 transportation or personal transportation, if
25 you are dealing with multiple languages such

1 as Spanish, Vietnamese, whatever it might be
2 where people can actually speak the language
3 and know what is going on. The agencies are
4 not accessible in that manner. So that, it
5 tends to -- I will say it again, be a whole
6 lot of frustration and distrust. But in terms
7 of trying to identify whether we have a civil
8 rights violation, I am not sure.

9 I worked at a site north of Baton
10 Rouge. It's called Rollins, it's a commercial
11 hazardous waste facility in 1978. I worked
12 with adjacent landowners, a fairly large land-
13 owner who raises cattle and have been having
14 trouble since the facility first opened in
15 1970. Cattle died from spills occurring.
16 And. in 1980, one of the workers added an
17 adjacent plant. Allied Signal came into our
18 office with a petition signed by 36 workers.
19 I believe all but two were white. Those
20 workers said that they felt that fumes from
21 Rollins was killing them is the way the
22 petition read and they had a short diary. The
23 lady who lived just north of the facility had
24 been keeping a diary since 1968 about
25 environmental problems in her neighborhood.

1 She helped me get in touch with a community
2 leader in the black community across the
3 street from the facility named Barry McCastle.
4 When I walked into Barry's house, I was
5 probably the first white person that had gone
6 in there that had offered him something
7 besides trying to sell him an insurance policy
8 or help him to vote for me. It was to have
9 him keep records on wind direction, how fumes
10 smelled -- other things. How fumes smelled,
11 and how long the fumes lasted, how they felt.
12 Just about everybody in this community had a
13 problem -- headache problems, sinus problems,
14 they were tired all the time. They would wake
15 up in the night and not be able to breathe.
16 They were never given any information about
17 what was going on. As a result of their
18 evidence, the workers in the plant and other
19 neighbors, and with the help of the engineer
20 from the mayor's office -- cause these
21 citizens started calling the mayor all hours
22 of the night and on weekends, just like they
23 were doing me. and the mayor started sending
24 the engineer up. Once they were able to
25 verify that between 1980 and 1985 Rollins had

1 serious releases, 137 times -- the state
2 environmental agencies were only able to
3 verify a half dozen times during that same
4 period. So, if those citizens hadn't kept
5 records, if the mayors and city councilmen
6 hadn't been responsive, we wouldn't have a
7 good record of the kinds of environmental
8 problems that were occurring in a
9 predominantly black community in north Baton
10 Rouge. That community is sort of a yard stick
11 or measure of how isolated poor minority
12 communities can change environmental agencies
13 and environmental programs and public PERS
14 about what problems, but they need help. And
15 they have been very effective. And I think
16 that is true of most communities whether it be
17 minority or predominantly white.

18 I just went to another all black
19 community three weeks ago, which is Alliance,
20 Louisiana between Marathon and Cargill.
21 Cargill has some ammonia, grain storage
22 facilities and loading operations. They have
23 some ammonia storage tanks. And Marathon is a
24 large oil storage refinery. These residents
25 do not know who to call, how to engage

1 industry in trying to get them to reduce their
2 emissions. The citizens tell me, when they
3 had some releases four weeks ago, that they
4 called the plant and they were told that if
5 they didn't like the air, they should get in
6 their car and drive to a place where they
7 could breathe better. I don't think that is a
8 proper response.

9 But, these people who are living next
10 to the industries and not getting any
11 information from the industries, none of the
12 people in the community of Alliance work at
13 any of these facilities. The community of
14 Alsen, I think one person in the whole
15 community of several thousand people worked in
16 any of the industries across the highway from
17 their community. So a lot of times what I
18 found was people that lived next to these
19 large petrochemical industries and facilities
20 do not work in the facilities, and they get a
21 lot of the releases.

22 Last week I was at a meeting in
23 Monroe, Louisiana, and a representative of the
24 Environmental Protection Agency was trying to
25 tell people these hazardous waste problems are

1 the result of our lifestyles. It was dealing
2 with lead contamination from about a half
3 dozen sites in the City of Dallas, lead
4 contaminated soil was being shipped to a waste
5 disposal site near Monroe, Louisiana. Some of
6 the residents from Dallas were at that meeting
7 in Monroe, Louisiana. It's about three
8 hundred miles from Dallas, and the question I
9 raised is, I had difficulty understanding how
10 anything in the lifestyles of the residents
11 who are predominantly Hispanic and blacks
12 lived next to the contaminated area --
13 anything that ever contaminated annexed. I
14 could understand very little in the lifestyles
15 of Monroe and Ouachita Parish that generated
16 or created a condition where the waste
17 material from Dallas should be shipped in to
18 Monroe. For somebody from the EPA to talk
19 about that as a lifestyle condition puts the
20 blame on the public. And I don't think that
21 the agencies are really sensitive yet to those
22 kind of problems. There are a lot of good
23 people working in these agencies and working
24 very hard, but their mission is not by and
25 large to consider the impacts of issuing

1 permits or industrial operating facilities on
2 the surrounding communities. It has been to
3 evaluate and issue permits. If there is a
4 violation of a permit, to issue a fine or take
5 some other type of corrective action. It has
6 not been to look at the impact on communities.
7 In a general plan, the EPA stated that it
8 started to become part of the general thought
9 process or action process in environmental
10 impact statements or environmental
11 assessments, and I think that is good, but I
12 don't think that the agencies -- it is for a
13 lot of different reasons. I don't think it's
14 the agency's fault as much as nobody stepped
15 back and said, what is it we are really doing
16 and what should our mission be, are we really
17 looking at the impact these are having on the
18 environment and the different segments of the
19 population.

20 So, I guess Dr. Templet said
21 something about 650 sites in Louisiana. There
22 are many more sites than that. What is not
23 included in that is the contamination of every
24 industrial site in Louisiana where there is
25 contamination, 650 abandoned sites. It does

1 not include industrial sites and major
2 contamination. It does not include under-
3 ground storage tanks, many of which have
4 leaked, it does not include an estimated
5 20,000 sites in the state where there is
6 radioactive material on the ground from
7 drilling and production operations, and it
8 does not include a lot of other sites, waste
9 pesticide sites. These things are managed by
10 many different programs, managed by several
11 different agencies, so we don't have a good
12 grasp on what is out there. I guess I will
13 stop there and take questions.

14 MR. KUTCHER: Thank you, Mr.
15 Fontenot.

16 BY MR. QUIGLEY:

17 Q. You have a great deal of experience
18 it sounds like with many state agencies. Do
19 you know whether any state agency collects
20 data that would show whether there is an
21 impact on minority communities that is out of
22 proportion to that in majority communities?

23 A. No. I don't think it's been
24 collected anywhere that I am aware of. But I
25 think where the impact has occurred, it would

1 tend to be more severe in poor communities
2 and, since many of the black communities in
3 Louisiana are poorer than the white
4 communities, then -- from the ones I have
5 seen, and certainly the poor black communities
6 are having a much harder time next to these
7 petrochemicals than the white communities, but
8 given distances that chemicals travel and have
9 traveled, given the lack of information about
10 who lives next to plants and how they have
11 been impacted, it's really difficult to say.

12 In 1984, the Environmental Protection
13 Agency proposed to allow four fertilizer
14 plants to issue 12 and a half million tons of
15 waste in the Mississippi River. Guste
16 participated on that and said they had a lot
17 of questions. A task force was set up to
18 consider that. And even though the
19 metropolitan area of New Orleans is a large
20 black population, there were no blacks or
21 other minorities on that task force until
22 Landon Lewis with the Urban League showed up
23 and said -- hey, this looks like a very white
24 task force. Well, Mr. Lewis, sit down. And
25 in 1988 when we had the Toxic Release

1 Inventory reports required, as the data came
2 up in 1990, it turned out in two of those
3 facilities, the 12 and half million ton
4 proposal to dump every year was opposed by the
5 State of Louisiana eventually. But the 1988
6 data on two of those facilities, in St. James
7 Parish, according to the EPA accounted for 70
8 percent of the toxic discharges in surface
9 waters in the State of Louisiana and 30
10 percent of the U.S. total.

11 Now, if you have two facilities in
12 Louisiana that account for 30 percent of the
13 toxic discharges into water in the United
14 States, and they wantd to dump a whole heck of
15 a lot more, and EPA was encouraging and
16 pushing very hard in '84 and '88, without
17 considering impact on downstream users, I
18 would say we don't have that information. If
19 that helps. I know it's a little broader than
20 what you were looking for, but I don't think
21 we really consider those folks. At Wallace,
22 Louisiana, if the people hadn't asked a lot of
23 questions and if Diane Wilson in Point
24 Comfort, Texas, had not raised a whole lot of
25 questions about the proposed Formosa Plastics

1 facility at Point Comfort, I don't believe the
2 EPA would have pushed as hard to do an
3 Environmental Impact Statement, which you
4 should note, is the first time -- I know in
5 Texas and Louisiana, two Formosa facilities
6 are preparing Environmental Impact Statements.
7 It's the first time we will have an
8 environmental assessment or impact statement
9 on a major industrial facility in these two
10 states. Louisiana and Texas account for at
11 least 50 percent of the petrochemical
12 production in the United States and we have
13 not yet done an environmental assessment of
14 that impact. This is the first shot. So, the
15 residents of Wallace and Point Comfort, Texas
16 are making some real history in terms of
17 opening up the process to finally consider
18 environmental impacts to industrial
19 facilities.

20 BY DR. FORD:

21 Q. In the absence of data or, more
22 properly, the analysis of data, your
23 experience, both in Louisiana and outside, do
24 you feel comfortable commenting on the
25 relative likelihood that in Louisiana, the

1 patterns that were described in the United
2 Church of Christ study, that Louisiana is
3 somehow different than that national picture
4 that was painted, that is, that three out of
5 five minorities tend to live in the vicinity
6 of a hazardous waste site? Is Louisiana
7 better off, worse off, about the same
8 qualitatively?

9 A. I am not sure. So the old Baton
10 Rouge landfill called Valley Park Landfill is
11 in an all black neighborhood. Now, it's an
12 education resource center sitting on top of
13 it, and now they are undergoing a sick
14 building syndrome study, whether from the air
15 system or vapors are coming up from the
16 landfill. The current Baton Rouge landfill is
17 in municipal landfill. The current Baton
18 Rouge landfill. the closest residents are an
19 all black neighborhood called Crestler, and
20 Representative Kip Holden, I believe is
21 speaking here lives, about a quarter of a mile
22 from that landfill. So the proposed Baton
23 Rouge landfill is going to be just a couple of
24 miles up the road from it. So it's just not
25 industrial facilities but all sorts of other

1 impacts. I would say that -- I would tend
2 from what I have seen that, yes, it has had a
3 greater impact on blacks and poor folks.

4 The industrial corridor in East Baton
5 Rouge Parish runs from Chippewa Street which
6 is an all black neighborhood to Southern
7 University, which is a predominantly black
8 university. Old Kaiser landfill is on a large
9 big red mud pit. The site is right on the
10 border with Southern University. Southern
11 University is bracketed with three commercial
12 hazardous waste incinerator facilities. Long
13 Falong (phonetic) has two sulfuric acid
14 regeneration facilities which permitted
15 hazardous waste facilities, and Rollins
16 operates a commercial waste facility north of
17 Southern. So comparison between Southern
18 State University and Louisiana State
19 University, you can see, certainly Southern
20 has been more seriously impacted, and Southern
21 has been located there longer than LSU has
22 been located here. And, many of the
23 communities that I work with are black; but
24 where it impacts predominantly white
25 communities, the impacts are just as severe

1 and public has a hard time figuring out how to
2 get from square one to square two.

3 I have sometimes a difficult time
4 cause up until two years ago I didn't know
5 about the Bossier site where you had 4,000
6 people living on top of this refinery. If you
7 take those 4,000 people, that is a pretty
8 large segment of the population. And how many
9 more communities do you have to impact? That
10 is a predominantly white population, to find
11 an equal number of blacks. Hard to say.
12 Cause a lot of these facilities are located in
13 fairly sparcely populated areas except for the
14 one here in Baton Rouge which is in the city.
15 We were talking total number of people.

16 BY DR. FORD:

17 Q. Total number of sites. I guess we
18 have to work out some indicators?

19 A. I don't know, Dr. Ford. It should
20 have been looked at a long time ago much
21 harder than this, like a lot of these things.
22 I would tend to say, yes, but it's just off
23 the --

24 BY MS. REIBOLDT:

25 Q. In your suggestions to these citizens

1 you have worked so closely with and helped
2 them to device ways to counteract this
3 problem, what have been some of those
4 suggestions? Have you suggested litigation
5 and participating in the type of litigation
6 that you have suggested based upon whether
7 there is a problem here, and I am being
8 environmentally negatively impacted, it's
9 because of my race-type situations, or are you
10 approaching it from what needs to be done in
11 other areas?

12 A. Most of the work I have done has been
13 encourage people to try and find other groups
14 that have been through a similar problem or
15 process and to learn from them. To find out
16 what resources are available in the community
17 or in the country to help them get through
18 their problems. Litigation I think is
19 something that you want to use as a last
20 resort just because once you get into the
21 courts, you are in a system that has very
22 little public access and public control,
23 from - - I am talking now, from a citizens
24 group being able to do something. But
25 oftentimes litigation is a very, very

1 effective tool. Mostly I encourage people to
2 try to get in the process of learning where
3 agencies are, asking for hearings and
4 meetings, working with the media, learning how
5 to work with public officials, learning how to
6 work with the agencies, and contacting other
7 groups, and forming coalitions so you form a
8 more united front. I do not usually work with
9 groups and encourage them to work from a
10 racial impact saying that this is an all-black
11 community and we are being beaten up, and it's
12 not affecting the white community because I
13 think that tends to be divisive and the
14 community not being impacted would say, what
15 is in it for me?

16 So. I find that environmental
17 problems and hazardous waste sites in
18 particular are some of the most important
19 issues that have occurred in this country
20 where people who have not talked to each other
21 are -- people who have not talked to their
22 neighbors or people down the street tend to
23 get together and join together in a common
24 cause or fight to solve the problem, and I
25 think it's -- even though some of the data may

1 indicate that it's affecting black and
2 minority or poor communities more adversely
3 than white communities, I think it's --
4 environmental problems have been the greatest
5 thing to bring the white and black communities
6 together on a common agenda. I think it
7 socially has helped a whole lot, certainly in
8 Louisiana.

9 MR. KUTCHER: Last question, Miss
10 McDade.

11 BY MS. MCDADE:

12 Q. I am beginning to think we do have
13 pretty good coverage of getting information in
14 the communities, cause we have governmental
15 agencies, advocacies -- Green Peace and Sierra
16 Club that come in and not only offer legal
17 support, information, et cetera, but I think
18 we probably have covered that area fairly well
19 and may begin to eliminate that problem. One
20 thing you said, however, regarding lifestyle
21 that I would like to go into a little more, I
22 agree or I tend to believe that lifestyle
23 would not be an only factor. However, having
24 lived all over the country and in different
25 parts of the world and then coming back to

1 Louisiana, I have to tell you what we eat, the
2 way we prepare it, is different than anybody
3 else in this world, and I also have to say
4 that the smoking hazard among nonwhites versus
5 whites is a greater hazard because more
6 nonwhites tend to smoke from the statistics
7 that I think we both see, so I don't think we
8 can both totally discount as a contributing
9 factor with the lifestyle factor. I would
10 never say that it is an across-the-board
11 factor and nothing else exists. I think we
12 have to be careful. Do you not agree that in
13 Louisiana we eat strange things that nobody
14 else would touch?

15 A. I could tell you a couple of jokes.

16 Q. Seriously.

17 A. Watch out. that is a Cajun, they eat
18 anything, the baby crawfish and the discussion
19 with the mama crawfish --

20 Q. All right.

21 A. But I don't think I mentioned
22 lifestyle at all.

23 Q. You did make the statement of the
24 lifestyle?

25 A. No.

1 Q. By EPA?

2 A. I was not dealing with that area
3 because I was dealing with whether the
4 facility and sites are impacting minority
5 communities, say, more than white communities,
6 and I --

7 Q. What I wrote down -- such lifestyle
8 should not be considered a factor?

9 A. I think you have to do everything you
10 can to improve the way you live. And, again,
11 I don't think people have a lot of information
12 about how to change their lifestyle, and there
13 is a lot of discussion whether or not you
14 ought to eat whole with or white bread or
15 whether or not you ought to take vitamins or
16 not, and smoking is clearly a very, very
17 damaging and destructive sort of thing to do
18 and a lot of people do it. I work with people
19 who work in the plants. They may not be able
20 to smoke at work but, when they get home or
21 out of that plant, they are puffing away, and
22 I just go "wow." But I disagree with you
23 about, if you are saying, that we have enough
24 coverage for citizens to get access to
25 assistance because Green Peace or the Tulane

1 Environmental Law Clinic or the Sierra Club
2 Legal Defense Fund, or any other group
3 providing them with how to get involved or how
4 to get legal support because they don't have
5 much in the way of resources. For your
6 information, Green Peace had to cut back half
7 of their staff this last year because they had
8 some budget cuts. So we won't be relying on
9 Green Peace too much in the next year to help
10 citizens groups.

11 What I started out with is there are
12 no other agencies, federal state or local area
13 that have someone in them whose primary job is
14 to help citizens get through those agencies.
15 If you ever live near a site and try to
16 contact an agency and get assistance, it's
17 darn hard. For someone to work with the
18 Department of Environmental Quality -- they
19 are here in Baton Rouge. If you live in north
20 Louisiana, it makes it difficult to come down
21 and look at records. A lot of agencies from
22 one to another have different rulings of how
23 hearings take place, how records are
24 accessible. The EPA is located in Dallas,
25 Texas. If you try to get up to Dallas, it's

1 kind of difficult. That is another whole
2 level of bureaucracy to try to get through.

3 Q. These Green Peace groups operate
4 under federal and state grants very often?

5 A. No. But it's difficult for citizens,
6 a lot of times hard for them to find out, to
7 get a hold of environmental groups as it is to
8 get a hold of agencies.

9 MR. KUTCHER: Thank you. Why
10 don't we take our break now and come back at
11 ten to four up on the big clock here. Before
12 we break, let me ask those speakers to try to
13 respond as succinctly to the questions that
14 are asked because we are already behind, and
15 let me ask the members of the committee to ask
16 succinct questions as well, so we can all get
17 some information. Thank you all very much.
18 We will come back at ten minutes to four.

19 (A break was taken.)

20 MR. KUTCHER: Why don't we resume?
21 Again, I am going to ask the speakers to
22 please answer the questions that are asked
23 succinctly. I will ask our committee members
24 to ask questions, and I certainly invite
25 everybody to ask questions, but please let's

1 ask questions as opposed to make statements,
2 and try to ask questions relative to what the
3 speakers have discussed.

4 Mr. Kucharski is the newly appointed
5 secretary of DEQ. DEQ is responsible for
6 regulating and enforcing environmental
7 policies in the State of Louisiana, and we
8 welcome you here today and look forward to
9 your comments. Good afternoon, sir.

10 MR. KUCHARSKI: I am very pleased
11 to be here today to be able to address you on
12 these issues. With me is Mary Mitchell who is
13 the undersecretary of DEQ who has
14 responsibility for personnel and hiring, and
15 she will address -- there were two sets of
16 questions that were asked. One dealt with our
17 policies dealing with quality of life, health,
18 education, et cetera, and the second was
19 dealing with overview of our department's
20 efforts to recruit and hire minorities. Mary
21 will address hiring issues and recruiting, and
22 I will deal with some of the more global
23 policy issues.

24 Basically, and not to philosophize,
25 but for there to be progress, there needs to

1 be education, hope, opportunity. Opportunity
2 without education can crush your hope. When
3 you deal with hope without opportunity, it's
4 something that will negate education, and if
5 you deal with education and you don't have
6 hope, then opportunity doesn't help. So, our
7 obligation with the department and in viewing
8 this question is to see what can we do, and
9 from the perspective of that, Mary will deal
10 with our recruiting. There are some programs
11 that I want to go into, and that we will try
12 to put in. We have currently not inherited
13 any major programs that are focused towards
14 minority participation or dealing with the
15 environmental equity question. We have been
16 in a position to make positive change for only
17 a month, so if our programs seem a little
18 slight, come back next year, and hopefully we
19 will be able to put more meat on the bones.

20 We are looking at many issues and
21 things that we can pursue dealing with the
22 environment and the area of how can we deal
23 with the issues of impacts and adverse impacts
24 by certain communities within the state. Mr.
25 Kai Medboe, the secretary, I should add, asked

1 me to come. He has other commitments, but he
2 asked me to express to you his appreciation
3 for the opportunity for the department to
4 speak here.

5 Kai also said that from his
6 perspective, he is not aware of any policies
7 or any programs that result in racially
8 motivated siting, or that it's not an issue in
9 any siting decisions that are made. Having
10 said that, he goes on to say that, however,
11 there is a disproportionate impact on minority
12 communities from facilities that have been
13 sited and are in existence. I think that is a
14 fact, and that is what the whole environmental
15 equity question is about. This comes as a
16 function in our opinion of poverty more than
17 race, and to the degree that the poverty is a
18 racially disproportionate matter of race
19 enters into poverty around these areas and
20 these facilities, then that becomes a racial
21 fact and a racial impact. We do not have in
22 the State of Louisiana an Environmental Impact
23 Statement requiring an environmental impact
24 analysis. Due to the IT decision, that
25 requires us from the courts to consider

1 several factors. As we go in and as we work
2 through and attempt to clarify and to bring
3 into practice these questions, we will have an
4 opportunity to address some of the issues of
5 siting issues particularly associated with
6 impacts on communities. However, I must say
7 that, these reviews will be color blind and
8 will be race neutral. A good siting criteria
9 doesn't have anything to do with race, it has
10 something to do with a good siting decision.
11 When we take a look at the impact and some of
12 the programs that we are looking at, there are
13 programs that will aid the communities that
14 are impacted.

15 A question was raised: What issues
16 are there? There are several. There is the
17 issue of air toxics, and air toxics are the
18 organic chemicals as a rule that come from
19 industrial activity. To the degree that
20 communities are located closer to the source
21 of those emissions, then the impact is
22 fortunately large because of the proximity to
23 the releases. Louisiana has passed and is
24 ahead of the federal government on addressing
25 the emissions and the releases of air toxics,

1 and we are probably more progressive in that
2 area than any other state today. We are
3 working on that, we are implementing that.
4 The program came from a bipartisan across the
5 board group of individuals that expended a
6 great deal of time and energy coming together
7 with a program that was going to be workable
8 and productive and would decrease the amount
9 of air toxics to which all of our citizens are
10 impacted.

11 Some of the other areas we deal
12 with -- lead, particularly in areas that are
13 old that were painted many, many years ago and
14 deal with the lead content in paint. Also, if
15 leaded gasoline is cheaper and cost is an
16 issue, you have a predominant of emissions
17 from automobiles coming from leaded gasolines
18 rather than unleaded gasolines. It's another
19 area that it goes in. Also, the water side
20 where you have old buildings and old
21 facilities and you have lead solder in water
22 pipes, you have an increased opportunity for
23 exposure to the community from those sources.
24 Some of these areas are outside of our
25 control. The Department of Health deals with

1 the water supply and the drinking water,
2 however, we will be putting in and are
3 looking, not throughout Louisiana but in
4 certain areas, for ozone or looking at the
5 possibility of having emission controls and
6 emission controls on automobiles checked and
7 verified. To the degree that vehicles that
8 are supposed to be using unleaded gasolines
9 were using leaded gasolines, that should be
10 indicated fairly clearly when emission control
11 systems are checked.

12 So, there are some things that we can
13 do and we can enter into that would help
14 communities. We are also in the process of
15 trying to set up community action groups.
16 Willie Fontenot was talking about the people
17 around the Rollins facility in Alsen. We have
18 met with Lawrence Robinson who lives in that
19 area. We have met with the communities, the
20 industry groups that are in that area, and we
21 are encouraging groups to get together such
22 that we can have education, we can have a
23 dialogue between the communities. One of the
24 issues that comes up is, if there is a release
25 from a facility and in their release someone

1 makes a call and says, send an inspector out,
2 we have a limited number of inspectors, and we
3 have a given number of inspectors and almost
4 an unlimited area to cover. It's very
5 difficult when you have a temporal thing like
6 an air release to come up and get good data.
7 We are working on ways in which we can provide
8 a mechanism for the local citizenry to be
9 empowered to identify those areas, working
10 with Dr. Ford at Southern to come up with some
11 processes and some devices^r that we can allow
12 people in communities that feel there are
13 unallowed releases to collect air data that we
14 can verify those releases. So, we are working
15 on those programs as well.

16 One of the things we are also doing
17 to address this problem is, when we write
18 regulations, that it's stated, that
19 regulations can't be read. Well, of course,
20 that is by design because attorneys have to
21 read them, so one of the things that we are
22 doing with our regulations, as they come out,
23 we are not simply putting in the regulatory
24 language, but as they have on federal programs
25 and federal regulations, all of our

1 regulations being released now will have a
2 preamble that will have American English
3 descriptions of what these regulations are
4 meant to do, why they were put in and how they
5 are meant to be applied.

6 And so, in that regard, we are trying
7 to get the communication out much, much better
8 and much more open. We are working into
9 agreements with the Department of Health, with
10 DNR, DEQ, Department of Agriculture. We have
11 just in Calcasieu this last week put out the
12 first joint health advisory for the community
13 in that area. We have also made an effort and
14 required that these notices be sent to many of
15 the local churches which are a focal point for
16 many communities. It's very difficult to
17 reach parts of the population, the most
18 susceptible part of the population that use
19 these go and get catch fish as, if not a
20 primary food source, but would ingest greater
21 quantities than would be considered normal, if
22 you take a look at a broad area, so we are
23 making a very great effort to get to the
24 communities that are most susceptible and that
25 have greater exposures on these areas to let

1 them know what the health risks are and that
2 they need to be careful. We are dealing with
3 again, other sets of regulations to help
4 protect the communities. Not so much when I
5 talk about the norm regulations, the naturally
6 occurring radioactive material. Bills coming
7 up are not generally too much of a problem
8 within minority neighborhoods because they are
9 out in the fields and not in industrialized
10 areas as a rule. But we are looking also for
11 access. We are looking at putting all of our
12 public records on to an electronic data base
13 that can be accessed in other parts of the
14 state. We are also looking at waiving fees
15 when groups come in that need to get copies of
16 equipment or documents.

17 I have not addressed the real
18 questions of directly, but there is a very
19 broad based agenda that was being asked, and I
20 tried to address it in some broad areas, and
21 what I would like to do now is turn over to
22 Mary Mitchell to describe some of the hiring
23 practices and programs that we have and
24 recruitment programs that have been
25 instituted. These programs we have inherited

1 and our hope is to improve upon.

2 MS. MITCHELL: Thank you, Bill,

3 If you have a copy of the handout, you can
4 follow along with what I say, most of it. The
5 Department of Environmental Quality's
6 commitment to affirmative action can be
7 illustrated in attachment one, if you would
8 turn over. This depicts the increase of
9 minorities and females over the three-year span
10 from December '88 to December of '91. During
11 this period, DEQ developed and implemented a
12 comprehensive recruitment plan complying with
13 college recruitment, classified advertisement
14 and noncompetitive authority from Civil
15 Service for entry level environmental
16 positions. Special emphasis was placed on
17 recruitment at the predominantly black
18 universities within the state.

19 And, on the second attachment, it
20 will show you where we went and how many trips
21 we made to each of the universities. So the
22 recruitment effort enabled us to increase the
23 number of black professional employees from 19
24 in December of '88 to 52 in December of '91.
25 And this increased the total representation of

1 black employees from 5.9 percent to 11.9
2 percent of our total employee staff.

3 We also have an intern program for
4 students and we are trying to aggressively
5 intensify this program to get more involvement
6 from the minority community. And, if you will
7 look at the graphs, you will see that the
8 minorities that we have been able to bring
9 into the agency, that percentage has remained
10 relatively steady since implementation, the
11 second year of the program. In going out on
12 our recruitment tours, there did not seem to
13 be a lot of minorites that gravitate to the
14 science and math disciplines. I am on a task
15 force with Dr. Ford at Southern university
16 where we are trying to set up a program to
17 encourage students at the high school level to
18 get involved in the science and math perhaps
19 at an early stage so that by the time they get
20 to college, they will have that background.
21 We are also looking at some environmental
22 education programs that we would like to put
23 out into the schools and we hope that once
24 this is developed and they get into the
25 schools, the children will have more

1 involvement with the science programs, and
2 that this will help to encourage them also.
3 And, even though we have a good program, we
4 are striving to make it even better. If you
5 have any suggestions, we will certainly love
6 to have those.

7 MR. KUTCHER: Thank you. Does the
8 panel have any questions? I will ask, please,
9 that questions be directed to the statements
10 given. Miss Adams.

11 MS. ADAMS: Thank you.

12 BY MS. ADAMS:

13 Q. Mr. Kucharski, I think you said good
14 sitings have nothing to do with race? Is that
15 approximate?

16 A. Yes.

17 Q. Some of the background information we
18 were given for this fact finding meeting
19 indicate there is a concern that industry is
20 consciously locating or siting their most
21 pollutants in low income minority areas. So,
22 I guess it would help me to know, since you
23 said good siting has nothing to do with race,
24 what factors does the DEQ consider in
25 evaluating when it is a good siting?

1 A. I can say, if the facility is trying
2 to locate in a minority area, that doesn't
3 mean that is good siting. All right.

4 Q. Right.

5 A. Number one.

6 Q. Okay.

7 A. The factors that are looked at, and
8 we are set up pretty much by the statutes that
9 empower us to look at certain issues.
10 Basically we look at technical issues.
11 Whether the designs are appropriate, whether
12 the emissions are appropriate, according to
13 our -- the different regulatory levels that
14 are set up. When we get into the -- what I
15 reference the IT decision, which is
16 essentially asked questions associated with
17 other impacts. other than the technical
18 specifics of the facility. At that point,
19 those issues need to be addressed, and
20 deciding how close -- some of the things that
21 are addressed and there are some siting
22 criteria, how close to the nearest well and
23 where is the nearest drinking water source,
24 and those types of questions are a part of the
25 siting process, and have to be addressed.

1 Again, if we go in and we take a look at some
2 of the sociological impacts and the
3 socioeconomic impacts of locating the
4 facility, we really do not have any
5 legislative -- I would say, obligation for
6 authority other than the court decision saying
7 that these issues need to be considered during
8 a siting, a siting decision.

9 Q. Right.

10 A. And, with that, if -- we are not
11 empowered in any other way to my knowledge.

12 Q. Okay. Does the DEQ consider economic
13 factors or is it strictly physical
14 environmental factors, not human factors, an
15 analysis of the human impact, but mostly an
16 analysis of the physical environment in
17 deciding whether or not that is a good place
18 to put a facility?

19 A. We are mandated to take a look at
20 that physical environment, yes. Part of that
21 physical environment are who is located, where
22 people are located, not who the people are,
23 but where they are located.

24 MR. KUTCHER: Anybody else on this
25 side have a question? Dr. Hicks.

1 DR. HICKS: I have a question. I
2 guess it's follow-up.

3 Q. While you say that race is not
4 considered, when you continued to talk about
5 the lower socioeconomic level of people and
6 where you find locations, it kind of -- it
7 finally boils down to who is in that bracket
8 and it finally gets beyond color blind. Now,
9 but, at the same time, and I can understand
10 that you are talking about the regulations
11 that guide you, but at the same time, for me,
12 you are finally concerned about the people
13 around and, while it is not a requirement in
14 your regulations at this time, I guess I am
15 concerned about, should not there be concern
16 and something built in to look at the people
17 around? You said yourself that is
18 disproportionate persons. While you didn't
19 say race, when you finally put all that data
20 together in the state, you know who they are.
21 I mean, should something --

22 A. Yes.

23 Q. I guess I heard things, but I guess I
24 want to underline, should one be concerned
25 about the human concern and making a positive

1 impact?

2 A. Yes. Our responsibilities is to
3 protect human health first and the
4 environment, and in protecting the human
5 health and the environment, then we provide
6 the service to the state that we are charged
7 with with preserving. A lot of the impacts,
8 and if you take a look, I have not gone
9 through and taken a look at the average age of
10 all the facilities in the state, but I venture
11 to say that, if we took a look at the
12 construction, and the majority of the
13 facilities were constructed longer than ten
14 years ago, and with that, that was well
15 before -- it wasn't well before there were any
16 environmental considerations, but it was
17 pretty early in the environmental learning.
18 Now when we are talking a look at new
19 facilities, that is something we can control
20 and we are required to consider these factors
21 within the IT decision. And again, as I have
22 said, I think that the data are pretty clear,
23 that there is a disproportionate amount of
24 minorities that are in highly impacted areas.
25 From a department standpoint, they have been

1 there for a long time, the facilities.
2 Whether the population mix has changed because
3 of their existence, I don't have that data.
4 And to the degree that we can rack it down on
5 those facilities and make them as clean as we
6 can make them, that is what we are doing, and
7 for new facilities, we are required through
8 the IT decision to consider those type of
9 social factors in our siting.

10 MR. KUTCHER: Any other questions?

11 BY DR. FORD:

12 Q. Earlier in testimony, it was
13 suggested that a solution or that as a
14 strategy in the direction of reducing
15 environmental inequity as relates to
16 populations in general would be some
17 promulgation of regulations to implement laws
18 that were at least alluded to in the IT
19 decision. Would the new administration be
20 interested in going forward with actually
21 developing regulations that would put some
22 controls and provide some directions for
23 implementing what was alluded to in that
24 decision?

25 A. I can't speak for the administration.

1 What I can say is that we are -- the
2 department will be pursuing the IT decision
3 and trying to become much more structured in
4 how the court mandated questions are answered
5 and considered in any application. I am not
6 certain -- I can't speak, and I didn't speak
7 with the secretary as to whether -- if the
8 question is if we would foster a regulatory
9 package to codify the IT decision. If that
10 were introduced in the legislature, my belief
11 is that the department would support it.

12 MR. KUTCHER: Miss Robinson.

13 BY MS. REIBOLDT:

14 Q. I have one question, well, two,
15 really and I will be very precise. Cancer
16 Alley as is known in Louisiana being called
17 that strip barrier between Baton Rouge and New
18 Orleans, and it's been cited in magazines,
19 been cited at national conferences, been cited
20 on the Oprah Winfrey show as being a
21 contaminated area. What past or present or
22 future efforts are being made to address the
23 continual allegations of contamination in that
24 area?

25 A. I am not aware of any specific

1 program to continue to monitor any of the
2 health effects and the specific impacts on any
3 of the population in that corridor. I am not
4 trying to be evasive. I believe that is the
5 responsibility of the Department of Health.
6 We would work with the department would a
7 program like that be developed in the follow
8 up. I understand there was a fairly extensive
9 study done, the results of which showed that
10 there was not a particularly disproportionate
11 cancer rate in that area. That doesn't
12 alleviate the problem of people believe that
13 to be true, and then that is another entire
14 issue that we need to attempt to address. And
15 frankly I am at a loss as to how to address
16 someone's fear of the unknown other than
17 getting education programs and getting into
18 the community and trying to bring forward the
19 issues in a rationale way, such that we have a
20 better educated populace is a better populace
21 to deal with. I don't have any answer to say
22 that. There are no -- again, I know of no
23 programs being set up to further track any of
24 the health effects in that area. We would
25 take as much federal funding as you would

1 provide to monitor those programs.

2 Q. I have one other question. There is
3 concern within the environmental -- among the
4 environmentalists in Louisiana that there --
5 the position that has been made may not
6 continue, and they indicate -- they reference
7 evidence of this by the fact that score card
8 was disapproved or rescinded by the governor.
9 I would like to know why the score card was
10 rescinded which tied tax exemptions to
11 performance by industry.

12 A. The score card was discontinued. The
13 score card was a mechanism by which the
14 environmental complaints of an industry that
15 had a tax exemption was measured. A company
16 was scored and a percentage of their tax
17 exemption was reduced or removed. The feeling
18 and the stated position of the governor and
19 the position of the secretary. Secretary
20 Midboe was that score card was inappropriate
21 for the following reasons: The Department of
22 Environmental Quality has the responsibility
23 for enforcing the environmental laws in the
24 State of Louisiana. The Department of
25 Economic Development has a responsibility for

1 dealing with industries that come in, and
2 setting up conditions under which they can
3 obtain some tax benefit for locating in the
4 state. And, it is not responsibility anyway
5 for the Secretary of Economic Development to
6 impose an environmental penalty for a
7 violation of a facility. That is the
8 Department of Environmental Quality's job.
9 And felt that department did that. And they
10 functioned and carried out their
11 responsibilities, that that was -- that was
12 our responsibility. It was not something that
13 deserved to lay within Economic Development.
14 And, that is the reason why it was -- my
15 understanding why it was rescinded.

16 MR. KUTCHER: Thank you very much
17 for that presentation. We appreciate it.

18 Our next speaker is Dr. Joel Nitzkin.
19 Dr. Nitzkin is the former director of the
20 Louisiana Office of Public Health under the
21 Roemer Administration. He survived and now
22 serves as director of special projects in the
23 Public Health Department. Thank you for
24 coming, and we look forward to your remarks.
25 You have some handouts there.

1 DR. NITZKIN: Unfortunately not
2 enough to go around.

3 MR. KUTCHER: We can share. If we
4 spent two days together we can at least share
5 over each other's shoulders.

6 DR. NITZKIN: Good afternoon. I
7 am glad to be here. I am Dr. Joel Nitzkin, a
8 physician specialist in public health employed
9 at the Louisiana Office of Public Health. As
10 stated, I was the Assistant Secretary to the
11 Office of Public Health under the Roemer
12 administration. Following the change in the
13 administration, I moved to the position of
14 Director of Special Projects.

15 I am here this afternoon at the
16 request of Miss Robinson of the commission.
17 Miss Robinson interviewed me in my office on
18 the 16th of January relative to the question
19 of cancer in minorities in Louisiana, and the
20 role of industrial pollution in causing that
21 cancer. Following that interview, and an
22 interview with Dr. Vivian Chen, one of our
23 preeminent cancer scientists, Miss Robinson
24 asked that I present my views to this body.

25 I will therefore limit my remarks

1 this afternoon to the question of
2 environmental pollution as a cause of cancer
3 illness and death in minorities in South
4 Louisiana. It is important to note that
5 because of the large number of blacks and the
6 relatively small population size of other
7 minorities in south Louisiana, the term
8 "minority," as I use it in this presentation
9 should be taken to mean "Black", or, if you
10 prefer, "African American." For purposes of
11 this presentation, I will not consider "cajun"
12 or "French speaking peoples" to be a minority.

13 Cancer death rates in Louisiana for a
14 number of types of cancer tend to run ten to
15 15 percent above the national average. Also,
16 black rates tend to be significantly higher
17 than comparable white rates. These
18 observations plus the known exposure of many
19 minority communities to petrochemical
20 pollution of the air, water and land
21 throughout South Louisiana has led to
22 suspicion that this exposure was somehow
23 responsible for the high cancer death rates
24 seen among minorities in these areas.

25 Most of the information I will

1 present to you today will be from a mono-
2 graph published by the Louisiana Tumor
3 Registry in July of this last year entitled
4 Cancer Incidence in South Louisiana,
5 1983-1986. I will be leaving both a copy of
6 these remarks and a copy of the Executive
7 Summary of the Monograph for your files. I
8 can provide a full copy of the full report to
9 you should you so desire.

10 X During the past 20 to 30 years, many
11 studies have been done both here in Louisiana
12 and across the nation to try to define the
13 degree to which this pollution has increased
14 the risk of cancer to persons living near such
15 plants. Long term, short term, cross
16 sectional and case control studies have been
17 done. Virtually every report of a cancer
18 quote "cancer cluster" unquote or increase in
19 rate of any other serious illness has been
20 investigated.

21 Cancer is the second leading cause of
22 death in both the U.S. and in South Louisiana;
23 one out of five deaths is due to cancer.
24 Approximately one out of three Americans will
25 come down with cancer sometime in his or her

1 lifetime and about half of them will die of
2 that cancer. It is therefore not unusual to
3 find quote "clusters" unquote of cancers.
4 Each year we expect about 19,000 new cases and
5 about 9,000 deaths from cancer in Louisiana.

6 In other words, anywhere you look,
7 you are sure to find many cases of cancer. To
8 further complicate things, cancer is a term
9 that applies to more than a hundred different
10 diseases. Each type is caused by a different
11 set of factors, some well established and some
12 not so well understood. The most frequent
13 cancer in South Louisiana is lung cancer,
14 accounting for about 20 percent of all newly
15 diagnosed cases. Other common causes serious
16 in this area are colorectal, 13 percent;
17 breast, 12 percent; and prostate, nine
18 percent.

19 We have only two ways to determine if
20 living in a certain area increases the risk of
21 cancer. One way is to look at the case rates
22 and compare those rates with other geographic
23 areas. The other way is to look at the degree
24 of exposure to the various chemical pollutants
25 and calculate the number of cancer cases

1 expected based on the EPA risk assessment
2 formula.

3 While overall cancer death rates are
4 high in South Louisiana, cancer case rates
5 with the exception of lung cancer are low to
6 average. If pollution in South Louisiana is
7 causing cancer, the number of cases of such
8 cancer is so small that it has no perceptible
9 impact on the cancer case rates. This does
10 not mean that pollution is "ok". It does mean
11 that solving our pollution problem will not
12 solve our cancer problem.

13 Our high rates of cancer death in
14 South Louisiana are due to tobacco, diet, and
15 lack of access to needed health care.

16 The one form of cancer that stands
17 out as having high case rates is lung cancer.
18 This has been extensively studied in South
19 Louisiana, and is almost entirely among
20 cigarette smokers. When exploring what seems
21 to be an unusually high risk of lung cancer
22 among these smokers our studies have shown
23 that this risk seems most related to
24 inadequate consumption of fresh fruits and
25 vegetables in the diet.

1 One other element of our lung cancer
2 experience is worthy of note. So the
3 extremely high rates of lung cancer are found
4 only among males and predominantly among white
5 males. If neighborhood exposure to industrial
6 pollutants was a significant risk factor, we
7 would have expected to see unusually high
8 rates among women, especially black women.
9 This simply has not occurred.

10 For other cancers, the problem seems
11 to be lack of screening, lack of early
12 detection, and, to some degree, lack of
13 medical care.

14 EPA and Louisiana Department of
15 Environmental Quality standards for industrial
16 emissions are based on estimated cancer risk
17 of one cancer case per million persons exposed
18 per 70 year lifetime of exposure. The
19 calculations are based on the highest cancer
20 rate seen in animal experiments with each of
21 the pollutants in question. When one works
22 from Louisiana chemical exposure data to
23 estimate expected numbers of cancer cases, one
24 comes up with a worst case estimate of only a
25 handful of cases statewide each year. These

1 worst case estimates are fully compatible with
2 the epidemiologic and health research findings
3 noted above.

4 In conclusion, while public debate
5 may continue, there is no debate in the public
6 health or cancer research communities.
7 Community exposure to industrial pollutants,
8 on a theoretical basis, does increase the risk
9 of cancer. So the level of increase, however,
10 is so small, that at least in South Louisiana
11 that few, if any cases of cancer can be
12 attributed to this pollution.

13 Again, this does not mean that such
14 pollution is "OK" or should be allowed to
15 continue. This pollution is a serious problem
16 that adversely effects the well-being of
17 minorities living in proximity to it. This
18 pollution must be eliminated, but eliminating
19 it will not solve our cancer problem. This
20 cancer problem has nothing to do with the
21 pollution we have been discussing. To reduce
22 cancer case and death rates in non-minority
23 communities in South Louisiana, we will have
24 to do something about smoking, about diet, and
25 about access to needed medical services.

1 Thank you.

2 MR. KUTCHER: Thank you.

3 DR. NITZKIN: Attached to the
4 handouts are copies of the cancer monograph in
5 the paper relative to dietary vitamins A and C
6 to lung cancer rate in Louisiana. I would be
7 happy to answer any questions you may have or
8 provide a copy of the full cancer monograph if
9 you desire it for your files.

10 MR. KUTCHER: That would be great,
11 Doctor. Thank you. Anybody have any
12 questions?

13 BY MR. BAKER:

14 Q. Based on this evidence, would you say
15 that the quote "well known fact that that is
16 Cancer Alley between Baton Rouge and New
17 Orleans is just a public myth?

18 A. It's not a public myth in the sense
19 that cancer death rates are higher than the
20 national average. It is a public myth,
21 though, in the sense that there are any
22 allegations that the industrial pollution has
23 anything to do with the causation of cancer.
24 We have an area that has a lot of indigent
25 minorities living there, a lot of indigent

1 nonminorities also. Their cancer death rates
2 are above a national average, but no more
3 above the national average than people of
4 similar racial and economic status living any
5 place else in the nation.

6 MR. BAKER: Thank you.

7 MS. ROBINSON: You answered my
8 question.

9 BY MR. KUTCHER:

10 Q. Let me ask one question. When you
11 talk about cancer death rates, are you making
12 any distinction between the cancers that you
13 have highlighted in your presentation and the
14 more -- for lack of a better term -- exotic
15 types of cancers that sometimes manifest
16 themselves? Is there a higher manifestation
17 of rare forms of cancer in this area than
18 elsewhere?

19 A. That has been looked at. That is
20 simply the not case.

21 MR. KUTCHER: Okay. Anybody else?

22 MS. ROBINSON: I do have one
23 question.

24 BY MS. ROBINSON:

25 Q. When we talk about health and the

1 possible contamination, we always raise the
2 disease, cancer. Have there been any other
3 studies regarding other elements that have
4 been complained about by residents, such as
5 respiratory problems, rashes, allergies, those
6 kinds of things?

7 A. The one other really major illness
8 that has been extensively studied in this area
9 in response to a citizen complaint has been
10 the question of stillbirths, and that has been
11 very extensively studied, and again, what was
12 found is that the rate is not above what one
13 would have expected from the same population
14 any place else. When one gets into what may
15 be considered softer health end points --
16 respiratory irritation, tearing of the eyes --
17 these studies are very difficult to do. We
18 don't question or don't doubt that exposure,
19 particularly, to much of the air pollution
20 does cause this kind of irritation in this
21 transient illness. We also do not question
22 that, even if there are not significant health
23 impacts, just the unpleasantness of being
24 exposed to these environmental insults is
25 reason enough for these issues to be very

1 difinitively addressed. But, there has been a
2 belief that has been fostered, certainly by
3 the nickname "Cancer Alley," and this has been
4 something that has occurred at the national
5 level and is even present in the fact when one
6 takes a look at how DEQ sets its standards for
7 emissions its pollutants are a significant
8 form of cancer in the community. The data is
9 in.

10 Let me continue on to say that we
11 believe there is a very small level of risk,
12 much too low to pick up on our overall case
13 rates that may result in an occasional case
14 here and there, and we are working with DEQ λ
15 now with significant funding from ATSDR, the
16 federal agency that deals with this, to refine
17 our data bases, to get into computer mapping
18 of both the pollution data that is supplied by
19 DEQ and all of the significant health end
20 points that we at the Office of Public Health
21 have the capability to measure to see if by
22 merging those two data bases, we can try to
23 identify what would be lower levels of risk to
24 find those occasional cases of cancer or other
25 elements that we can't detect right now. We

1 anticipate it will probably be another two
2 years at least before the systems are
3 developed to the point where we can get this
4 kind of data from them.

5 MS. REIBOLDT: I have a question.

6 Q. It's been noted to us that you have
7 come under attack by some environmental groups
8 for the conclusions that you have made. Can
9 you give me reasons why these groups may be
10 very upset with your findings?

11 A. Yes. That statement is true. The
12 environmentalist movement in the United
13 States, as we understand it, and as we have
14 seen it developed over the last 20 to 30 years
15 has basically based most of its justification
16 for pollution control on reducing the risk of
17 cancer. They point out that chemicals that
18 are emitted by industry or known agents that
19 cause cancer in animals and in some cases
20 known to cause cancer in humans and on that
21 basis they have urged and secured the federal
22 and state legislation to eliminate that
23 pollution. Left unanswered when this movement
24 started in this way some 20 to 30 years ago,
25 was the degree to which this increased the

1 risk of cancer and the number of cases of
2 cancer that actually resulted. The scientific
3 data both here in Louisiana and elsewhere in
4 the country is quite clear. Even though for
5 many industries, there are occupational risks,
6 the persons are working within the confines of
7 those plans. There is virtually no community
8 risk. When scientists or public health
9 officials such as I come up with those
10 findings, this is often interpreted by some
11 environmental movement as a direct attack upon
12 them or as an indirect way of saying that this
13 pollution is acceptable. That is not the
14 case. Under the circumstances there is very
15 little I can do to create a situation in which
16 the environmentalists will be happy. With
17 these facts, we very clearly state them. We
18 as the Office of Public Health have been
19 trying to engage in as much productive
20 dialogue as we can with environmental groups
21 and representatives of them. We do have an
22 extensive program which we call our
23 Environmental Epidemiology Program which deals
24 with this quite extensively at every Superfund
25 site, at every Superfund like site. I have in

1 every opportunity offered to spend as much
2 time as they would like with the
3 environmentalists, the environmentalist
4 groups.

5 In this last year, the Department of
6 Environmental Quality underwent an activity
7 that they call the Lead 2,000 Project, which
8 for the first time, to my knowledge in
9 Louisiana, brought together the governmental
10 officials from health and the environmental
11 agencies, the environmentalist community
12 representatives, representatives of minority
13 communities and also representatives of industry
14 so we could all try to sit around the table
15 and discuss these issues and reach some common
16 accords. The process was an incomplete one.
17 but I think the dialogue has been initiated
18 and we are in hopes that some way will be
19 found to continue that kind of dialogue, even
20 though the Leap 2000 Project is over as is the
21 funding which supported it.

22 DR. FORD: Just one quick question
23 about your data base.

24 Q. Are you looking at mortality data?

25 You said you are looking?

1 A. We are looking at cases.

2 Q. So, cases would include?

3 A. Anybody.

4 Q. All the deaths --

5 A. That's right, all deaths and all
6 nonfatal cases from persons who were legally
7 residents in the area in question at the time
8 it was diagnosed, whether they were diagnosed
9 in Louisiana or in another state.

10 Q. So, that likely be individuals who
11 would not be diagnosed, who would not be
12 included in the data base, and therefore you
13 would not be able to say anything about the
14 incidences and/or about causes of those cases?

15 A. Cases reported instances is that
16 correct?

17 A. These are cases that have come to
18 medical care and been reported. Cancer is
19 serious enough illness that people will come
20 in and be cared for it. There is a time lag,
21 in fact. One of the major problems we have in
22 this particular area and not unique to this is
23 people coming in very late for cancer care.
24 One of the statistics that I saw that most
25 appalled me is that of those women, those

1 black women, quite specifically
2 diagnosed as having breast cancer coming from
3 South Louisiana, 48 percent of them did not
4 come in until their tumor was two inches
5 across or larger.

6 Q. How much time might that have taken?

7 A. We would expect that to have taken
8 several years. And also been well beyond the
9 point where that woman would have noted a lump
10 in her breast, indicating that, even though
11 she knew it was there, she for whatever
12 reasons simply delayed coming in, perhaps
13 hoping it would go away.

14 MR. KUTCHER: Thank you, Doctor.

15 (Discussion off the record.)

16 (A break was taken.)

17 MR. KUTCHER: Our next speaker is
18 Dr. Lu Ann White. Dr. White is a toxicologist
19 at the School of Public Health and Tropical
20 Medicine at Tulane University. She directed
21 the two-year study on miscarriage rates in St.
22 Gabriel, Louisiana. We would like to welcome
23 and look forward to her comments.

24 DR. WHITE: Thank you. I
25 appreciate being invited here. As you said I

1 am in the department of Environmental Health
2 Sciences at Tulane School of Public Health and
3 Tropical Medicine. I have been involved in
4 various community base studies in
5 environmental health for the last ten or 12
6 years. Probably one of our most media
7 studies, one which got the most attention was
8 the St. Gabriel miscarriage study. This began
9 when women in St. Gabriel thought they
10 observed a greater rate of miscarriage than
11 should have happened in that small area. We
12 were asked by Louisiana Department of Health
13 and Hospitals, at that time, Louisiana
14 Department of Health and Human Resources, to
15 act as an independent agent to come in and
16 investigate the rate. We conducted a study
17 which was funded by ATSDR, the Agency for
18 Toxic Substances and Disease Registry with the
19 Center of Disease Controls, CDC as our
20 technical advisors. A protocol was developed
21 with national input and with supervision from
22 CDC international advisory committee. Given
23 the high emotional and volatility of the
24 issue, we looked at some of the basic
25 objectives of the study. When studies of this

1 type are observed, we had to segregate out
2 exactly what the problem was, so the objective
3 of the study was to determine the rate of
4 miscarriage in East Iberville Parish. Study
5 guidelines were set up prior to the beginning
6 of the study. These study guidelines included
7 the rates at which no further study would be
8 done, which was 15 percent and below. Rates
9 between 15 and 25 percent, various risk
10 factors for miscarriage, would be
11 investigated; and above 25 percent, additional
12 studies would be conducted.

13 In addition the study team chose to
14 look at other studies which had been done to
15 compare various miscarriage rates to our
16 findings. The handout we gave is the final
17 report from that study which contains probably
18 more data than what you are interested in. I
19 will direct my comments as they pertain to the
20 minority population rather than just rehash
21 the entire study.

22 There are several issues, I think,
23 when studying minority populations that need
24 to be kept in mind. Many of the study
25 methodology that is developed for middle-class

1 white America does not readily apply, and
2 special methodology needs to be considered
3 when studying various minority communities.
4 For example, in this study, we had both
5 volunteers where we had various methods where
6 people could volunteer to be interviewed, and
7 interviews were conducted which obtained
8 extensive information from the women. Among
9 them were: fertility histories, basic
10 demographic information, residential history,
11 occupational history, basic data of this sort.

12 In addition, we looked at secondary
13 data sources. Looking at other means to
14 obtain this data than direct interviews. One
15 of the factors that we found was that in our
16 volunteers, two-thirds of the volunteers were
17 white whereas one third were various minority
18 populations, primarily black women. When we
19 found this early in our study, one of the
20 things we did was to go back and do various
21 intensive recruitment in the black community.
22 We had used various sources such as going to
23 the churches. The churches referred us to
24 various women, respected black women in the
25 community who then had various socials where

1 we were invited and they would invite various
2 women to come, particularly women of child
3 bearing age who might be participants in the
4 study. This yielded some additional
5 information, but basically what we found was
6 that in this particular community, one of the
7 impressions was that this was the issue that
8 didn't impact the black community and they
9 were not as interested in it. Of course, it's
10 going to impact them the same as it is the
11 white population, but that was a general
12 perception.

13 Therefore, when you do studies such
14 as their epidemiological base, some of the
15 selection is bias and some of the volunteer
16 bias is very important and cannot be
17 discounted. When we looked at the rates that
18 we obtained, which were both from volunteers
19 plus our secondary data sources, which
20 included vital records for which we obtained
21 live births. Vital records are a fairly
22 accurate way to obtain this information
23 because most births are reported. We also did
24 a survey of all hospitals and emergency room
25 logs so that women that presented to hospitals

1 or emergency rooms with miscarriages, we could
2 pick these up even if they didn't volunteer
3 for the study. And basically what we found
4 was a rate of 17.4 percent for the white
5 population and 9.2 percent for the black
6 population with an overall rate of 12.7
7 percent. We felt that white rate was fairly
8 accurate, but we felt that black rate was
9 under ascertained, and the reason it was under
10 ascertained were several factors. The under-
11 ascertainment, a lot of it had to do with
12 documentation of miscarriage and of pregnancy.
13 One of the things that we found was that black
14 women did not obtain health care very early in
15 their pregnancy. This led to a couple of
16 different factors. In miscarriage, one of the
17 things we know is that the earlier you
18 diagnose pregnancy, the more miscarriages you
19 are going to find. More miscarriages occur
20 early in pregnancy with the rate decreasing
21 with time of pregnancy. In women whose
22 pregnancies are not diagnosed and not
23 documented, then we are not going to have that
24 information available.

25 In general, what we found was that in

1 black women, the diagnosis of pregnancy prior
2 to eight weeks was 12 percent as compared to
3 over 30 percent in the white population. Just
4 in that factor we are going to detect more
5 pregnancies in the white population because of
6 diagnosis of pregnancy. In many cases black
7 women would present at delivery with no
8 prenatal care. In these cases there would be
9 no comparable way to find miscarriage without
10 this access to health care.

11 Another finding we found was that in
12 general the white women were older at the time
13 of their first pregnancies with the black
14 woman being younger. As a woman ages as she
15 becomes older, her risk of miscarriage
16 increases, so that if we have white women who
17 were older who have put off having children
18 who are looking to get pregnant, who their
19 pregnancy is being diagnosed earlier, we are
20 going to detect more miscarriages than in a
21 population of younger women who their risk for
22 miscarriages is going to be later, and if they
23 are not looking to be pregnant, then they are
24 not going to find as many of these early
25 miscarriages. From these findings, as pertain

1 to the minority population, we think that
2 there are several factors to be considered.
3 One which, if comparable studies are done in
4 other populations, these factors need to be
5 considered. Age of the mother plus time of
6 diagnosis of miscarriage are very important
7 factors. As we compared these to national
8 studies that had been conducted elsewhere,
9 what we found was that in both the black and
10 the white population, when we controlled for
11 age and controlled for time of diagnosis of
12 pregnancy, their rates were comparable to
13 controlled women in other parts of the
14 country.

15 One of the issues aside from this
16 study that was apparent to our study team was
17 access to a health care. Many poor people who
18 are primarily black do not have the same
19 access to health care as do middle class white
20 women, therefore, the diagnosis and the
21 documentation of such events as miscarriage is
22 not going to be as great. So, if we are doing
23 these type of studies in other places, we need
24 to be cognizant of that and not compare these
25 rates to standard rates because we are just by

1 the nature of the situation, by documentation
2 of the event, by diagnosis of pregnancy, these
3 rates are going to be lower, and we need to
4 take that into account and not compare them to
5 standard rates. Other factors when we study
6 various health outcomes in the environment
7 that we need to be aware of is other public
8 health issues. The environment is one factor,
9 but there is other basic public health issues,
10 such as access to health care, such as
11 prenatal care for mothers that need to be
12 considered that can reduce the health, such as
13 miscarriage, such as infant mortality that we
14 can't forget when we are looking at
15 environmental factors.

16 In summary, we feel that study we did
17 as it relates to minority health issues is
18 that miscarriage was not a factor in this
19 case, but that other issues, such as access to
20 health care of various minority populations is
21 a very real issue.

22 MR. KUTCHER: Thank you, Dr.
23 White. Does anybody have any questions? Miss
24 Reiboldt.

25 BY MS. REIBOLDT:

1 included in the study but carried out is, at
2 the same time with various environmental
3 investigations, looking for possible
4 contaminants, and those studies did not give
5 us any clues of contaminants there, so we
6 could have gone that perspective to look at
7 contaminant and a health effect. We had a
8 health effect and first we had to see, was
9 there a greater number of miscarriages than
10 was expected before we could start looking for
11 that cause, and that is why the study
12 guidelines were set up for no further study,
13 looking at risk factors and then additional
14 study.

15 BY MS. ROBINSON:

16 Q. Are you aware of any community health
17 studies that have been conducted anywhere in
18 the country that would link pollution to
19 health effects on the community? Has there
20 ever been any study that has connected those
21 two?

22 A. Some of the studies that are -- that
23 have shown evidence are those conducted with
24 lead and the effects of lead in the community,
25 and I think there is overwhelming evidence

1 Q. Actually just a clarification because
2 in your executive summary you state that,
3 study was not designed to address the impact
4 of environmental contaminants or environmental
5 exposures on --

6 A. One of the things in studies of this
7 type is that there has to be a phased
8 approach. A lot of times when we look at
9 environmental issues, we know we have a
10 contaminant. We can look at what that
11 compound is and then look at the biologically
12 plausible health outcomes from that
13 contaminant.

14 Q. Sounds to me, you find health related
15 access to medical care, et cetera?

16 A. Well, in this issue, the complaint
17 was a health outcome -- miscarriages. And the
18 community had the perception it was due to an
19 environmental cause. Before you can look for
20 a cause, you have to find out if the effect is
21 there. So, this study was designed to seek,
22 was there an increase in the rate of
23 miscarriage. Had we found an increase in the
24 rate of miscarriage, then we could have gone
25 back and looked for other factors. Not

1 nationwide, and we have confirmed this with
2 other studies we have done in the City of New
3 Orleans, that indeed lead is one of the
4 overriding environmental contaminants where
5 there is proven health effects from
6 environmental levels of lead, and this is of
7 particular impact on minority communities.

8 DR. FORD: I wanted to make a
9 comment. You make a wonderful case for health
10 inequity.

11 DR. WHITE: The data is there.

12 DR. HICKS: One comment.

13 Q. In passing you used a term "middle-
14 class whites," and the fact that they will
15 access the services or health services earlier
16 than the other group. Did you control at all
17 for those groups for socioeconomic level?

18 A. We looked at such factors as income,
19 as education, and one of the tables in here
20 breaks it out. I don't know if it breaks it
21 out by black and white.

22 Q. Are these comparable groups?

23 A. But we do have the data. The fact is
24 that, no, they are not comparable groups,
25 which is why we separated out our black women

1 from our white women. Initially we did not
2 intend to do that, but we did find these
3 differences. One of the things that we found
4 was sources of health care, whether they went
5 to private physicians or whether they depended
6 upon the Charity system and the state health
7 clinics.

8 Q. But, you are making some broad
9 generalizations about the two groups with some
10 implications that there are some controls
11 there that make you comfortable in the
12 conclusions that you are drawing.

13 A. Well, I am trying not to make broad
14 implications. I don't mean to be. In general
15 what we found -- what we were asked to do,
16 what our original protocol was, that there are
17 no physiological differences that we would
18 expect different rates of miscarriage among
19 black and white women, but we did find that.
20 When we put them all together and just
21 averaged them, the rate was much lower than
22 what we expected.

23 So, we did extensive amount of
24 analysis as to why this was, and one of the
25 factors that came out was race, and then when

1 we looked at race, some of the factors we
2 found were time of diagnosis of pregnancy, the
3 age of the mother. And the time of diagnosis
4 of pregnancy was an indication of health care
5 plus documentation.

6 Q. When you talked about it, you talked
7 about it as if you had control groups. You
8 didn't say that, but when you describe your
9 analysis of the differences between the two
10 groups, one could assume until you made -- for
11 me, until you made the comment of the
12 differences between the health care seekers
13 and the middle-class white group, that you had
14 clean control groups, and there are all kinds
15 of things that you can say without -- I think
16 that is some good information, but there is
17 all kinds of things that one could say or
18 question with respect to the conclusion that
19 you make of those two groups of people without
20 having those clean controls?

21 A. Well, these types of studies, you
22 never have everything one way or the other.

23 Q. Then you can't say what you said?

24 A. You never have the extent of data
25 that you would like.

1 appear on the list of top 200 drugs dispensed
2 nationwide.

3 One report which could not be
4 generated was that which identified cyclic
5 miscarriage incidents which I had observed.
6 For 14 months, I urged state and federal
7 intervention into the health problems of our
8 community. What I did have at my disposal
9 were state and federal reports indicating that
10 our corporate neighbors lacked environmental
11 responsibility. In 1987, the Toxic Release
12 Inventory showed that more than seven billion
13 pounds of toxics were discharged into the air,
14 water and land. USA Today's analysis found
15 that toxic pollution in the largest volumes
16 occurred in small towns in Louisiana and
17 Texas. Likewise, the United Church of Christ
18 Commission for Racial Justice released an
19 executive summary of the report, "Toxic Waste
20 and Race in the United States." Important
21 findings of that study which I am sure you are
22 aware of were that, three out of every five
23 black and Hispanic Americans lived in
24 communities uncontrol toxic waste sites and
25 that socioeconomic status appears to play an

1 important role in the location of commercial
2 hazardous waste facilities. There is also an
3 industry study which advises chemical
4 companies to target Catholic communities for
5 siting new facilities.

6 There exists no better description of
7 St. Gabriel, Louisiana than the aforementioned
8 characteristics. As health professionals in a
9 poor community, we could never practice
10 preventive medicine. Our community being poor
11 as one might expect was quite reactive to
12 unhealthful changes in the environment. Even
13 a small toxic release could tip the scale of
14 one at risk pregnancy and predict a successful
15 outcome. My appeal to the state and the
16 federal government for intervention and to the
17 blight of my neighbors was relentless.
18 However, the Achilles heel of the community
19 was our pharmacy. If there were no pharmacy,
20 there could be no clearinghouse for health
21 information. I am sorry to report to you
22 today that after 14 years, a pharmacy managed
23 by a woman and operating in an economically
24 depressed community has closed its doors.
25 Money and power has won again. The war

1 however is not over. There is no peace
2 without justice, and our community demands
3 justice. Too many questions remain
4 unanswered.

5 Dr. Ray Cowart, a veterinarian with
6 the Department of Agriculture has told me of
7 the six thousand cows quarantined in our
8 community in the 1970's because of
9 hexachlorobenzene poisoning. If the poisoning
10 occurred because of the presence of HZB in the
11 grass, which he has told me possibly was the
12 source, wouldn't home gardens be likewise
13 affected? Cows tested positive, yet tests
14 were never done on the human population.
15 Symptoms of HCB exposure from a 1955 study
16 where women miscarried is well documented in
17 the literature. Why was there no follow-up
18 done in my community?

19 An Ascension Parish physician's
20 office called to report an increased number of
21 miscarriages in that community. Is anybody
22 listening?

23 A reporter calls to tell me to be
24 very careful because the polluters are playing
25 hard ball. What do they have to lose by

1 cleaning up their acts?

2 A young Baton Rouge woman's
3 gynecologist asks her to contact me in an
4 attempt to determine the reasons for her
5 spontaneous abortions..

6 She lives across the street from a
7 Louisiana Superfund site. Has the medical
8 community adequately addressed environmental
9 health issues?

10 Dr. Frederick Cardwell, a Raceland
11 obstetrician called to asked me what is being
12 produced by an industry in his community. A
13 beautiful baby was born dead to a woman whose
14 husband was employed by that toxic generator.
15 He also had seen miscarriage clusters occur as
16 the sugar cane fields which are aerially
17 sprayed with pesticides. How is the
18 government protecting us?

19 Why are 48 percent of the children
20 treated for cancer at St. Jude's Children
21 Research Hospital in Memphis, Tennessee, from
22 Louisiana?

23 A female laboratory technician at a
24 local industry calls and asks me if the four
25 parts per million of hex in her blood has been

1 transmitted to her children during her
2 pregnancies. Who is responsible?

3 We have two state prisons and one
4 federal prison in my community. The wardens
5 of those institutions live on site. We have
6 nothing to fear from a facility when the man
7 in charge of it lives among us. There are ten
8 major chemical industries located in our
9 community. Why do all ten plant managers
10 choose to live in the Sherwood Forest
11 neighborhoods of Baton Rouge? Do they know
12 something they are not willing to share with
13 us?

14 To what extent will major polluters
15 go to achieve their goals? In 1976,
16 CIBA-GEIGY employees in Egypt conducted a test
17 in which six Egyptian boys were deliberately
18 sprayed with the insecticide chlordimeform, a
19 banned pesticide in the United States. Each
20 child was paid five Egyptian pounds which was
21 about ten dollars to stand in a field
22 unprotected while an airplane sprayed them
23 from a height of five meters. All of the
24 children showed immediate signs of organo-
25 chlorine poisoning, including soaring levels

1 MR. KUTCHER: Thank you, Dr.
2 White. Thank you. Does anybody else have any
3 other questions?

4 COMMITTEE MEMBERS: No.

5 MR. KUTCHER: Our next speaker is
6 Kay Gaudet. Miss Gaudet is a resident and
7 pharmacist at St. Gabriel. She was the
8 individual who requested the study -- what
9 ultimately became the study that Dr. White was
10 just talking to us about, so welcome, Miss
11 Gaudet.

12 MS. GAUDET: Good afternoon. My
13 name is Kay Gaudet. Forty years ago I was
14 educated in the public schools of this city
15 and I graduated from Northeast Louisiana
16 University in 1973 with a degree in pharmacy.

17 I am married to a native Louisiana
18 and have two beautiful daughters. It is with
19 much pride that I give you this background
20 information and with much hope that I want to
21 relate to you what I have seen to have
22 happened in Baton Rouge and neighboring
23 communities in the last couple of decades.

24 Growing up in Baton Rouge, I knew
25 little more than that huge refinery on Scenic

1 Highway fed and clothed me and my five
2 brothers and sisters. One night a forceful
3 explosion rocked us from our beds. Our home
4 shook more violently that night than when
5 Hurricane Hilda left its massive destruction
6 on this city.

7 Chippewa Avenue which Mr. Fontenot
8 has talked about earlier this afternoon was
9 Exxon's boundary to the south. It separated
10 my elementary school yard from the refinery.
11 Annually, all school children competed in a
12 track event called the Walk and Run. I
13 remember the stench in the air was to be so
14 overwhelming that my run could only be
15 finished by holding my blouse over my nose and
16 mouth. This was in the late 1950s. I wish I
17 could tell you today that we have come a long
18 way, however, the stench is still in the air,
19 and Exxon's latest explosion killed one person
20 and blew the windows out of homes in my old
21 neighborhood.

22 When asked to participate in this
23 fact finding meeting, I cautiously anticipated
24 environmental justice to finally prevail in my
25 old neighborhood and in the community in which

1 I live today. When my letter from the
2 Commission on Civil Rights arrived, I eagerly
3 searched for the directives of this
4 independent bipartisan commission. I found,
5 by order of Congress, that the commission
6 shall, and I quote: "Serve as a national
7 clearinghouse for information in respect to
8 discrimination or denial of equal protection
9 of the laws because of race, color, religion,
10 sex, age, handicap or national origin."

11 What I failed to find in these
12 directives was equal protection from
13 discrimination because of economic status. My
14 old neighborhood and the majority of my
15 community today live below the poverty level.
16 Poor has no color. It has no sex, and it has
17 no age. The common thread is, however, the
18 corporate neighbors spewing toxic chemicals
19 and waste into the air we must breathe, the
20 water that sustains our lives, and the land
21 that bears the fruit of our harvests.

22 17 years ago as a newly married
23 couple, my husband and I bought a home in St.
24 Gabriel, Louisiana. In December 1976, we
25 opened a small retail pharmacy in the

1 community. At the time, St. Gabriel had one
2 red light, a bank and six churches. At the
3 time, the corporate neighbors located along
4 the banks of the Mississippi River were no
5 more ominous to me than huge refinery that I
6 had grown up with in Baton Rouge.

7 The pharmacy was a welcomed addition
8 to the community and we were fulfilled in our
9 service to our neighbors. Customers became
10 friends, and friends stand by friends, or at
11 least I thought. As it turns out, however,
12 friends support friends until they succumb to
13 the pressures of economic intimidation.

14 Computerization of our pharmacy
15 enabled our store to be on the cutting edge.
16 And that cutting edge would eventually drive
17 the last nail into our pharmacy's coffin. As
18 the community's full-time pharmacist, I was
19 keenly attuned to the health status of our
20 population and could produce reports verifying
21 flu epidemics, pediculosis infestations and
22 occurrences of cancer. Drug usage reports for
23 my pharmacy alone indicated that the No. 2
24 drug dispensed by me was a medication for
25 cancer patients. That particular drug did not

1 of chlordimeform in their urine. Why were
2 these tests performed on Egyptian children?

3 Walter Strasser, CIBA-GEIGY's public
4 affairs director responded, and I quote, "They
5 could have been done in Europe, but there is
6 no cotton here. And it's not the same social
7 system. Perhaps it was wrong. We don't
8 compare Egyptian children to European
9 children," end quote.

10 I contend that this is the philosophy
11 of all petrochemical industries. They believe
12 their neighbors are not of the same social
13 system. It is time for our congress to enact
14 legislation which affords equal protection of
15 laws for all citizens regardless of economic
16 status.

17 After all is studied and analyzed, we
18 are each called to action. And in listening
19 to some of the testimony that preceded mine, I
20 have a few comments. As a pharmacist I know
21 that drugs are not allowed on the market until
22 they are proven safe and effective for the
23 masses of people.

24 Some drugs slip by the FDA. However,
25 how extensive have the tests been done on the

1 toxics that are routinely between Baton Rouge
2 and New Orleans? When the DEQ official was
3 here, theirs is not to question where the
4 facility is located, but my question to that
5 response is, have we seen a synopsis of the
6 sites that are proposed to the DEQ? I contend X
7 that everything that is proposed to the DEQ
8 has been proposed in a minority or a socially
9 economically depressed area. Why don't we get
10 a synopsis of everything that has been
11 proposed to DEQ and take a look at it? Has
12 there ever been a proposal in an economically
13 thriving community? I doubt it.

14 I will entertain any questions now.

15 MR. KUTCHER: Thank you, Miss
16 Gaudet. Mr. Baker.

17 BY MR. BAKER:

18 Q. Your allegations got tremendous
19 publicity, 60 Minutes I think covered it, and
20 that would be reason to do a study, and a
21 study was done. It would help us in -- since
22 we are a factfinding body, if you could tell
23 us what, either in the assumptions or the data
24 or the conclusions of the study, what you
25 disagree with?

1 A. The minority communities, as Dr.
2 White has said, was grossly undercounted.
3 Every study across these United States which
4 has been conducted has said that blacks
5 miscarry at a greater rate than the white
6 community. In our study, Dr. White found that
7 17 percent of whites miscarried and only nine
8 percent of blacks miscarried. She even
9 stated that -- she compared our community to
10 middle income communities across the United
11 States, and that she sees the flaw in that
12 thousand. We are not a middle income
13 community. We are an economically depressed
14 community with the majority of the community
15 being below the poverty level.

16 Q. Observations that you made based on
17 your computer record, were you able to divide
18 these by race? Were you able to do any kind
19 of a study that would indicate rate within
20 some kind of defined area? Do you quarrel
21 with the rate, for instance, on the white
22 report? Do you quarrel with the rate that
23 they came up with in the 17 percent; is that
24 right, Dr. White?

25 DR. WHITE: 17 for white.

1 BY MR. BAKER:

2 Q. Does that conflict?

3 A. I have to tell you, I did not look at
4 race. That was --

5 Q. Do you think that rate that they came
6 up with on white, let's assume the whole rate
7 was 17 percent rather than down where it was,
8 do you think that that rate is inaccurate for
9 your area?

10 A. 17 percent is what you are asking?

11 Q. Yes.

12 A. I have to tell you, if that is what
13 Dr. White came up with, 17 percent is probably
14 within the rate that we would expect the white
15 population to have had unsuccessful pregnancy
16 outcomes.

17 Q. I am trying to find out where on the
18 numbers you might be at odds with the study?

19 A. I guess I am at odds when we average
20 the white rate and black rate.

21 Q. If we said the rate was 17 percent,
22 that would be something that you could --

23 A. That would fall into the protocol
24 that said we needed further study.

25 MR. KUTCHER: Anybody else on this

1 side of the table have any questions for Miss
2 Gaudet?

3 MS. MADDEN: Yes.

4 Q. You had mentioned that you had lost
5 your family business. Can you tell what
6 happened there?

7 A. There were a number of economic
8 factors that led to our closing the store.
9 The least of which was the pressure that was
10 put on local industry employees not to do
11 business with us any more.

12 Q. Who were those people that opposed
13 your business? Was that the companies?

14 A. The industrial employees of the
15 community. Industrial companies of the
16 community.

17 BY MS. ADAMS:

18 Q. I am real interested in that
19 particular thing. Are you saying that the
20 companies encouraged the employees to boycott
21 you economically because you did the study?

22 A. I can only tell you what employees
23 came to me and told me, and that was that they
24 were told there would only be one winner in
25 this battle, and it was going to be their jobs

1 or my job. Now, exactly who along the
2 corporate line made those statements to the
3 employees, I have no idea. That is not a
4 grave concern to me as to who made this
5 statement. All I know is that employees were
6 intimidated.

7 MR. KUTCHER: Thank you, Miss
8 Gaudet.

9 MS. ROBINSON: I have one
10 question.

11 MR. KUTCHER: Why don't we, if we
12 can, why don't we ask Mr. Holden to come up.
13 Thank you, ma'am.

14 MR. BAKER: Dr. White is leaving
15 and I would like to ask a question. Please.

16 MR. KUTCHER: Ask the question.
17 Dr. White, answer the question, and then let's
18 go on.

19 BY DR. BAKER:

20 Q. Dr. White, if instead of averaging
21 the black and white race, the rate came out to
22 be what it was for whites, 17 percent, that
23 was the overall rate, would you have done
24 anything further?

25 A. Well, if the guidelines of the study

1 were less than 15 percent, we would do
2 nothing. Between 15 and 25 percent, we would
3 look at risk factors. Above 25 percent would
4 warrant other studies. We did look at other
5 risk factors, between 15 and 25 percent, and
6 what we found was that in that group, the age
7 of the women at their time of first pregnancy
8 and miscarriage was older, was between 30 and
9 35. Above 35, the rate of miscarriage
10 increases. The other factor, normal risk
11 factors for pregnancy that we found were the
12 earlier diagnosis of pregnancy. In by-gone
13 years, 12 weeks was the time. It's creeping
14 to eight and then even at four weeks, so, when
15 you control for age of the mother, and time of
16 diagnosis of pregnancy, it falls within
17 comparable groups.

18 Q. All I want to know is, would you have
19 done anything differently if the average rate
20 was in fact 17 percent rather than the lower
21 rate? Would you have done anything
22 differently than what you did do?

23 MR. KUTCHER: Can you answer that
24 question yes or no?

25 A. No, I don't believe we would have

1 done anything different.

2 MR. KUTCHER: Hi, how are you?

3 MR. HOLDEN: I am doing fine. I
4 guess you want me to enter and sign in,
5 please. I am Representative Kip Holden. My
6 real name is Melvin. Kip is the nickname. I
7 am the state representative who represents
8 North Baton Rouge House District 63. I am a
9 second term legislator. Prior to that time, I
10 served as a city councilman. I am also in the
11 House of Representatives on the natural
12 resources committee, chairman of the
13 subcommittee on the environment. And also the
14 new chairman of the environmental quality and
15 natural resource committee for the Southern
16 Legislative Conference.

17 Let me first thank the members of the
18 commission for holding these hearings in Baton
19 Rouge to address the issues surrounding
20 environmental equity. This subject is complex
21 and has become the topic of much discussion
22 over the past five years. I think it would be
23 appropriate for me to lay the foundation for
24 my testimony by telling you about the district
25 in which I reside and represent. The district

1 is primarily comprised of working class people
2 with roughly 75 percent of the estimated
3 40,000 people being black. In the district is
4 the city parish landfill, a sewage treatment
5 plant, a commercial hazardous waste
6 incinerator operated by Rollins Environmental
7 Services, a Superfund Cleanup Site known as
8 Petro Processors which, by the most optimistic
9 estimate, it would take two hundred years to
10 clean up and numerous petrochemical companies.
11 When one looks where these companies tend to
12 locate, there is no doubt you will find a
13 disproportion in number of minority or rural
14 communities. This has been pointed out in
15 studies done by the General Accounting Office
16 and the United Church of Christ. Now the EPA
17 is apparently looking into the situation as
18 well. But based on the evidence today,
19 studies point out that most waste sites are
20 located in mostly black or Hispanic
21 communities. Seeing the dumps in my
22 neighborhood and the commercial hazardous
23 waste incinerator, I would have to agree with
24 the reports pointing out the fact that these
25 facilities are and have been a terrific burden

1 and headache minority communities. I think it
2 is important to examine why. Again, another
3 topic of controversy. One can't ignore the
4 fact that these companies came into minority
5 communities with promise of jobs. The great
6 savior for the community.

7 On the other hand, some of these same
8 companies have become very chummy with the
9 leadership and some of the minority
10 communities who have chimed in to the
11 advantages of these facilities in our
12 community. Others have come in because they
13 felt people in minority communities would not
14 buck them politically. If a few jobs were
15 created to take care of some of the local
16 people. On the other hand, I am sure that
17 there are some who thought that based on skin
18 color, the political voice was weak anyway.

19 Now, most of these communities are
20 seeing and facing their worse nightmares. All
21 brought about by the placement of hazardous
22 waste facilities in the neighborhoods. The
23 jobs promised have not been created. Many
24 have used their political muscle on the local
25 state and national level to get their way.

1 People in the neighborhoods have seen sites
2 grow. Pollution of the air and water and
3 property values declined. Neighbors have been
4 pitted against neighbor. Added to those woes,
5 people in some cases have trouble growing
6 vegetables and many are complaining of
7 illnesses they never had before, just like the
8 country and western song, the hazardous waste
9 companies got the mind and the people got the
10 shaft. Now a number of years later, they are
11 just like the energizer battery, still going.
12 There are some companies who say they have
13 adopted a new attitude. In the Kansas Journal
14 of Law Public Policy Volume 1, Number 1 dated
15 summer of 1991. an article written by JoAnn
16 Bernstein of Waste Management pointed out: In
17 the past many sites were chosen simply because
18 they were considered undesirable for other
19 purposes. Other favored areas were industrial
20 sites because they are generally available or
21 low cost or sparcely populated. And because
22 these facilities were usually located on low
23 cost land, any people in the area were likely
24 to be poor. And finally she stated, that
25 housing developed near disposal sites because

1 the lower land values attracted poor
2 residents. I agree with one point Miss
3 Bernstein made. These companies look for
4 cheap land. Even today, I see many cases
5 where there is no great concern and total
6 disregard for the laws of the state and the
7 EPA. Added to that, many of the companies
8 have located in communities that already
9 existed in terms of houses, schools and
10 churches. Miss Bernstein further points out
11 in the article: The waste industries'
12 criteria for identifying attractive sites has
13 evolved over the last several decades from
14 considerations that were primarily financial
15 to considerations that reflect priority of
16 protecting human health and the environment.
17 This is a classic case of surface and
18 substance. On the surface, this sounds good.
19 In reality, it's just not so. Please tell me
20 what waste company in this country does not
21 have as its primary purpose making money.
22 Isn't it nice to see all these companies
23 concerned about protecting human health and
24 the environment?

25 There is another point I feel is

1 important as we debate environmental equity.
2 The question: Economics. It is at this
3 stage, the companies have cut across racial
4 lines because in cases where they are not in
5 minority neighborhoods, you will find them in
6 poor white areas. I feel the problem of
7 hazardous waste facilities and location is one
8 of race and economics. Not just the economics
9 of the company but the lack of economics of a
10 community. As a legislator, siting of these
11 facilities has been a major concern. We have
12 given the Department of Environmental Quality
13 the authority to develop rules and regulations
14 in that regard.

15 As for the future, it would take an
16 extraordinary effort to right some of the
17 wrongs brought about as a result of some of
18 these hazardous waste companies locating in
19 minority communities. Effective enforcement
20 both in civil penalties and criminal penalties
21 may somewhat ease the burden. In the end, it
22 will take more sensitivity on the part of
23 those in government at all levels, and more
24 sensitivity on the part of these companies, to
25 change the pattern of discrimination in the

1 siting of these facilities.

2 Again, let me thank you for this
3 opportunity to address you with these
4 comments, and now I will entertain any
5 questions you may have.

6 MR. KUTCHER: I think Miss McDade
7 has a question she wants to ask you.

8 BY MS. MCDADE:

9 Q. My question is a two-part question.
10 Because you are involved in the legislative
11 process, you are really more prepared to
12 answer this than anyone who has been here. I
13 am looking at the legislative efforts. What
14 legislative efforts could be looked at that
15 would, number one, protect those communities,
16 whether they are minority communities or
17 nonminority communities from having the
18 nuisance of the chemicals in their area but
19 would not at the same time weaken our already
20 weakened economy by discouraging industry from
21 moving into the State of Louisiana?

22 A. Okay. We are trying to do a number
23 of things over the last few years. I authored
24 a bill that would reduce the amount of toxics
25 emissions in the air in Louisiana from the

1 1987 levels by 50 percent and that we stretch
2 the date out to 1996. We were a step ahead I
3 feel in Louisiana in terms of comparing the
4 federal Clean Air Act to what we were doing in
5 the state.

6 Also, I was able to testify before
7 Congress, Congressman Waxman's committee about
8 the efforts we undertook. At that time, I
9 think without a doubt, industry came to the
10 table, but during the last session of the
11 legislature, we saw a retrenchment on the part
12 of some who wanted to complicate the formula
13 and others who felt that we did not need to
14 address any rules or regulations which were
15 greater than those in the federal Clean Air
16 Act. Obviously, from our standpoint, in light
17 of the fact that Louisiana ranks so high in
18 regards to the amount of pollutants admitted
19 into the air and water, that we needed more
20 stringent measures, and this is the point we
21 were finally able to get across. We again,
22 though, industry did come to the table on
23 that.

24 On the other hand, we have enacted
25 some legislation, that although if it is

1 passed, we see where industry is beginning to
2 fight us in court a lot more to maybe weaken
3 those rules or get them declared
4 unconstitutional or in valid. So, the point
5 is, the legislature I feel has taken great
6 strides to soften the impact in regards to
7 what is happening in a number of communities.
8 But, where as we have taken that stride, an
9 alarming number of suits have been filed to
10 challenge major legislative initiatives just
11 undertaken in the past few years.

12 Now, you brought out a very important
13 question, well. how do you really strike this
14 balancing act? Well, I also sit on the ways
15 and means committee in the legislature. We
16 went over and over again on the question of
17 fiscal reform. In the testimony that we had
18 in several sessions. one of the questions came
19 up, well. what are some of the factors
20 industry will consider before it comes to
21 locate in a community. The environment along
22 with education is one of the factors. Not all
23 of the stuff that is being emitted into the
24 air, but really a clean environment because
25 they want to make sure they can locate their

1 families here in a situation that is healthy
2 for them and also get a good education. We
3 are not in the business of running industries
4 out of Louisiana, but in many cases, some
5 companies have taken their own initiative to
6 go back and streamline some processes and also
7 have some waste recovery methods put into
8 place that have actually saved them money.

9 Unfortunately, we have some players
10 out there that regardless of what you do, they
11 will never willingly come to the table to try
12 to solve some of the problems. Others are
13 coming to the table finding out that they are
14 saving some money. I do believe that, if some
15 of these other companies will look at some of
16 the things that have been done, that they can
17 save dollars as well. One other point I would
18 like to bring out. the other thing that is
19 important, we are also giving a lot of these
20 companies tax breaks, so we are giving them
21 tax breaks for installing pollution devices or
22 devices to cut down on the amount of
23 pollution. We are giving them tax breaks
24 based on the ten-year tax exemption that we
25 have.

1 So, based where we may be giving them
2 more stringent requirements; on the other
3 hand, they are also getting a carrot dangled
4 out there easing the burden on them.

5 Q. Quickly, this is a yes or a no. You
6 cited studies that indicated that indeed the
7 minority communities were more adversely
8 impacted. Could you provide this committee
9 with some of those studies and the background
10 as to who commissioned the studies -- at a
11 later date, not right now.

12 A. Sure. Yes.

13 MR. KUTCHER: At a later date is
14 what made it a yes or a no. Anybody else over
15 here?

16 BY MR. BAKER:

17 Q. Representative Holden, you mentioned
18 all the lawsuits and you mentioned more
19 stringent requirements. Does this indicate
20 that Louisiana's environmental laws are more
21 stringent than the federal?

22 A. In some cases, yes. I think our
23 clean air rules -- and I couldn't go point for
24 point, but I think we are a lot more
25 aggressive in regards to the time table.

1 MR. BAKER: Thank you.

2 MR. KUTCHER: Anybody else?

3 MS. MADDEN: Yes, representative
4 Holden.

5 Q. We have heard in some of the other
6 presenters today that one reason waste sites
7 are placed in black neighborhoods is because
8 of a lack of political power. Now, I know
9 that is not true in your district. Do you
10 think that is changing in some other parts of
11 the state or what is the status now? Can you
12 tell I am going from the Rodney Dangerfield to
13 the E. F. Hutton? I will put it this way: It
14 was a sad thing for me to see last night on
15 television. The waste dumps out in St. Helena
16 Parish in a rural area. And I just looked at
17 the camshaft watching it scan the audience to
18 see who was there. and by and large those were
19 blacks and whites. And not in a real rich
20 community, but you see where these people have
21 gone out in that community and really put
22 some -- I don't know whether I want to say
23 lives in jeopardy, but health in jeopardy, I
24 think, and homes in jeopardy as well.
25 Amazingly enough, I think back around 1985, in

1 that same community, there were some parties
2 who wanted to locate a commercial facility
3 over there, and if it had not been for
4 politicians coming forward, that facility in
5 my mind no doubt would be there today. But
6 those politicians came forward simply because
7 the people now are coming in and making their
8 voices known in numbers that I have never seen
9 before. And, whereas we talk about the
10 political influence without those citizens now
11 starting to speak up, the political influence
12 may get lost in the shuffle, so I do believe
13 that we are seeing more political influence;
14 but on the other hand, I do believe that some
15 of these politicians are willing to sell out
16 whoever they need to sell out to get a plant
17 located in their community and take care of
18 whatever they need to take care of on their
19 personal agenda.

20 MR. KUTCHER: That's right.

21 BY MS. REIBOLDT:

22 Q. What recommendations would you make
23 for improving the environment in the black
24 communities. and also as a follow-up on that,
25 are you aware of tensions between the

1 industries, the government and the black
2 communities, and if you are, give us some
3 examples of some of those relating to
4 environmental issues.

5 A. Okay. The recommendations, obviously
6 it's not that cut and dry because you are
7 dealing with state rules and you are dealing
8 with federal rules. Obviously we just can't
9 go in and shut down a facility, but I think
10 it's important, and I will bring out the
11 Rollins situation because I do believe you
12 will hear from those individuals tomorrow.
13 When you have a company when it's made very
14 clear in their permit that they cannot accept
15 radioactive waste and they still accept
16 radioactive waste, and that company has made a
17 pretty piece of change, and they are only
18 fined ten thousand dollars for that, then I
19 think we need to go back in and rework a
20 number of things. The fine should be much
21 greater and the punishment overall should be
22 much greater. If we have in good faith
23 enacted these rules and regulations, then they
24 should be good law abiding citizens. They
25 have the same responsibility as any of us here

1 responsibility as any of us here today to
2 abide by the law. I think we will have to
3 make sure that in some cases we are going to
4 have to have -- I mentioned several penalties.
5 That is going to have to be higher than
6 criminal penalties. It's interesting to note
7 that Justice Department is even taking
8 excessively more stringent attitude towards
9 going after individual corporate people. We
10 may have to start doing the same thing.

11 But the bottom line is that, unless
12 they abide by the rules and regulations, there
13 is not a whole lot we can do other than get
14 more aggressive enforcement and try to make
15 sure these people are closed up at some point.
16 Trying to close them down is one of the
17 biggest nightmares you can imagine. There is
18 a lot of political muscle involved in these
19 things. In the Rollins case, they are a well
20 oiled machine from Baton Rouge to Washington
21 D.C. and probably beyond. And many of these
22 companies are doing what they need to do to
23 have people in places, high places who know
24 how to get around the rules and regulations.
25 Give you one example, and I think it's Rollins

1 , again. The former head of EPA Region IV now
2 heads Rollins Environmental Services. So,
3 these are some of the things that really makes
4 me hesitant to say that there is a solution
5 out there to take care of this problem.

6 In regards to tension, there are a
7 lot of people who feel that, for example, that
8 there are not enough blacks employed in DEQ,
9 for example, not enough people who are really
10 out there looking at their interests, and
11 therefore they don't really feel in many cases
12 they have somebody there they can trust, but I
13 would not limit that to blacks. I will speak
14 representing that community, but I have heard
15 the same fears related to me by a number of
16 white as well. Those things have brought a
17 lot of tensions because there is a perception
18 problem that these other individuals have the
19 ear of these departments and the people out
20 here in the community that are being affected,
21 unless a legislator or somebody else will
22 speak for them on a regulatory side there,
23 they basically have a deaf ear, so those
24 tensions are great, and I don't know whether I
25 could stand or sit here today and say they may

1 evolve into any type of radical action, but
2 they have been peaceful boycotts. I have been
3 involved in some and demonstrations pointing
4 out our concern about some of these facilities
5 located in our community.

6 Q. So, you think that ultimately if
7 these things can't be worked out, it would be
8 your goal to shut them down?

9 A. Yes, ma'am. And let me also inject a
10 personal point. I live within one mile of
11 that facility. The most precious investment
12 that all of us can make deals with a house,
13 deals with those kids and your family, and
14 trying to grow up in a community where you
15 feel free and feel safe. At some point,
16 people try to use tremendous restraint to deal
17 with problems, but when you push a person and
18 push a person and push a person, and you have
19 taken away that thing which he or she worked
20 so hard to achieve. I cannot sit here and tell
21 you what the reaction of that individual may
22 be. All I can say is that we have enough time
23 and enough people with common sense to start
24 to address a problem that is getting out of
25 hand. Absent reasonable people addressing

1 these problems, then unreasonable actions will
2 probably be taken by some of those affected.

3 Q. If you were shown as we have been
4 told today that -- and I don't believe the
5 Rollins case, but say any case, that you are
6 not being negatively impacted and, say, cancer
7 rate has been testified to today or other
8 situations, would that then ease your fear?

9 A. They have the best scientists money
10 can buy to support their point of view. Even
11 the EPA has come out with studies indicating
12 deaths and illnesses associated with a number
13 of these toxics emitted into the air.
14 Obviously they would never admit to the fact
15 that this impacts other people because they
16 open themselves up for tons of lawsuits. So
17 it's a matter of looking out for the economic
18 good. But, when you see people walking around
19 with rashes on their arms, when you see the
20 doctors in Baton Rouge telling you it is not a
21 good day for you to go outside because of
22 ozone problems, I mean then, how can they keep
23 refuting this information?

24 Q. So, really and truly, the problem is
25 just not in the minority communities, the

1 problem is in Louisiana?

2 A. That's correct, and I do believe that
3 these guys cannot continuously play upon the
4 intelligence of people and tell them that the
5 problems they are encountering are the result
6 of diet, smoking, alcohol and all of these
7 other ancillary things that they come up with
8 but are never related to them.

9 Q. But you don't think any of those
10 things contribute?

11 A. It contributes. I don't smoke. It
12 contributes. My daughter is an asthmatic.
13 She does not smoke. Yes. They may
14 contribute, but on the other hand, there are a
15 number of cases. and we saw in the debate over
16 the air quality bill a number of people from
17 right over in Port Allen who brought kids with
18 very rare forms of cancer to come in to our
19 committee to come in and testify. What are
20 they going to say? That these kids smoke and
21 drink alcohol at three, four years old?

22 Q. It was said today and brought out
23 that these cases exist but not to the extent
24 it might exist in other areas?

25 A. I am familiar, and I applaud them for

1 looking out for their best interest, but in
2 this case, it's just not the truth.

3 MR. KUTCHER: Anybody else have
4 any questions. (None) Thank you. I
5 appreciate it. What we are going to do is
6 recess.

7 MS. REIBOLDT: I just really want
8 it known that I did try to ask the questions
9 of Dr. White. I would like for the record to
10 have asked those questions.

11 MR. KUTCHER: Do it by written
12 questions.

13 MS. REIBOLDT: No one has been cut
14 off. We had time, and I really think that was
15 out of line.

16 MR. KUTCHER: We are going to
17 recess until seven o'clock this evening, and
18 we are going to address environmental
19 community group perspectives there at that
20 time. Dr. Ford is the chair.

21 (A dinner recess was taken..)

22 DR. FORD: Ladies and gentlemen,
23 we would like to reconvene at this time. We
24 are now entering the fourth session of this
25 factfinding hearing or factfinding meeting I

1 should call it.

2 At this time we would like to bring
3 forth our next presenter, Mr. Pat Bryant. Mr.
4 Bryant is director of the Gulf Coast Tenant
5 Association. He is an attorney by profession.
6 Mr. Bryant has served on the governor's
7 transition team for the Department of
8 Environmental Quality. The association that
9 he leads was founded in 1982 by tenant leaders
10 from Alabama, Mississippi, and Louisiana to
11 assist tenants with housing needs. With that
12 background, we will bring forward Mr. Pat
13 Bryant to present to the advisory committee.
14 Good evening.

15 MR. BRYANT: Give me a couple of
16 minutes to kind of get organized here. I just
17 stepped out of my car. I thought I was going
18 to get a ticket over here.

19 Let me say that I am glad to have
20 this opportunity to address the Louisiana
21 Advisory Committee of the U.S. Commission on
22 Civil Rights. I remember a period back in the
23 late 1950's and 60's and in the 70's in which
24 the state committees were having hearings all
25 around the country on various matters, and

1 that usually ended in recommendations to
2 Congress, and also some implementation out in
3 the field on how to get substantive changes
4 made in the law and in the practices of this
5 country, and I am glad to see the commission
6 is still moving in this direction.

7 The members of the Gulf Coast Tenants
8 organization applaud your advancing the
9 dialogue and factfinding regarding
10 environmental racism and the poisoning of
11 people of color in the United States.
12 Experience and expertise of the Gulf Coast
13 Tenant Association is that of community
14 organizing and developing grassroots community
15 leadership in African American communities.
16 Our staff, volunteers and board is at the
17 cutting edge of community movement to stop the
18 collaboration of government and industry to
19 poison communities, particularly communities
20 of color. We have assisted African American
21 leaders in scores of communities in Louisiana,
22 Mississippi and Alabama is where we operate.
23 The findings of the United Church of Christ
24 Commission for Racial Justice coincides the
25 found knowledge in southern communities that

1 poisonous wastes are more likely to be placed
2 in communities of color than in white
3 communities.

4 At the outset, allow me to express
5 concern that this commission not be involved
6 in window dressing and covering up a most
7 serious phenomenon. Government and industry
8 leaders are indeed covering up the problem of
9 disproportionate poisoning of people of color.
10 The choice of words to describe this
11 phenomenon are important and have a
12 considerable bearing on whether we cut through
13 the web or get tangled up in it. We deeply
14 regret that this commission has chosen the
15 deceptive phrase of environmental equity.
16 What does this phrase mean? How does it
17 relate to the poisoning of people of color?
18 Does it mean that people of color and the
19 government should seek to distribute poisons
20 equally between white and affluent
21 communities and communities of color? Does
22 it mean that people of color are getting too
23 much poisons and whites not enough? Beginning
24 ten years ago, grassroots community leaders
25 across the United States began to focus

1 intensively on this problem. Environmental
2 racism was first used to describe the PCB
3 dumping near a school in Warren County, North
4 Carolina, a predominantly African American
5 county, and that term has been used by
6 scientists and activists a great deal since.
7 When industry and government single out people
8 of colored communities to put poisons that
9 maim, destroy and limit the potential for the
10 good life of the living and unborn, that is
11 environmental racism. Likewise, the absence
12 or mediation of environmental racism is not
13 environmental equity, but it is environmental
14 justice. Environmental justice implies that
15 no one is dumped upon and that earth is not
16 poisoned. Environmental justice demands an
17 end to the rape of the earth and the
18 disproportionate misuse of its precious
19 resources by the rich white super rich and the
20 northern hemisphere while people of color
21 communities and in the northern hemisphere and
22 in the southern hemisphere are systematically
23 starved, denied education, denied health care,
24 housing, clothing, and all those things that
25 go to make up the good life by standards that

1 have been set in Europe and America. We
2 notice that you have chosen to use the term
3 "coined" by misguided scholars and
4 collaborators of government and industry.

5 We urge you to use the two phrases,
6 "environmental racism" and "environmental
7 justice" and cut through the deception that
8 industry and government has put out to you.
9 Jobs, drug abuse, housing, health care and
10 recreation are environmental issues. Racist
11 policies that cause disproportionate
12 illiteracy, substandard housing and home-
13 lessness, joblessness and lack of health care
14 among people of color also lessen the quality
15 of governmental services to everyone else.
16 These services needed for life in the beloved
17 society that Dr. Martin Luther King dreamed,
18 fought and died to achieve, so an environment
19 we have redefined through our struggle to
20 include any relationships of human work, home,
21 humans at work, home, play, and in recreation.
22 The quality of the air, water, land, and all
23 the uses associated with are reflections of
24 the quality of services we get in other
25 aspects of life. How can people of color

1 expect clean air, water, soil, and these other
2 things that make up the good life without
3 equal access to education, jobs, housing and
4 health care. At the root of environmental
5 racism is a policy that poisoning of people of
6 color is an acceptable risk in the production
7 of goods and services. An example is the dead
8 zones which governments allow industries to
9 create in the communities where they operate
10 rather than stop and clean up industrial
11 poisons in communities surrounding their
12 claims. Congress gave industries carte
13 blanche authority to poison at will and buy
14 land in the surrounding communities that would
15 be destroyed. Take a trip down Cancer Alley
16 where I just came from today. You will see
17 communities that are completely dead zones.
18 I will tell you, when you go down
19 there, what you are most likely to find are
20 black people being poisoned, clear and simple.
21 I know you have been asking some of the
22 scholars, give me the empirical data, give me
23 at the empirical data. Go down there. Bob
24 can tell you, Bob can show, Bob can tell you
25 where it is. Go down there and you can see

1 it. It's very visible, undeniable. How can
2 America not expect migration everywhere of the
3 nearly two billion pounds of poisons each year
4 that are produced and escaped from factories
5 down in Cancer Alley's poor black communities?
6 Communities hugging these chemical smoke
7 stacks get more poisons in higher doses, but
8 the hundreds of millions of pounds of lethal
9 gases industries admit that they release
10 travel air-borne in a short period to
11 communities everywhere around the globe.

12 Likewise the hundred million pounds of poisons
13 dumped in the Mississippi River and the other
14 rivers here fatten our seafood. It is no
15 secret that Louisiana is the nation's second
16 largest producer of seafood behind Alaska.

17 But a secret shared by government and
18 industry is that the states largest estuary
19 and likely others is poisoned with high levels
20 of cancer-causing chemicals intentionally put
21 into the water by industry. The cancer and
22 disease that we see in Cancer Alley in black
23 communities are a window of opportunity for
24 this nation to stop the reckless regard for
25 life and the endless drive for profit at all

1 expense by industries. We could not prove
2 that the chemical industries cause an increase
3 in cancer, but we certainly know that we were
4 not sick before these companies moved in. We
5 know that for a fact. I will make two
6 observations before I close.

7 The first observation is that all of
8 our societal institutions share in the profit
9 and the misery of people of color and our
10 genocide. Corporate hands that I have met in
11 Cancer Alley are outstanding members of all of
12 the major white Protestant denominations and
13 the Catholic Church. Too many of these
14 churches invest into the profit companies and
15 profit handsomely. We believe that their
16 profits also get in the way of their pastors
17 preaching from Moses that you shalt not kill.
18 And it gets in the way of them preaching the
19 teaching of Jesus from the New Testament that
20 we shall love thy neighbor as thyself.

21 How many church leaders did this
22 commission invite to give testimony on whether
23 there is a connection between the number of
24 eulogies that their pastors deliver for cancer
25 victims, black and white, and the profits

1 their churches reap from investments in the
2 petrochemical industries. This is a sin. And
3 it is also a moral disgrace. It violates the
4 laws of God and nature and should violate the
5 laws of men and women. Maybe with your help
6 we can see that this kind of conduct does
7 violate the law of men and women. We will be
8 sending a copy of our testimony today to
9 church leaders in Cancer Alley, and we will
10 urge you to send all of these testimonies to
11 these church leaders, many of whom were caught
12 up in the sin of cooperation with industry.
13 We will urge them to give their profit from
14 the communities back to -- we will urge them
15 to give the profit from these poisoned
16 corporations back to the that they have
17 caused.

18 Now, as for universities, the part of
19 that fabric of society we talked about blinded
20 by academic racism. Too many of our
21 universities have become drunk with the wine
22 of cooperative profits that flow from the
23 blood of our people. Government and industry
24 hire researchers at prestigious universities
25 like Tulane and LSU to deceive and lie to the

1 public. I know you are saying, well, Pat
2 Bryant, how can you stand there and say that,
3 and cause we are going ask you questions, and
4 I am going to answer. Example, the study
5 Tulane did on miscarriage at St. Gabriel.
6 White reaserchers with high big protocal --
7 Bob will talk about that. They were armed
8 with white graduate students and an eight
9 hundred telephone number sought to research a
10 predominant black community to determine if
11 miscarriages were higher than elsewhere in the
12 telephone. Black women didn't respond and the
13 white researchers charged ahead to see what
14 government and industry wanted, even though
15 they had a very high nonresponse rate.
16 Clearly academic racism. Clearly propping up
17 poisonous industries that are killing our
18 people, clearly sin, clearly a natural
19 disgrace, and it must be stopped.

20 The medical professions are also
21 blinded by environmental racism. Why can't
22 doctors, we ask, of St. Charles Parish notice
23 the destruction of the eyes of the little
24 black boys and girls that live near Union
25 Carbide's Taft facility? Why is it that the

1 medical professions have ignored the fact of
2 chromium produced and stored at Union Carbide,
3 the effect of the chemical on the mucous
4 membranes and the eye tissues. Why haven't
5 educators in St. Charles Parish done anything
6 about this? Why haven't they spoken out when
7 so many of their students cannot go to
8 school -- black kids, girls and boys can't go
9 to school because the chemicals have affected
10 their eyes and they have a constant epidemic
11 of pink eye. When I was a kid, pink eye was
12 once a year in the summertime maybe when we
13 were going swimming and didn't have the right
14 chlorine in the water. you know what I am
15 talking about. St. Charles Parish. they have
16 pink eye all year round. I saw a bunch of
17 kids today weren't in school. I said, why
18 aren't you in school? Cause we have pink eye.
19 Now a lot of those people are complaining, as
20 they are getting old, they are complaining
21 they have something like glaucoma that impairs
22 their vision.

23 A mass movement is being built to
24 stop the poison incorporations, and all the
25 institutions have propped them up. Each year

1 that movement gets a little bigger and little
2 bigger. And we are glad that you are here
3 responding in a way to that mass movement that
4 is being built. When we look -- some of the
5 people have said now, well, these chemical
6 companies are so powerful, you know, they have
7 everything, and I am sure some of the folk in
8 the Soviet Union were saying a year or so ago
9 that these companies -- I mean, the Supreme
10 Soviet is so powerful, that you can't buck it.
11 We see where the Soviet Union is now. We
12 believe that we have here the true ingredients
13 to bring our country together on a right note.
14 It's wrong for people of color to be poisoned
15 and it's wrong for anybody to be poisoned. We
16 are just not talking of people of color being
17 poisoned but everybody being poisoned. The
18 problem is environmentalists have kind of
19 looked over it so long, poisoning people of
20 color. Call in to the environmental
21 organizations, they don't have a program to
22 deal with the poisoning of people of color.
23 Scratch them around every time they want to
24 pool together and the EPA doesn't have a
25 program that deals with siting of these

1 chemicals, not that white folk get an equal
2 amount, but nobody gets it.

3 What does our movement seek? We just
4 had a national meeting with several people
5 here, with Dr. Ford, Miss Dickerson, another
6 sweet lady, and we forged together a set of
7 principles we call the principles of
8 environmental justice. We are saying no to
9 war, we found in the cold war that the urge to
10 beat the Soviets and to keep America free has
11 brought a war on this country in terms of all
12 of the military waste and all of the nuclear
13 waste from the Department of Energy, so we
14 hardly have any place to live now. We are
15 saying no to taking other people's oil and
16 other people's resources and starving them to
17 death. I know all of that, and I know there
18 are starving people in this country.

19 Most of all, they are seeking justice
20 for black, red, yellow and working people. To
21 save the earth, our habitat, we have to seek
22 ways to build unit among all of the earth's
23 people for jobs, health care, adequate
24 nutrition and a clean environment for all. It
25 can be done. And our children's future can be

1 rescued if we take time to do it. There needs
2 to be adequate laws for it, to protect all of
3 our people. You remember the dead zone
4 legislation? Essentially the dead zone
5 legislation with the air, toxics law said,
6 it's okay, poison with impunity those people
7 who live around these plants, buy out their
8 property, destroy their neighborhoods, uproot
9 them like you did over in Sunrise. What is
10 going to happen to the black man in America?
11 What is going to happen to the red man in
12 America? Uprooted. What is going to happen
13 to Hispanics America?

14 I guess you want to ask me some
15 questions. I hope I have all the answers. It
16 may not be in the form that you want them, but
17 I have said some provocative things that I
18 hope you will challenge me on.

19 DR. FORD: Thank you. You
20 certainly expanded our vocabulary. Let's
21 start on the left. Are there questions for
22 Mr. Bryant?

23 DR. HICKS: I have one.

24 Q. I could sense your frustration and
25 anger, and one of the questions I was

1 concerned about is, has the organization gone
2 so far -- you said movement, as to file
3 lawsuits on behalf of the communities who
4 believe they have been adversely affected by
5 environmental pollution, and if so, would you
6 tell us something about it.

7 A. I am going to just say a little bit
8 and ask that Janice Dickerson who has been
9 very hands on with that -- The answer is yes.

10 Q. Okay.

11 A. And we are not frustrated. We are
12 just getting wound up. Frustrated is when you
13 get in the corner and you can't quite move
14 right, but we throw left hooks and we see them
15 falling every now and then and we know --
16 Harris over here is the PR man for the
17 Louisiana Chemical Association. One of these
18 days he might be working for us, you know.
19 Helping slay the drag on. So, we are not
20 frustrated, and certainly a number of
21 communities have engaged in lawsuits.
22 Reveilletown did, Sunrise did, and Sunrise
23 just settled out of court, and those people
24 got more than -- much more than -- I don't
25 know the exact numbers, but they got much more

1 in term of a settlement that was being offered
2 them for their property. What we are seeing
3 is to date in the settlements that have
4 occurred, there have been out of court
5 settlements, and Janice can talk in depth
6 about them. People have not really gotten
7 compensated for the misery, for the suffering,
8 and certainly haven't been compensated for the
9 value of that river land. These companies are
10 sitting down on the river in this state. They
11 are sitting down on the river, and that is
12 some of the most precious real estate there
13 is. Ain't but one Mississippi River going to
14 provide water that comes by like that and they
15 come -- half of them come around the world to
16 put up a spicket bin, and they want to give
17 people five thousand dollars for a house,
18 \$15,000 for an acre of land and the batture
19 that goes along with it. That is a crime.
20 You shouldn't try to make that sweet for them
21 folk. You can tell the folk over there I said
22 it. Any of your members here today? But that
23 is a crime. They are stealing black folks'
24 land.

25 DR. FORD: Any other questions on

1 this end?

2 MS. REIBOLDT: I do.

3 Q. You have mentioned several things
4 that I wish you would try to be a little more
5 specific on. Let me list them all, and if you
6 forget some of them, cause there are quite a
7 few, then we can go back over them. You said
8 there is a problem with a cover-up --

9 A. Right.

10 Q. -- by industry, and I would like some
11 examples of that that you are aware of.
12 Examples of poisoning of people of color. I
13 would like some examples of that.

14 A. Sure.

15 Q. You said that we know that church
16 leaders are receiving profit?

17 A. Yes.

18 Q. Explain that a little more.

19 A. Sure.

20 Q. I also know you said we were not sick
21 before those companies moved in. How have you
22 been sick? Are there studies that you have
23 and information that you have that we maybe
24 haven't received today regarding that?

25 A. Sure. Well, on cover-up, back in

1 1987, the United Church of Christ issued its
2 report on the poisoning of people of color.
3 New York Times made a big splash. Industry
4 got copies of it and studied it, government
5 got copies and studied it, environmental
6 organizations got copies and studied it. I
7 got a copy, and I read it. I went around
8 bumping into folks, hey, did you read about
9 this? Yes, give me a copy of it. And nobody
10 wanted to talk about it.

11 So, this says, you all putting
12 poisons where we live. Nobody wanted to talk
13 about it. Churches, we tried to get them to
14 discuss it. The United Methodist Church had a
15 conference right here. I believe it was right
16 here in Pleasant Hall, invited people from all
17 over the country to talk about environmental
18 racism, and these are good folk now, but
19 sometimes good folks are surrounded by bad
20 folk, if you know what I mean, and the bad
21 folk convinced them, even though they brought
22 all these people from around the country to
23 talk about environmental racism, they didn't
24 even have a discussion of it. You understand
25 what I am saying? Were you at that meeting,

1 Bob?

2 DR. FORD: No, I missed that one.

3 A. Anyway, that is one example. The
4 government, the Environmental Protection
5 Agency was confronted on this by researchers
6 that had gathered at Michigan State
7 University, called themselves the Michigan
8 group. They debated this phenomena for over a
9 weekend and went down to the government and
10 said, look, government, please be advised that
11 this study exists, the United Church of Christ
12 study exists. As independent research, we
13 have done other work to back up some of this,
14 and Dr. Wright, who came here earlier today
15 was one of those scholars. They said, we want
16 you to take a look at this phenomena. EPA
17 took two years. had a task force of people to
18 look at it. What they came back with, we have
19 a copy at the office, but why don't you ask
20 EPA for a copy of it. They came back with
21 what is a public relations strategy to go out
22 and get the black churches, go out and get the
23 black universities, and go out and get the
24 national black organizations to put a clean
25 face on a miserable problem. Don't forget

1 Hispanic universities and what not. I am
2 talking about really changing the siting
3 decisions of the meeting. Talking about
4 putting possibly some money out to black
5 universities so they get good PR. It's a
6 cover-up for them. A wall -- it's a Madison
7 Avenue kind of a document. You all need to
8 take a look at it. That needs to be studied
9 by this commission.

10 MR. JENKINS: Is that the draft
11 report that appeared in the press a couple of
12 weeks ago from EPA, or is this a new study?

13 A. The study has been released but it's
14 the same thing.

15 Q. But it's in draft form?

16 A. It was in draft when it came out.
17 The article came out in the Washington Post in
18 January, and it was in draft form then and
19 released. The report was released a little
20 bit later.

21 Q. We heard from representatives from
22 EPA today indicate it's still in draft stage
23 now.

24 A. Well, they issued it to people and
25 said it was final, but maybe they made --

1 maybe they are talking out of both sides of
2 the mouth. I am not sure.

3 Q. Now, the society of environmental
4 scientists, of environmental organizations,
5 these are people who are supposed to be the
6 experts. These are the watch dogs who are
7 watching Congress and watching the EPA. Not a
8 single one of them, not a single one of them
9 has anything proactive to deal with this
10 problem. All of them recognize it. On
11 January 16, 1990, we sent a letter, the
12 organization sent a letter to the big ten
13 organizations putting their feet to the fire
14 about the number of people of color they hire
15 on their staffs and about this phenomena,
16 about the poisoning of the people of color,
17 and they all admitted that they had work to do
18 on this and hadn't done it. All in the New
19 York Times. I can produce the article for you.
20 Bob has a copy of it.

21
22 MS. REIBOLDT: Let's move to
23 examples of where people were not sick, but
24 they are sick. Do you have studies that
25 maybe --

1 A. Sure. We have people. We have
2 communities of people.

3 Q. What type of sickness?

4 A. Different kinds of cancers. I mean,
5 Sunrise, there were all kinds of cancers --
6 all kinds of cancers in that community. You
7 go in several communities around Exxon's
8 facility here, you will find them. You go
9 down in St. Charles Parish and St. James,
10 Green Peace says in one of their reports, that
11 vaginal cancer among black women of St. James
12 is 36 times national average. And St. Charles
13 Parish, they indicate that cancer is 18 times
14 the national average. Of course Edwards --
15 it's not that elevated cancer in Louisiana,
16 which they use the entire state. Tone it down
17 a little bit to Cancer Alley so you can see.
18 We need to have some scientists to look at
19 that bomb because that looks like the kind of
20 study that whites did over there at Tulane.

21 MS. REIBOLDT: That is okay,
22 because I know there are others that want to
23 ask questions, and I asked you a lot.

24 A. We can carry to a lot of communities,
25 specific communities where you can see cancer

1 and disease that are related to the kinds of
2 poisons that these things produce. There are
3 some communities where there are really tell-
4 tell, really clear signatures between the
5 poisons and the disease. Union Carbide's ac
6 conany you mean thing over there in St.
7 Charles Parish is a very clear signature.
8 There is not a single chemical that we have
9 identified that causes the pink eye, and those
10 kids in St. Charles Parish like acronium, not
11 a single chemical. I have been seeing it like
12 that up and down the river. Now, you asked
13 about church profit.

14 MS. REIBOLDT: Like I said, that is
15 okay cause there are some others that have
16 questions.

17 A. I will tell you. I am sure some of
18 them have the same questions. Nearly all of
19 the churches -- I recently looked through a
20 report of -- I will tell you, I didn't get
21 this. I think the organization, the
22 organization's work is to make industries
23 accountable through stockholders, resolutions
24 and so forth. Bill knows what I am talking
25 about. Right, in a church something or other

1 on-corporate responsibility. They issued a
2 report and I went down the list of all which
3 they should report. It has all of the Fortune
4 500, the big corporations, and the major
5 holders of stock in those corporations, and
6 the churches dotted each one of them. The
7 main line denominations dotted each one of
8 them. They are making profit from them. And
9 that needs to be studied very closely, Bob.
10 Maybe you can get some of your scientists on
11 that.

12 DR. FORD: Other questions.

13 BY MR. QUIGLEY:

14 Q. What would you suggest to us that we
15 could recommend? I mean, what sort of
16 prescription can we offer as this group to the
17 Civil Rights Commission in Washington D.C. and
18 to the community at large?

19 A. We need to change the very
20 fundamental premise on which our laws are
21 built. First, the laws are built on a premise
22 that chemicals are innocent until proven
23 guilty. So, we have hundreds of new chemicals
24 being introduced into the environment all the
25 time. Nobody really knows the effect of these

1 chemicals, the short range, the long range.
2 So, there needs to be more -- there needs to
3 be more adequate studies of what these
4 chemicals do on human beings and all life
5 before they are allowed to be produced. That
6 is number one.

7 Secondly, we need to change another
8 very basic thing of which the law is built on.
9 And, that is, there are some risks of
10 poisoning that is acceptable. Right now it's
11 acceptable -- the reason this country is in
12 bad shape with the poisons is that it's
13 acceptable to poison Hispanics, it's
14 acceptable to poison black people, native
15 Americans, on down the line. So, if you got
16 something bad you are going to produce or you
17 want to get rid of, where do we put it? That
18 is fine. Let's put it there. So, you know,
19 what we have to do. Bill, is say that it's not
20 acceptable to produce these poisons, and then
21 we don't have to get rid of them on anybody.
22 That is a very basic thing.

23 So, that means then that Exxon cannot
24 produce chemicals which provide a risk of one
25 in a hundred people living down on Scenic

1 Highway, getting cancer. That is what the risk
2 is right now, according to the Mitchell
3 committee in the senate. It's a committee on
4 the environment that developed a model.
5 Louisiana borne chemicals coming out of
6 companies like Exxon, and the risk of cancer
7 is for those folks living around Scenic
8 Highway, around up in there, was one in a
9 hundred. That is pretty high. The acceptable
10 risk is about one in a hundred thousand, and
11 that is not acceptable to me. I believe that
12 there shouldn't be any acceptable risk.

13 BY MS. MCDADE:

14 Q. I have to explain my question, but to
15 give you an idea of why I am asking this
16 question. I adopted older --

17 A. You what?

18 Q. I adoptd older hard to place children
19 and, when I did, the case worker said, now, we
20 want you to watch for these problems that you
21 are going to have with these children because
22 they were older children when you adopted
23 them. Sure enough, when they grew older, we
24 watched for the problems and found the
25 problems but, when we looked at all our

1 friends with teenagers, they had the same
2 problems, teenagers from birth.

3 Do you have any evidence that tells
4 you that pink eye, which is highly contagious,
5 that the cancers that you are referring to are
6 absolutely related to these chemicals, or
7 could have happened without those chemicals?

8 A. I have never -- I have had to be a
9 good observer. I have never in my lifetime
10 seen any community so beset with pink eye. If
11 you went there and stayed a few weeks, you
12 would have pink eye. Now, I mean, that is
13 something -- you can give me all this stuff
14 about, let me have the proof. That is --
15 look. I don't have the money, and I don't have
16 the scientists. but when we get it, you will
17 have it. But that is the smoking gun. We
18 can't apply it to this.

19 Q. But pink eye, we had a lot of foster
20 children, and almost every child we got had
21 pink eye because they came through the child
22 home where they were taken in Dallas County
23 and it was so contagious, they all had pink
24 eye. Is it highly contagious?

25 A. Did they have it all year long? Was

1 that a major problem in the school?

2 Q. We were foster parents for about ten
3 years and were constantly getting children
4 with pink eye.

5 DR. FORD: I am assuming that we
6 have all asked our questions? Mr. Bryant, we
7 thank you.

8 MR. BRYANT: Thank you, Dr. Ford.
9 Is Miss Beth Butler here? Beth
10 Butler is coordinator and the organizer --
11 would you come to the microphone and introduce
12 yourself.

13 MS. CURTIS: My name is Mariana
14 Curtis, an organizer for ACORN, and we have a
15 member of ACORN who is going to be giving his
16 testimony, and his name is Henry Stewart.
17 Henry Stewart is professor of foreign
18 languages at Southern University.

19 MR. STEWART: My name is Henry L.
20 Stewart, the third, and I am a resident of
21 North Baton Rouge, Louisiana, some people call
22 it Scotlandville. I live at 1767 Ninth Avenue
23 in Baton Rouge. I am an assistant professor
24 of foreign languages at Southern University
25 here in Baton Rouge, and I am also the

1 president of an organization called COAX. It
2 stands for Citizens Opposed to Airport
3 Expansion. It's a relatively new organization
4 in Baton Rouge and very much needed because of
5 the crisis, if you will, we are presently
6 understood going based on the proposal to
7 expand the airport in North Baton Rouge.
8 North Baton Rouge is a predominantly,
9 especially Scotlandville is predominantly
10 African American, Black, if you will,
11 community. It is also the location of
12 Southern University, one of the largest
13 predominantly African American universities in
14 this nation, and it is the home of some six
15 thousand plus persons of African American
16 heritage who reside in some 23 or more
17 predominantly African American communities.
18 One of them which is the premiere subdivision
19 for African Americans in this particular city
20 and in that part of North Baton Rouge, and it
21 is the historical location of Southern
22 University and this particular subdivision
23 called Southern Heights.

24 If I might begin my presentation,
25 this part of it anyhow, by reading this

1 paragraph from last Thursday's Advocate,
2 February 13, 1992. And the title of it is
3 "Council Approves Land Banking Study for Metro
4 Airport." The first paragraph is: "The Metro
5 Council voted Wednesday to launch an
6 environmental study of the airport's proposed
7 \$219 million expansion despite heated
8 opposition from some North Baton Rouge
9 neighborhood groups." And I, as I said, I
10 represent the those persons who comprise this
11 organization called COAX, Citizens Opposed to
12 Airport Expansion, and we have representatives
13 from most of those, some 23 plus subdivisions
14 or communities in North Baton Rouge which are
15 predominantly black. We started this movement
16 last summer when the thrust to expand -- the
17 proposal to expand the airport reached its
18 high point, and I was appointed to the noise
19 study advisory committee. That is a group of
20 consultant studying the situation, and as a
21 result of that, I became very involved in this
22 issue because of its impact on people who
23 reside in that area.

24 And, we have informed them that we
25 are not against progress, we are not against

1 economic development, we love Baton Rouge. We
2 feel that airports are necessary and in many
3 instances they are beautiful, but not in the
4 back yards, the front yards, the side yards,
5 the church yards of densely populated areas.
6 For the most part, I think our opposition our
7 protestations have fallen on deaf ears. It
8 appears that some of those officials,
9 particularly the Metro Council and/or the
10 airport, the East Baton Rouge Airport
11 Commission, that those persons have already
12 decided what they are going to do, and the
13 prevailing attitude seems we will listen to
14 what you have to say as long as it doesn't
15 interfere with what we already decided to do.

16 It seems what they already decided to
17 do started some years ago, and it is now
18 gaining momentum because, when they voted last
19 week seven to five, the Metro Council, to seek
20 a study to provide funds to study this issue,
21 by next week there will probably be the
22 concrete to expand the runways because that
23 seems to be the modus operandi, if you
24 understand what I am talking about.

25 Nevertheless, they have been trying

1 to convince us that those votes to expand
2 simply mean that they will study the issue,
3 and you know what bureaucracies do when they
4 say study the issue, especially when they are
5 seeking money that is available there. We
6 feel there is money available for airports
7 from the FAA, Federal Aviation Administration,
8 and East Baton Rouge wants to get it share
9 while the getting is good. Although major
10 airlines have opposed expansion, and this is
11 documented in an article of August 11th, '91
12 in the Sunday Advocate in which they said they
13 are opposed to the plan totaling \$19 million
14 plus expansion of the Baton Rouge Metropolitan
15 Airport, and that the this includes the
16 possibility of Baton Rouge becoming an airline
17 hub, so Baton Rouge says. They said it's
18 basically a nice dream that is both
19 unwarranted and unrealistic now and in the
20 foreseeable future.

21 Well, apparently the East Baton Rouge
22 Airport Commission and the majority of the
23 city -- the Metro Council members do not see
24 it from that perspective, and although
25 enplanements are down, they continue to plan

1 for expansion based on what they consider
2 projections, and we have been voicing
3 opposition in the form of petitions and in the
4 form of resolutions. In fact, 99-9/10th's
5 percent of the resident of Southern Heights
6 which is a subdivision, and where I live close
7 to the airport area, signed petition last
8 September asking, requesting, petitioning the
9 Airport Commission for East Baton Rouge
10 Parish, the Federal Aviation Administration,
11 the mayor-president of East Baton Rouge
12 Parish, the Metropolitan Council of East Baton
13 Rouge, to include what we consider the entire
14 subdivision in any appropriation of funds to
15 provide sales assistance, insulation and/or
16 other forms of relief to residents of Southern
17 Heights affected by the dangers and hazardous
18 noise pollution caused by the aircraft flying
19 directly over this residential area.

20 Moreover our petition also asks
21 these same bodies to oppose any and all
22 proposals to expand the Metro Airport and/or
23 any of its runways because such expansion
24 would increase the potential for air disasters
25 as well as cause additional devastating noises

1 that would affect residents of Southern
2 Heights or other surrounding communities. We
3 also petitioned those bodies to seek an
4 alternate site for East Baton Rouge Parish
5 Airport. Of course, this has all fallen on
6 deaf ears apparently.

7 When we request that they seek an
8 alternate site, their rebuttal is the airport
9 is already there. We don't want to negotiate
10 with any other border parishes about this,
11 counties. Negotiations were entered into
12 years ago and they fell through, and now East
13 Baton Rouge is saying that other parishes
14 don't particularly endorse idea of considering
15 the relocation of the airport in their area
16 because of opposition from residents, but all
17 right if it stays where it is in Baton Rouge,
18 even though you have all of these thousands of
19 people opposing it and they feel that, even
20 though the dangers are there, that is another
21 matter. They seem to to think that, as long
22 as they propose to take care of the
23 devastating noises, that is sufficient. When
24 we bring up the issue of danger, no official
25 body reacts for whatever reason, and we harp

1 on that because it's a clear and present
2 danger.

3 In addition to that petition, COAX
4 presented a resolution to those bodies
5 indicating, "Whereas there has been no human
6 impact the study proposed or conducted to
7 determine the adverse effects of the proposed
8 Metro Airport expansion on homeowners and the
9 residents of North Baton Rouge -- and this
10 resolution was presented last September, by
11 the way; and

12 "Whereas the Mayor-President, the
13 Metro Council and the Airport Commission for
14 the Parish of East Baton Rouge have not fully
15 complied with the Federal Aviation
16 Administration's (FAA's) noise abatement rules
17 and regulations FAR Part 150 study program;
18 and.

19 "Whereas, the existing aircraft
20 flight patterns present grave danger to humans
21 and property, including residential areas,
22 churches and schools; and.

23 "Whereas, the proposed expansion of
24 the Metro Airport has created great
25 uncertainty, insecurity and apprehension among

1 residents of the surrounding areas concerning
2 their safety, their future residential status
3 and the value of their property; and whereas,
4 this citizens of this coalition called
5 Citizens Opposed to Airport Expansion strongly
6 oppose any and all proposals to expand the
7 existing Metro Airport at its present
8 location; and, therefore.

9 "Be it resolved that citizens of this
10 coalition do hereby petition those particular
11 bodies to cease and desist any plans or
12 actions relative to the proposed Baton Rouge
13 Metro Airport expansion, to include the
14 construction of new runways and the expansion
15 of existing runways and/or any other future
16 expansion."

17 Apparently this fell on deaf ears.
18 In fact, when I attended a meeting of the
19 Airport Commission back in late -- in
20 September or early October, the chairman of
21 the commission indicated to me, we don't want
22 to hear any petitions, we don't want to hear
23 any resolutions, we already decided to expand,
24 and that is order of the day. If you want to
25 have anybody listen to -- that is, any

1 official panel listen to your concerns, take
2 this up with the Metro Council because the
3 Airport Commission simply recommends to the
4 council and the council has the final
5 authority. I said, fine with me, if that is
6 the way you want it. He was very adamant in
7 his position.

8 Well, ladies and gentlemen, I don't
9 know if you are following this scenario here,
10 but there have been all kinds of hearings and
11 meetings and so forth about this, and just
12 recently Governor Edwards proposed that we
13 construct --

14 DR. FORD: Let me interrupt you
15 for a second.

16 MR. STEWART: Am I taking too much
17 time?

18 DR. FORD: This meeting is geared
19 toward the issue of environmental equity.
20 Could you relate your comments to that?

21 MR. STEWART: I think as far as
22 the community around the airport are
23 concerned, we are not getting what we call
24 equity. The airport -- surely the airport is
25 there in the community, but we were informed

1 quite a few years ago that airport would be
2 relocated because of the fact that it's in a
3 densely populated area. As I said earlier,
4 those negotiations fell through and for
5 whatever reason, they feel airport should
6 remain where it is, although the hazardous
7 noise pollution and the dangers are inherent
8 in the fact that it's located in this densely
9 populated area, and we feel that this is a
10 serious environmental matter. Southern
11 University is located in that general area
12 also. The problems related to noise
13 abatement, I think can be considered one issue
14 but the dangers are another. If the airport
15 is expanded, if they take care of those people
16 who are already in the intolerable noise zone,
17 then you are going to create other areas that
18 will be in danger if there is a catastrophe.
19 and of course they will also suffer with the
20 noise. Am I speaking to that issue as you are
21 concerned about it?

22 DR. FORD: The background material
23 that the committee has, been made familiar
24 with has been toxic waste, solid waste, so the
25 subject matter has been somewhat temperate

1 along those lines as opposed to the subject
2 matter that you are discussing.

3 MR. STEWART: Airplanes do emit of
4 course toxic wastes.

5 DR. FORD: Do you want to address
6 that aspect of it.

7 MR. STEWART: Of course. Those
8 citizens who live in the area have to breathe
9 that in addition to what we breathe from the
10 common air that is spewed out everyday in our
11 area, and of course that is probably not as
12 volatile an issue as the proposed expansion
13 itself, but I think if you take them into
14 context, the mere fact of the airport become
15 in that area poses a danger from toxicity. Is
16 that the correct chemical expression? And/or
17 the inherent dangers of crashes, and I thought
18 that this is a violation of our civil rights,
19 that they insist that airport be expanded
20 where it is, regardless of the protestations
21 of citizens, and we have asked for a citizens
22 advisory committee to help with this problem,
23 and thus far we haven't gotten any reactions.
24 But ladies and gentlemen, they have proposed a
25 \$40 million application grant from the FAA to

1 help relieve those persons who are in the
2 noise zone. We feel that is not sufficient,
3 and we feel that this proposed expansion would
4 disrupt, deplete, displace, dispossess,
5 disinherit, and all of those diswords, and
6 possibly destroy the communities of these
7 citizens and households with their company's
8 solid tax base and could send a negative
9 signal that some of these people don't respect
10 these communities to the future growth and
11 development of Baton Rouge Parish. I will end
12 it there since your concern -- incidentally,
13 the New Orleans Airport, there was an article
14 in the paper in New Orleans August the 4th,
15 1991, that the airport houses attract crime,
16 which is another matter, I think. And once
17 they start boarding up houses, leaving them
18 there to be sold and they are not sold
19 readily, then drug addicts begin to inhabit
20 them, and you can imagine the increase in
21 crime that would accrue in those particularly
22 areas. This could also happen in Baton Rouge.
23 Thank you, Mr. Stewart.

24 DR. FORD: The next speaker is
25 Mary Lee Orr and the Louisiana Environmental

1 Action Network.

2 MS. MCDADE: I would really like
3 to know as he related it to the toxic.

4 MS. CURTIS: I am from ACORN and
5 there is another part to our testimony.

6 DR. FORD: The time is not
7 available.

8 MS. CURTIS: I will hand you all a
9 copy.

10 BY MS. MCDADE:

11 Q. What I wanted to ask, which existed
12 first: communities or the airport?

13 A. They claim the airport. It was a
14 military airport originally and that it was
15 going to -- once they decided to make it a
16 commercial facility, it would not be
17 permanently located there, that they were
18 going to negotiate to have it relocated.
19 Those negotiations fell through for whatever
20 reason and they have decided it should remain
21 where it is now.

22 Q. But the communities were built up
23 around the already existing airport?

24 A. Yes. They were not as densely
25 populated as they are now.

1 Q. Right, because the communities have
2 built up.

3 A. Right.

4 Q. And quickly, you mentioned, they
5 claim the communities have encroached on the
6 airport.

7 Q. Are they already getting airplane
8 noise?

9 A. Oh, yes.

10 Q. So, this would not -- this would just
11 increase the airplane noise?

12 A. Yes, indeed.

13 Q. You are proposing noise abatement?

14 A. Noise abatement. Applications have
15 already been made. Some communities have
16 already been brought out and --

17 Q. You are aware of the severe danger of
18 noise abatement with the airplanes?

19 A. I am.

20 Q. Severe dangers with noise abatement
21 procedures that are being used right now
22 endanger a lot more people in the air than you
23 would endanger on the ground.

24 A. There is always a possibility but
25 imagine if an air disaster occurred over

1 Southern University when there is a football
2 game or basketball game may have 30,000 or up
3 to 80,000 people at a game whose lives are
4 injured at a basketball game because some of
5 those flight patterns are over Southern
6 University.

7 Q. When these people moved into these
8 areas, they knew there was an airport?

9 A. The airport was a military airport
10 and the city fathers indicated years later
11 they were going to be seeking relocation of
12 the airport and it has not been done and now
13 they are going to expand it where it is, so it
14 will disrupt other communities.

15 MR. QUIGLEY: Mr. Chairman, one.

16 DR. FORD: Yes, Mr. Quigley.

17 BY MR. QUIGLEY:

18 Q. The submission by ACORN does address
19 the storage and transportation of hazardous
20 material in the state, and I know you have
21 already accepted that, but I just want to make
22 sure they don't have anything to add over and
23 above what they have given to us on this.

24 A. No. that is it.

25 DR. FORD: Thank you. I don't get

1 821 to introduce Mary Lee Orr a second time, so we
2 will introduce her.

3 MS. ORR: Farella Robinson said it
4 was okay if I had someone with me. Is that
5 all right?

6 DR. FORD: Sure. Each presenter
7 has 30 minutes for presentation and questions.

8 MS. ORR: My name is Mary Lee Orr,
9 of Louisiana Environmental Action Network, and
10 I have the privilege of knowing some of you.
11 I want to thank you for your interest in
12 Louisiana and the environment and the problems
13 that we face here in this state. In 1988, our
14 citizens suffered more toxic per square mile
15 and per capita than any other state in the
16 nation.

17 I just came from a citizens meeting
18 in St. Gabriel, and I really haven't had the
19 time to formally prepare for this because I
20 was talking with some of the other folks in
21 the movement, and we are so busy dealing with
22 issues in the community, we don't often have
23 the privilege to have a formal presentation.
24 I hope you will bear with us. We were out in
25 the community at a meeting; it lasted 11 hours

1 two or three weeks ago. The industry
2 evacuated the industry next door, if I am
3 telling you correctly evacuated, but the
4 citizens were not evacuated, so we were there
5 tonight to talk about emergency preparedness
6 and industry responsibilities and our rights.
7 We are no longer victims, we have a right to
8 know what is in our community. Now I will
9 back up and try to go slower.

10 In 1988, our citizens suffered more
11 toxics per square mile and per capita than any
12 other state in the nation. We are home to 664
13 abandoned hazardous waste sites, 12,000
14 identified oil field waste pits. Please
15 notice, identified. Five thousand identified
16 oil field injection wells and 43 hazardous
17 waste injection wells. We have some of the
18 highest cancer rates in the country.

19 MR. QUIGLEY: Would you tell us
20 those numbers a little slower.

21 THE WITNESS: Sure.

22 MS. ORR: From the very beginning?
23 Take it from the top. We are home to 664
24 abandoned hazardous waste sites. I can get a
25 copy of this to you, too. That won't be a

1 problem. 12,000 identified oil field waste
2 pits, 5,000 identified oil field injection
3 wells, 43 hazardous waste injection wells. At
4 last count we had 36 percent of the nation's
5 injection well disposal capacity and 31
6 percent of the nation's landfill disposable
7 capacity and our waters received 44 percent of
8 the toxics discharged into the nation's water.
9 None of these figures takes into account
10 marine shale, Louisiana's infamous recycler,
11 which is the nation's largest incinerator of
12 hazardous wastes. That is the bad news about
13 Louisiana.

14 I really didn't bring you a lot of
15 technical information tonight because that is
16 really not my business. I have technical
17 people but my business is people, so I want to
18 bring to you the stories of people here in
19 Louisiana and what I see. You asked one
20 gentlemen, can you prove that there is a
21 correlation between his health problems and
22 his community. I do know this. That, in the
23 house where I was raised, if you grow a
24 garden, you have to have fertile soil. In our
25 garden here in Louisiana, we are breathing and

1 are exposed by the land, air and water at such
2 high rates of toxic substances, I sometimes
3 wonder how the people grow as some people
4 would say. I have had the privilege of
5 journeying into communities and communities of
6 people of color, particularly Alsen. I notice
7 I have people speaking from Alsen after me,
8 the gentleman before me. That is a rural 95
9 percent black community. Superfund sites have
10 the commercial waste incinerator.

11 So what does that all mean to us?
12 What it means is that on one street, they have
13 had brain cancer and breast cancer and cancer
14 between their elbow and their wrist. They
15 have a high rate of respiratory problems,
16 asthma. The children have difficulty playing,
17 feel lethargic, suffer from rashes and get
18 sent to Ochsner. and the physicians are
19 baffled.

20 That is another thing. I have a
21 privilege of working with this woman, with the
22 woman who will share your health problems with
23 physicians coming to me and saying, in all the
24 years of my practice I have never seen the
25 type of cancers I am seeing now. We face the

1 problems of citizens, and on the death
2 certificate doesn't always read cancer; it
3 reads the secondary problem. You have
4 pneumonia or heart attack. It's really not
5 getting the window in the health effects,
6 because that is what concerns me.

7 I am a mother. My second son was
8 born with a lung disease. I became aware when
9 I brought him home, not only that he might be
10 deaf and blind and brain damaged, but I lived
11 in an area that was a nonattainment for ozone.
12 What did that mean for me as a mother? Then I
13 found out that my child would be exposed on a
14 daily basis to cancer-causing agents, that my
15 child was more susceptible to pneumonia and in
16 a place where we tell each other on days
17 whether or not it's easy to believe. I found
18 that frightening. And I tell you what I
19 found, too, and this is my call to you. When
20 I had the privilege of journeying to people of
21 color communities, I would say, where are the
22 black leaders of the national organizations?
23 Where have you been? What has taken you so
24 long? Why has the journey been so long to get
25 to us? We are dying. And I don't want to

1 bring you charts. We don't have the time.
2 You can do studies and we will all be dead.
3 The time is to err on the side of the people.
4 We are having our basic civil rights violated
5 every single day in the State of Louisiana.
6 Come with me. I invite you to one of those
7 communities, and you will not be unchanged.
8 You cannot talk to the Bob Fords, to the
9 Florence Robinsons, to the Bill Nevitts, to
10 the people thank God that are part of my
11 organization that will speak to you.

12 All I am asking you tonight is for
13 God's sake. I heard from someone a few
14 minutes ago that you are going to go home and
15 we will never see you again, and God knows I
16 have stood in front of a congressional
17 committee that the president put together in
18 front of the legislative session, and every
19 time I carry within me the hope that the
20 people that I speak to will respond. But you
21 know what? We are now under an administration
22 that is going to destroy the work that we have
23 built. We have fought very hard in the last
24 four years to get some accountability. We do
25 not want to close industry down, but we do

1 want to be able to live and to raise our
2 children, to have gardens. That is another
3 thing you must consider. Our people of color
4 depend economically on those gardens. It's a
5 terrible economic burden for them. If there
6 is a quote "white dust" overnight and everyone
7 of their vegetables are dead, vegetables don't
8 come from the market.

9 We live too insulated a life, and I
10 ask you to step out of your life because you
11 all look like you have a pretty good one, and
12 thank God I do, too, but I have the privilege
13 of representing those folks who don't, so I
14 implore you tonight to not close your ears and
15 your eyes to what you hear but put it here and
16 take action. I have great respect for this
17 commission and what it can do. I hope it
18 doesn't fall on deaf ears. I hope my
19 colleague isn't right. I hope you don't go
20 home and do nothing. And I feel like I have
21 gotten carried away. I will tell you about my
22 organization or we don't have one any more.

23 LEAN is a coalition of 65 grassroots
24 groups in Louisiana, and I am so proud of
25 these people. These people are warriors and

1 they need weapons and maybe you can help us
2 because they are tired. They don't have the
3 privilege of a lot of money sometimes, not a
4 lot of education, but we do know when we are
5 sick, do we not, Bob? We do know when we are
6 dying? We talk to workers who are exposed who
7 want better conditions. We feel strongly we
8 should remember workers.

9 So I guess that is my message tonight
10 plus anything else you want to ask me. I want
11 to ask Linda to speak because it's very
12 important, too. We brought you a video, a
13 visual image that we want to close with cause
14 we want to know -- one, we want to know you
15 are still awake and because one picture is
16 worth a thousand words. Thanks for your
17 patience.

18 MS. KING: My name is Linda King,
19 and I am the director of a national
20 organization that deals with the most severely
21 impacted communities across the United States.
22 These communities have fought long and hard
23 and are usually minority communities.

24 MS. REIBOLDT: What national
25 organization is that?

1 MS. KING: Environmental Health
2 Network, and we deal with the health problems
3 exclusively in these communities. We have
4 been doing a nearly three-year investigative
5 study or investigative report on CDC, Center
6 for Disease Control and ATSDR Agency for Toxic
7 Substance and Disease Registry. We have gone
8 into and have done five case studies. One in
9 Texarkana, Texas 79 black families who are
10 living on top of a pentochlorophenyl site in
11 St. Gabriel Louisiana who they did a
12 miscarriage study. In Hamilton, New Hampshire
13 where the water was so contaminated, the rats
14 ran down the streets in convulsion. Jackson,
15 Arkansas where they have what we call
16 Babyland. And another one that was written up
17 brief in the report in East Chicago, Illinois
18 where babies are being born without brains.
19 And another minority community in Texarkana,
20 Texas which is not too far from us, the houses
21 were built on top of the Superfund site.
22 These black families thought they had the
23 American dream. They had for the first time
24 sidewalks, for the first time indoor plumbing.
25 They bought their land, built their houses and

1 were very proud of it, but unfortunately their
2 dream turned into a nightmare because they
3 found out it was on top of an old pentochloro-
4 phenyl site. It has taken them ten years to
5 fight to get out of there. EPA has told them,
6 if dogs can live there, so can you. They were
7 told their children shouldn't play outside.
8 They were told they couldn't wash their cars.
9 They were told not to grow gardens or
10 barbecue, but it was okay for them to live
11 there. These people have to sleep on an
12 incline because their lungs fill up with
13 fluids. Their houses flood every single
14 solitary year and the toxins are carried into
15 their homes and they are so strapped for
16 funding that they cannot remove the carpet and
17 cannot remove the furniture, and so the
18 chemicals soak into the carpet and into the
19 furniture, and they breathe this. In St.
20 Gabriel, Louisiana. they did a study there,
21 and the study said this was not a significant
22 rate of birth defects.

23 However, the study was carried out so
24 poorly by our federal government, ATSDR, that
25 they had people call older couples on the

1 phone, young couples on the phone and ask them
2 very intimate things about their sexual lives
3 over the phone, and then they were given
4 permission to make the decision of whether or
5 not the people were telling a lie, and, if
6 they thought they were telling a lie, they
7 could take out the information and not use it.

8 In Hamilton, New Hampshire after
9 doing a small study, the federal government
10 told the people or told the state government
11 to pour more chlorine down the public well
12 that these people were drinking. In
13 Jacksonville, Arkansas, tissue samples
14 mysteriously disappeared. I can go on and on
15 and on, but I am telling you, what I see out
16 there in these severely impacted communities
17 is appalling. These people's civil rights are
18 being violated and they are being violated
19 because they are politically disadvantaged.
20 They are Hispanics, they are Vietnamese, they
21 are black, they are Indians, and they are
22 poor, and that is why they are being taken
23 advantage of. In one community there are
24 three generations of people that have moved in
25 to this community. The first community, most

1 of the people died, and the rest of them were
2 so scared they left. The second generation
3 moved in without understanding that they were
4 moving next to a Superfund site. They are now
5 suing and moving and going bankrupt and
6 leaving their houses. The third generation
7 that is moving into this are poor Hispanics,
8 poor Vietnamese who are being sold a bill of
9 goods by HUD and by our federal government,
10 the VA, by making them sign disclosure
11 statements saying they fully understand what
12 they are getting into, and most of them can't
13 even speak English. We have found there is
14 over 100 industrialized chemicals in the
15 umbilical cords of newborn babes. 88 percent
16 of all school age children have dangerous
17 levels of blood lead in their blood, and that
18 learning disabilities are on the rise by 64
19 percent. I am telling you right now, we don't
20 need studies to tell us that there is
21 something wrong. I am a mother. I almost
22 died ten years ago from what I was exposed to
23 and my son has a permanent learning disability
24 and permanent hearing loss from what he was
25 exposed to, and I don't need a study, and I

1 don't need my government telling me that there
2 is nothing wrong. I hope that this commission
3 when we finally get this study published, that
4 this commission will take a long hard look at
5 what we have investigated for the last three
6 years, and they will take action to have an
7 investigation done of CDC and ATSDR for
8 criminal actions for what they have and have
9 not done in these communities. Please believe
10 me, it's worse than you can imagine. Thank
11 you.

12 DR. FORD: Thank you.

13 MS. ORR: Are you getting ready to
14 close? I guess so. Do you want to ask me
15 something?

16 DR. FORD: Anybody on the right
17 side of the table?

18 MS. ORR: Can I say one thing
19 before we get started? I want to make sure
20 that you are hearing the message, that it
21 isn't just black people -- it is Hispanic.
22 And that common thread is that they are poor.
23 These are people who are least likely to know
24 how to use the system and fight back, which is
25 why my organization is all about empowering

1 people with their rights and ability to speak
2 out. I wanted to make sure I was clear about
3 that.

4 DR. FORD: Any questions from the
5 right?

6 MS. REIBOLDT: I would just make a
7 comment that -- especially some of the things
8 that you said about the percentages of
9 problems of children. Like the learning
10 disabilities can sometimes be real misleading.
11 As you are probably well aware of, there has
12 been an expansion of the term "learning
13 disabilities" not because so much these
14 children may be unable to learn or have a
15 disability that causes them to be unable to
16 learn but because they seem to get more money
17 from the state if they have children with
18 greater difficulties and more problems, so
19 they expand this definition of learning
20 disabilities to include children who really
21 don't have learning disabilities, so sometimes
22 you really need to be real clear about -- some
23 definitions are real misleading or the
24 situations that exist may be very misleading.

25 MS. KING: There is a physician

1 doing a study in a community in Wyoming. This
2 community has been exposed to solvent. They
3 have found that a 33 percent increase of
4 hyperactivity and learning disorders, and the
5 children have been directly exposed to these
6 solvents, and on top have been able to prove
7 by neurological studies by taking pictures of
8 the brain, that these children have definitely
9 been affected, and that their problems are
10 directly related to the chemicals they were
11 exposed to; so we can sit all day and all
12 night and talk about the difference between
13 hyperactivity and dyslexia and so forth and so
14 on. These children have been directed,
15 effected, and I believe if these type of
16 neurological studies were done in other
17 communities highly impacted, you would find
18 the same thing.

19 MS. REIBOLDT: Would both of you
20 basically hold to your position, as an earlier
21 speaker mentioned, that basically there is
22 absolutely nothing we could do to prevent the
23 situation, because these chemicals are
24 obviously going to be very harmful to our
25 society and basically we need to do away with

1 all of them, there is no place for them in our
2 society and no happy medium that we could meet
3 or nothing we could do with the solvents?

4 MS. ORR: I don't know -- that is
5 an incredible cop-out and totally unrealistic
6 as you well know. We are introducing probably
7 more than a thousand chemicals per year, which
8 we have little idea of what they do to our
9 body. But what I think most of our
10 environmentalists advocate is prevention, be
11 responsible about their waste before they
12 produce it and, after, not to deal with
13 everything at the end of a pipe. You can't
14 believe for a minute that people continue to
15 believe we are going to do away with
16 petrochemical industry in Louisiana, but does
17 that mean we have to bear the burden of what
18 we have done?

19 This is a new problem. We are in our
20 infancy, which came about after World War II
21 with the production of the chemicals. Either
22 you or I or a Ph.D. could give you a definite
23 answer what is happening to our people.

24 BY MS. REIBOLDT:

25 Q. But I don't definitely agree that

1 these type of problems are affecting us all
2 and some areas perhaps more?

3 A. Disproportionately affecting the
4 people.

5 Q. That these problems are affecting
6 all to some extent?

7 A. I am not a lawyer but I take
8 exception to your word usage. It's
9 disproportionately affecting people who are
10 low income and minority because the majority
11 of these sites in Louisiana are located next
12 to those folks, and those folks are the ones
13 who are least likely to know what to do. It's
14 a fact. Those people are dying at a faster
15 rate. They are more sick, experiencing more
16 difficulties from these chemicals.

17 MS. KING: Not only that. These
18 people have less of an opportunity to get
19 medical care for their problems. They are the
20 ones who do not have the health insurance.
21 They are the ones who live in inner city or
22 rural communities where there are very few
23 physicians that have an understanding of toxic
24 exposure. Ninety percent of all physicians
25 out there have very little knowledge of what

1 the symptoms are when someone is exposed, so
2 we are talking about people that are already
3 not getting regular health care. You put
4 toxic exposure on top of that, almost tough
5 and they can't crawl out of.

6 MS. REIBOLDT: Realize the
7 converse is also true, maybe the reason it
8 isn't showing up or is showing up
9 disproportionately is that they don't seek
10 medical care -- and I promise I won't continue
11 with this any longer -- that they may die,
12 whereas other people are and perhaps getting
13 it. The converse could be true. I will let
14 it go at that. I know other people want to
15 ask questions.

16 MS. ORR: One thing I want to say,
17 we could be like alcoholics and live in denial
18 cause you can't live or identify with the
19 problem until you see a problem. Unless you
20 are open with what these people are bringing
21 to you and listen.

22 MS. REIBOLDT: Let me just say, my
23 dad died of cancer and he worked at Commercial
24 Solvent in Sterlington, Louisiana -- and I
25 don't know there is any relationship there.

1 We are aware of those types of things
2 sometimes very personally..

3 MR. JENKINS: This is not an
4 adversary proceeding but trying to establish
5 some facts, so let's move to the next
6 presenter.

7 MR. QUIGLEY: I would just like to
8 note, I have never even heard of anybody ever
9 saying that there is any objective proof that
10 people are developing disabilities in order to
11 get some check or something like that.

12 MR. BRYANT: Thank you, Mr.
13 Quigley.

14 MS. REIBOLDT: Let me clarify
15 that.

16 DR. FORD: No. No.

17 MR. BRYANT: She indicated that
18 fact in the woods.

19 MS. ADAMS: I think the audience
20 is a little bit out of line here.

21 MS. REIBOLDT: What I am saying to
22 you over there --

23 MS. ADAMS: You are out of line.

24 DR. FORD: Take five minutes.

25 MR. JENKINS: The meeting is

1 recessed.

2 (A recess was taken.)

3 DR. FORD: Please recognize I am
4 new at this. I have been doing this for 45
5 minutes and I really would like to have
6 cooperation. What we are trying to do is
7 collect information and we can best do that if
8 one person talks at a time, if we all respect
9 each other and just carry this out in an
10 orderly fashion. Now, we have about three
11 minutes left in the 30-minute time frame for
12 the two presenters that are currently
13 speaking.

14 MS. REIBOLDT: Bill says it's okay
15 for me to clear up exactly because he
16 misunderstood, too.

17 MR. QUIGLEY: And I still have a
18 question on the board.

19 DR. FORD: Who else has a
20 question? Let's get a perspective.

21 MS. ROBINSON: She wants to
22 clarify the record.

23 MR. JENKINS: She wants to clarify
24 the record.

25 DR. FORD: Fine.

1 MS. REIBOLDT: What I said is that
2 today in Louisiana, school districts,
3 individual schools get more money for a
4 student who has a learning disability than
5 they do for a student who doesn't, and that is
6 all I was saying. And that to say, that a
7 student or learning disabilities point to the
8 problem of 98 percent of students having
9 learning disabilities is being perhaps --
10 showing that they are all getting chemicals or
11 typical related can't be done because schools
12 use that sometimes as a way to get more money
13 to say, this child has a learning disability,
14 and that is all I said, and it's a fact. It's
15 true. That is the way they make money
16 sometimes.

17 DR. FORD: Very good. Mr.
18 Quigley, you had a question.

19 MR. QUIGLEY: Just a question to
20 Miss King. I would like you to expand a
21 little bit on the lead poisoning issue which I
22 know does affect three times as many children
23 of color as white children in this country,
24 although it's not any one particular plant, or
25 that that is usually doing that and does

1 result in some very severe and permanent
2 disabilities on children. Could you expand on
3 that lead poisoning issue just a little bit
4 for the record?

5 MS. KING: Many many people think
6 the lead poisoning issue is basically gone in
7 the United States and that is not true. It's
8 still an extremely bad situation, especially
9 in the inner city and also in rural areas, but
10 where children are picking up lead nowadays is
11 mainly in soil dust because much of it has
12 settled and also in dust in homes. We are
13 finding that lead poisoning is more severe
14 than what we thought in the past, and indeed
15 every time EPA puts the amount of lead
16 allowable in children's blood, they have to
17 continue to reduce it and has just recently
18 been reduced to what? Ten mega whatever. I
19 am tired. It's to the ten now. And each time
20 they reduce it, it needs to be reduced again,
21 and they are finding also other susceptible
22 populations, not just children. They are
23 finding other susceptible populations, as the
24 elderly pregnant women. One, because lead
25 passes through the placenta. There is an

1 equity problem going on with Superfund site
2 versus what ATR says is allowable in
3 children's blood when it comes to lead. They
4 have lowered the amount for school age
5 children now and going around the country and
6 testing them to make sure this amount is not
7 exceeding but, in Superfund sites because of
8 formulas formulated on computers, people at
9 Superfund sites, i.e., children are allowed to
10 have more than or to be exposed to more lead
11 than what is allowable, and it's because of
12 quote-unquote "formulas in computers," where
13 Superfund sites mainly are in poor minority
14 communities, and it is allowed. It is
15 allowable by the EPA.

16 Q. We need to go on to the next person
17 but, if you have any written material on that?

18 A. I sure do.

19 MR. QUIGLEY: I think the record
20 is open for another month, we would really
21 like to see that to supplement our record.

22 MS. KING: I would be happy to
23 send that to you if you would give me an
24 address to send it to.

25 MS. ORR: We thank you for the

1 opportunity to speak.

2 MS. MCDADE: You do understand
3 what we have to send on? We are factfinding,
4 and it's interesting and it gets to the heart
5 to hear what someone sees and someone thinks
6 and feels and perceives and about your child.
7 I have six children, I can understand that,
8 but we have to have studies and evidence in
9 order to pass that on, and that is why we
10 continue to ask for that. If you have any
11 studies and any evidence, and I am sorry to
12 ask for that because it has offended a few
13 people.

14 MS. KING: Have to give you some
15 of the information we have.

16 MS. MCDADE: We will be happy to
17 send it on. We can't say somebody sees or
18 perceives.

19 MS. KING: Thank you for your
20 time. We appreciate it very much.

21 DR. FORD: Thank you. Our next
22 presenter is Florence Robinson, professor of
23 biology at Southern University and president
24 of the North Baton Rouge Environmental
25 Association. Miss Robinson.

1 MS. ROBINSON: East Baton Rouge
2 Parish is a large parish in Southeastern
3 Louisiana. It represents the northern tip of
4 the chemical corridor which extends down from
5 New Orleans. This chemical corridor has been
6 nicknamed "Cancer Alley." The City of Baton
7 Rouge sprawls over a large area within the
8 parish. That is this area that is outlined
9 here. This is city limit of Baton Rouge.
10 North of Baton Rouge are two incorporated
11 townships, Baker and Zachary. In addition to
12 that, there are a number of other
13 unincorporated communities. One of large note
14 is the community of Alsen which has been
15 heavily outlined here.

16 History: Three communities or
17 subdivisios of major concern in the Baton
18 Rouge area. They are Istrouma, Scotlandville
19 and Alsen. Let me show you these on the map.
20 Scotlandville extends from this point to here
21 and the Istrouma area begins approximately
22 here and is in this general area. Standard
23 Oil of Louisiana which is now Exxon was
24 incorporated in 1909. The Istrouma area grew
25 up adjacent to Standard Oil. As late as the

1 1930's, a train would bring workers from
2 downtown Baton Rouge to the Standard Oil
3 Plant. Much of what is now Istrouma was open
4 pasture and in fact even had a dairy in it. I
5 got this information from Janet Bell who is a
6 long-time resident of Baton Rouge and who
7 lived in Lawndale which was separated from
8 Istrouma by another community known as Easy
9 Town. I never heard of Easy Town but in case
10 you haven't guessed, Easy Town was a black
11 community. Istrouma was initially white. In
12 the late 1960's and the early 70's, white
13 families began moving to the southeastern part
14 of the town and they were replaced by black
15 families. That pattern is continuing today.

16 According to Carl Bridges, earlier
17 names for Scotlandville were Penrya and
18 Thomas. In fact, this is called Thomas Point.
19 When the first railroad came through in 1890,
20 the location was named Scotlandville.

21 Southern University was located in Scott's
22 Bluff in 1914. By 1940 Scotlandville boasted
23 a population of about three thousand people.
24 In the book Colonial America, a variety of
25 occupations listed for the residents of

1 Scotlandville. They included bricklayers,
2 carpenters, plumbers, cooks, maids and
3 laborers, but no plant workers were listed.
4 However, plant workers are noted by Charlie O.
5 in an "Itinerant looks at Scotlandville." He
6 makes the reference that "men ride in private
7 cars using carpools to industrial plants north
8 and south of town. There are no major
9 industrial plants in Scotlandville," and this
10 was in 1963. Scotlandville then we note is an
11 old community and the industries grew into
12 Scotlandville rather than the other way
13 around.

14 Information on Alsen is very sketchy
15 except by limited oral history and a few other
16 sources. The area between U.S. 61 and the
17 Mississippi River between Port Hudson and what
18 is now Brooklawn Drive consisted of large
19 tracts owned by a few families. We are
20 talking about this area in here. This is
21 called the Proffitts Island Chute. One of the
22 families that consolidated this property was a
23 William Falkner, and he established a large
24 plantation called Mount Pleasant which is very
25 very close to Port Hudson. It's about in this

1 area. Coming off of the Proffitts Island
2 Chute or Proffitts Island Chute was a landing
3 called Springfield Landing. And there is a
4 map which showed a Springfield Road leading
5 from the landing and going up towards what is
6 now Scenic Highway. This map is an 1854 map.
7 The position of the Springfield Road is
8 consistent with an unused pathway that can
9 still be found that extends from Springfield
10 Road that we live on today. There was a
11 cemetery in the vicinity of what is now Petro
12 Processors Superfund site but all traces of it
13 seemed to have been lost since Petro
14 Processors established the Brooklawn site.
15 According to a resident of the community who
16 grew up in the community when Petro moved in,
17 they put a gate across the road and blocked
18 families from visiting grave sites. Petro
19 Processors first opened on Scenic Highway in
20 1964. And it established the Brooklawn site
21 in 1968. Rollins Environmental Services which
22 is a current commercial hazardous waste site
23 opened its doors in 1970. Some residents of
24 Springfield Road had been living there on
25 Springfield Road for 30 years before Rollins

1 located there.. Residents in the other part of
2 the Alsen community had been living there for
3 even a longer period of time. So Alsen is a
4 community that was invaded by industry. We
5 did not grow up around industry.

6 Impact: The small community of
7 Alsen/St. Irma Lee Way is heavily impacted by
8 a large number of industries, the commercial
9 hazardous waste facility, that is, Rollins and
10 the two Superfund sites. The residents suffer
11 many health complaints. Some of the common
12 complaints are listed here: Sinuses.. People
13 complain of dry mucous membranes, of swollen
14 sinuses. Also headaches are very common
15 complaints. Even small children in the
16 community are noted as having severe
17 headaches. About 21 percent of the people of
18 Alsen complain of asthma. other breathing
19 difficulties. Rashes are fairly common.
20 severe chronic rashes which flare-up
21 periodically. Some of the individuals who
22 have these type rashes, if they leave the
23 community, the rash will go away. When they
24 return to the community, the rash returns.
25 The people complain of chronic tiredness. The

1 people complain of cancer. On the road in
2 which I live, there are nine families. Four
3 of those families have been visited with
4 cancer. Two of those families have multiple
5 cancers. These are the families that have
6 lived on Springfield Road for the longest, and
7 I am talking about some young people with
8 cancer as well as some of the older ones. In
9 addition to that, at my house right now I have
10 two dogs that have cancer, and I had to
11 euthanize a dog at the end of November who had
12 cancer. Spontaneous severe nose bleeds for no
13 apparent reason. Somebody's nose just begins
14 bleeding and it bleeds so severely they have
15 to be carried to the emergency room and have
16 their nose packed with ice to stop the
17 bleeding.

18 In addition to these personal health
19 problems that people suffer, people complain
20 of problems with their pets, livestock,
21 poultry, trees and crops. A number of strange
22 animal deaths have occurred among the
23 livestock. And when they were necropsied,
24 tending veterinarians could simply say, I
25 don't know what killed your animal. People

1 complain that chickens don't lay eggs and
2 trees don't bear fruit. There seems to have
3 been an increase in trash species such as
4 cottonmouths, blackbirds and armadillos, and a
5 decrease in more desirable species such as
6 king snakes and painted buntings. Corrosion
7 seems to occur fast ther in Alsen than in
8 other areas of the parish. Your machinery
9 just doesn't hold up well, the paint on the
10 cars just doesn't hold up well.

11 Siting procedures: Alsen was an
12 established community before industry moved
13 in. Twenty-six years of complaints and eforts
14 to close down these nuisances have met with a
15 deaf ear from industry and government alike.
16 It is interesting that CECOS International
17 located in Livingston Parish which has a
18 rather small minority population was shut
19 down. and Marine Shale in Morgan City which
20 has a very small minority population has had
21 its activities seriously curtailed but Rollins
22 continues to belch out smoke and who knows
23 what else into our community. We know they
24 burn medical waste. We know they have
25 illegally burned waste from nuclear plants

1 containing enriched uranium. There is a memo
2 that indicates that Rollins also handled
3 PCB's, because PCB's were found in Devil's
4 Swamp Lake, and the highest concentration of
5 these PCB's were in a discharge ditch leading
6 from Rollins.

7 Baton Rouge statistics: Table one
8 shows the zip codes of East Baton Rouge
9 Parish, the community found therein, the
10 number of TRI Industries, and I have to say
11 that is only an approximation because some of
12 them use a zip code other than their actual
13 plant address, and that makes things just a
14 bit confusing.

15 MR. QUIGLEY: Where is that
16 information from? How did you get that?

17 MS. ROBINSON: This information
18 came from a combined. RTK Network which has
19 TRI data, a data base, and what was the name
20 of that zip code demographics by CACI, I think
21 it was, for the zip codes, and some of the
22 other statistics which I will show you. This
23 data is for 1989. The TRI data is for 1989.
24 The population statistics that I will show you
25 are taken from the 1990 census. Note, please,

1 those zip codes which show the largest amount
2 of toxic discharges. 70791, which is in
3 Zachary. It has two TRI industries, reporting
4 industries. And later I am going show you
5 where they are located relative to the rest of
6 Zachary, and you see the discharge. The 70805
7 is the Baton Rouge industrial area. This is
8 area that I indicated earlier where Exxon is
9 located and where the community that seemed to
10 grow up around it, which was initially white
11 and is now mostly a black area. The Baton
12 Rouge Garden District had one reporting
13 facility. That is the Borden Dairy. It's
14 actually on Florida Boulevard which is a
15 business district, and that is at 605,000
16 pounds of ammonia. The Scotlandville area,
17 the 70807 area has at least eight TRI
18 reporting facilities. And what one sees here,
19 the two million pounds is the reported
20 discharge from those combined facilities, and
21 the eight million pounds refers to the amount
22 of waste that came to Rollins Environmental
23 Services from all over the country in 1989.
24 Again, that is only toxic waste. It does not
25 include the other kinds of waste that Rollins

1 received. I would like to call your
2 attention -- this is the map of East Baton
3 Rouge Parish again, but this time we are
4 concentrating on zip codes. We will start
5 here at the north end of the parish. Here is
6 the Zachary area.

7 We showed you the incorporated part
8 of Zachary but then there is a lot of rural
9 area in Zachary. Here is the location of the
10 TRI reporting facilities: Georgia Gulf -- no,
11 Georgia Pacific which is a paper mill and
12 discharges a large amount of dioxin, and Grant
13 Chemical Company. Now, here is Alsen right in
14 here, so that Grant Chemical is about two and
15 half miles north of Alsen, and Georgia Pacific
16 is about another two miles.

17 The 70616 area had a release of a
18 thousand pounds that come from Burns Repacking
19 Company, and it was a couple of different
20 types of -- no. I beg your pardon, that was
21 zinc dust, 750 pounds of zinc dust. The 70814
22 came from Zachary business, and they had a
23 couple kinds of chemicals they released.
24 70805, this is where one finds Exxon and
25 Copolymer, and a lot of others. Allied

1 Signal, we are going back three years now.
2 It's probably changed its name but Allied
3 Signal was also located in there, one branch
4 was in that.

5 Note the location, please, of
6 Southern University, 70813. Southern
7 University which is the largest black
8 institution in the world is located in the
9 middle of a toxic area. In contrast to
10 Southern University, on the other end of town
11 is LSU which is a traditionally white
12 university, though it is now integrated, and
13 notice it is located -- it is nestled nicely
14 among zip codes which have absolutely no toxic
15 discharges reported.

16 Oftentimes we hear when talking about
17 the siting of the chemical industry that they
18 need access to water. Look at the 70820 zip
19 code area. lots of water there. 70810, lots
20 of water there. access to the Mississippi
21 River. And over on the eastern side of the
22 parish, 70817, 70816, 70819 all have access to
23 the Amite River.

24 This is the community of Alsen. Here
25 I am showing you Irene Road about two and a

1 half miles north of Alsen, and that there is
2 location of Grant Chemical Company. Georgia
3 Pacific is a little further north. The B
4 represents the site of the new city landfill.
5 We went to the hearing on the new city
6 landfill proposed site and petitioned them not
7 to put the site there on the basis that our
8 community was already overly impacted, and we
9 spoke to deaf ears.

10 C represents the initial Petro
11 Processor site. It was just a burrow pit.
12 The man invited pumps to come and dump their
13 hoses and open up their valves. Eight hundred
14 feet across the highway is a family of people.
15 They have cancer now. D is the Grow Chemical
16 Company. E is the Pacific Tank Car Company.
17 There they wash out the bottom of these tank
18 cars that have had all kinds of chemicals and
19 the runoff goes right into this little bayou
20 which wanders through the swamp. D is Grow
21 Chemical Company. I did not see any
22 discharges from it in TRI in 1989. F
23 represents Schuylkill Metals. They are a
24 secondary lead smelting plant. I forget exact
25 number of thousands of pounds of air-borne

1 lead and lead chemicals that they discharge
2 into the air and the water and some left on
3 site. G is Reynolds Aluminum Petroleum Coke
4 Plant. Petroleum Coke is another name for
5 benzopyrene which is a highly toxigenic
6 substance. If you go to Reynolds they have
7 huge mounds of this black Coke. If the wind
8 blows, it blows it all over the place. When
9 it rains, it carries it into the bayous into
10 the swamps. I have had the tops of several of
11 my cars ruined by the collection, the settling
12 of this particulate matter and you can't wash
13 it off, and now I shudder to think I was down
14 there with my hands trying to scrub this stuff
15 off.

16 H represents the site of Petro
17 Processors. This is the Brooklawn Superfund
18 site. It has some of the highest
19 concentrations of chlorinated hydrocarbons
20 found anywhere outside of the test tube. I
21 recently talked with plant manager. We have
22 been saying for some considerable period of
23 time expressing our concern about off site
24 contamination and we have been rather ignored
25 by EPA. We even asked some questions. They

1 said, there is no problem. It finally got
2 around to testing out into the swamps, and the
3 plant manager has told me that the chemicals
4 have apparently followed the route of tree
5 roots and gone down. Who only knows how far?

6 I. represents Rollins Environmental
7 Services. J is Paxon. It's named Paxon now.
8 It was Allied Signal. K is LaChem Chemical
9 Corporation. I don't know what it was two or
10 three years ago. L represents Deltech. That
11 has some of the worse ground contamination in
12 the parish. They have large amounts of
13 styrene, and in fact Deltech discharged over a
14 million pounds in 1989 into the environment.
15 M is the Exxon Resin Plant, and it makes a
16 number of discharges into a small bayou that
17 runs through the Aisen community.

18 This table shows you the population
19 by race in zip codes. It just basically tells
20 you how many blacks and how many whites are in
21 each population. I did not deal with other
22 minorites because you will see, when I put up
23 the percentages, that other minorites -- Asian
24 Americans and Hispanics are in such low
25 numbers. I should point out that two of the

1 three most heavily black populated areas are
2 the 70802, which is downtown Baton Rouge, the
3 70805 and the 70807 zip code areas. The
4 Scotlandville and the Istrouma areas.

5 Table three shows the zip codes by
6 racial percent and we keep the discharges up
7 there just to kind of remind you of what is
8 going on. 70807, the Scotlandville zip code
9 has the highest black percentage, 92 percent.
10 It also has the greatest amount of discharge.
11 Here I have only listed the discharge from the
12 TRI reporting industries. I did not include
13 the waste coming in to Scotlandville going to
14 Rollins which was over -- almost nine million
15 pounds in 1989. The 70805 shows 69 percent
16 black -- 70806. 38 percent black, 70791, that
17 is that large Zachary area has 29 percent
18 black. And, again, I want to remind you that
19 those industries that discharge over a million
20 pounds are actually located very very close to
21 the Alsen community and not in Zachary in
22 general.

23 And then of course, as the
24 percentages get very low, you find that there
25 are virtually no discharges with the exception

1 of this small community. This is out in an
2 area called Central and that was the zinc
3 dust.

4 MR. JENKINS: As you go through
5 your charts be reminded that we need copies of
6 that to reflect your presentation for the
7 record.

8 MS. ROBINSON: All right. Table
9 3-A. I took data from Table 3 which was the
10 percentage data, put them in class intervals
11 of 20 percent. The first class interval
12 represents values of percent black population
13 from one to 20 percent. Second class interval
14 is from 21 to 40 percent, from 41 to 60
15 percent, 61 to 80 percent, and 81 to a hundred
16 percent. And for my Y-values, I plugged in
17 the total discharges in pounds.

18 Table 3-B is a statistical summary of
19 this data. What I would like you to
20 concentrate on is correlation coefficient
21 which is .8894, et cetera. When we plot that
22 data using the least square method, we had a
23 nice -- on the X axis is the percent -- racial
24 percent, on the Y axis is the amount of
25 chemicals discharged, and you can see that you

1 get a nice line there. It's a positive
2 correlation, a strong positive correlation
3 between race and amount of discharge in a
4 given zip code.

5 All right. Table 4. I compared
6 average family income by zip codes. 70803 and
7 70813 are the zip codes for LSU and Southern
8 University and there is no statistical data on
9 them, you know, students, so what can you
10 expect? Now, we start -- I put percentage of
11 race just to sort of keep as a reminder, but
12 what we are really looking at here is income
13 and toxic discharge. Now, it should be
14 immediately obvious that there is a
15 correlation between income level and the race.
16 I didn't actually plot that, those two things.
17 There is no question, but there is a
18 correlation there. In general, the higher the
19 percentage of blacks in a given zip code, the
20 lower the income. This is average family
21 income. When this data was treated
22 statistically, what I did, was to take the
23 average family income and again put it in
24 class intervals of ten thousand dollars, there
25 were of course no incomes, no families with an

1 income of 10,000 or less, so I started with an
2 income of \$20,000. An income from 21 to
3 30,000, that is second interval from 31 to
4 40,000, the third, and so forth and so on, and
5 compared that to the amount of toxics
6 discharged in that community.

7 The correlation coefficient of that
8 thata is a negative .3588. There is
9 definitely a correlation there, but it is not
10 as strong a correlation as is seen when one
11 looks at race. And this is the least square
12 correlation plot of that, and again here we
13 have amount of toxins discharged, interesting
14 in this direction, and of course the
15 percentage of whites increasing in this
16 direction and we see a negative correlation
17 going downhill like that. All right. That is
18 it.

19 DR. FORD: Is that it?

20 MS. ROBINSON: Yes.

21 DR. FORD: Thank you very much.

22 Are there questions from the left?

23 MS. MCDADE: Were we provided with
24 these charts?

25 MS. ROBINSON: I have a package for

1 you... I did not finish the narratives and I
2 just heard you saying you have time to do some
3 more. The narrative is just kind of rough.

4 MS. MCDADE: Actually just what I
5 am asking, we have been here since 9:30, and I
6 couldn't follow you, so I would like to have
7 copies of the charts to review.

8 DR. FORD: You have until March 16
9 to enter into the record.

10 BY MR. QUIGLEY:

11 Q. What would you suggest that we do
12 about that?

13 A. That you the Civil Rights Commission?

14 Q. Right. You get to draw it up.

15 A. Well, as far as I am concerned, it's
16 very obvious to me that race is a very, if not
17 the most. important factor in the siting of
18 not just hazardous waste sites but also
19 industries that discharge toxics into the
20 community. In many cases we are looking at
21 something after the fact. What can be done?
22 I think communities need to be relocated and I
23 think that is an awful poor choice to uproot
24 people who have been there for generations and
25 who have a sense of community about it. It's

1 a terrible, terrible thing, but you are in
2 many cases looking at, do you uproot people or
3 do you just let them sit there and die? I
4 have already made a request to the Department
5 of Environmental Quality that they look at new
6 siting standards and that they consider the
7 cumulative impact before any new industries be
8 allowed to site in any given area, and I
9 certainly think that communities such as
10 Scotlandville and Alsen and Istrouma area,
11 there needs to be a moratorium and absolutely
12 no new industries moving into those areas, and
13 if any of the industries close out, nobody
14 should move in and take in their place. We
15 are already receiving far more than our share
16 of the environmental burden and that burden
17 needs to be spread out.

18 MR. QUIGLEY: Thank you.

19 DR. FORD: Any other questions?
20 Thank you very much.

21 DR. FORD: Our last speaker in
22 this session is Miss Janice Dickerson. Miss
23 Dickerson is a community organizer for the
24 Gulf Coast Tenants Organization, and she is
25 located here in Baton Rouge. Miss Dickerson

1 also served on the Governor's Transition Team
2 for DEQ.

3 MS. DICKERSON: I guess we will
4 start with our name, and I will go into
5 whether or not I was pleased to be here and,
6 based upon some of the stuff I have heard
7 coming from people who have drawn
8 conclusions -- and I would have to say simply
9 because they are insensitive and they are
10 white -- about disabilities, about siting,
11 about showing cause and effect. One of the
12 things you have to understand is that one of
13 the reasons they are there is because you are
14 black and don't have the money to show cause
15 and effect between poisoning and adverse
16 health conditions. If we had the money to
17 prove that vinyl chloride caused gene
18 mutation. then we close Georgia Gulf up today,
19 and maybe some of you white folk can give us
20 some money to do that. Now, what you have
21 here is some toxic release information data
22 basically supplied to us as a result of the
23 '87 Right-to-Know Law. Prior to '87, folks
24 basically didn't know what was being produced
25 or what was used in the production process in

1 industries next door to their neighborhoods,
2 so this give residents some idea what these
3 industries are using, what they are producing,
4 and the amount of toxics or poisons that is
5 being emitted into the air, water and land.
6 The first thing omitted on these reports is
7 the amount that is being emitted into human
8 bodies.

9 Now, what I thought I would do with
10 you tonight is probably share. I have been
11 displaced by industry. I was displaced by
12 Georgia Gulf, and I thought I would give you a
13 history of a typical African American rural
14 rural community where these industries are
15 located. I came from a little place called
16 Reveilletown. It was a rural African American
17 community west of the Mississippi River south
18 of Plaquemine, Iberville Parish Louisiana.
19 Average incomes are below the U.S. poverty
20 guidelines. The average resident owned a
21 small piece of property with a home. Most
22 rental property didn't have indoor plumbing.
23 The residents were primarily retired service
24 or agricultural workers, welfare recipient or
25 chronically unemployed men and women. Most

1 property owners had less than 12 years of
2 formal education. The community didn't have a
3 sewage system nor were there any state or
4 parish supported recreational facilities for
5 the children.

6 Fire and police protection were both
7 very inadequate. I think I must have been
8 almost 40 before they got first hydrant in
9 Reveille County and be located in Plaquemine
10 three or four miles away so, when a fire
11 occurred, everything had pretty much burned
12 down. At one time there was no telephones in
13 the area. So basically when there was crime,
14 we took care of it ourselves. And one of the
15 suggestions is that perhaps industry would
16 need to be blown up, but then again we don't
17 want to subject other folks to being killed
18 off like they are killing us off.

19 Approximately one mile west of the
20 community is Big Three Industrial Gas. It
21 spew out ammonia. Approximately three hundred
22 feet south of the community is something
23 called Georgia Gulf Corporation spitting out
24 benzene, chlorine, ethylene, phenyl and vinyl
25 chloride just to name a few. Approximately

1 one fourth of a mile south of the community is
2 something called Ashland Chemical spitting out
3 methanol, sulfuric acid and other types of
4 things. We had approximately 150 African
5 Americans living in that community. Not one
6 resident was employed by either one of the
7 industries in the area.

8 The men often traveled to other areas
9 of the parish in many instances or in the
10 state to work in chemical plants as temporary
11 laborers without the benefit of safety
12 training, proper clothing, contracts or
13 insurance, and of course, OSHA, governmental
14 agency tell us, unless there is a significant
15 amount of time on the job when the complaint
16 is made and the complainant is actually there,
17 it's hard as hell for them to track the
18 complaints. So, most times these contractor
19 laborers go in, work a few days and they are
20 gone, and they are subjected to all kinds of
21 hazards. Incidentally whatever they are
22 subjected to by not having proper clothing,
23 training, they in turn bring it back home to
24 their families. Wages were very low. And of
25 course like I said, employment periods were

1 extremely short. The three industries were
2 built in the early to mid 70's.

3 I want to give you a little profile
4 of the government in these parishes where
5 these industries are located. In Louisiana
6 primarily there is something called, in rural
7 Louisiana, a police jury system that is very
8 similar in functions to a city council or a
9 parish council as the governing body of the
10 parish. When these plants were constructed,
11 the composition of the Iberville police jury
12 was primarily white and male. Today the
13 composition of that jury remains primarily
14 white and male. The parish elected officials,
15 the sheriff, the assessor, the clerk of court,
16 are all white males. The district judges are
17 all white male except one. The parish has
18 some of the lowest test scores in the state.
19 African Americans make up the largest
20 percentage of the public school system in the
21 parish. The majority of the residents vote
22 during major elections, however most of them
23 won't vote during off year election times.
24 Prior to 1987, residents were ill-informed
25 about the chemicals manufactured at these

1 industries or used in the process. And
2 evacuation plans were pretty much nonexistent.
3 Today if you look at your local LEC, local
4 preparedness committees, you will find
5 basically plans for evacuating citizens next
6 to these industries are still quite
7 inadequate. You look at the composition of
8 these preparedness committees and find they
9 are primarily white and male made up of
10 industry and government representatives. It's
11 very rare that you will find people who look
12 like me sitting on these committees, but yet
13 these people make serious decisions about
14 evacuating people who look like me when
15 disasters occur.

16 Whenever there was a fugitive or
17 renegade release in the area from where I
18 came, no one ever advised us. Basically what
19 we had to do is agitate the hell out of
20 government as well as industry to find out if
21 anything was happening. Not even when
22 explosion shook our homes and the explosion
23 injured or killed plant workers were we
24 advised by either one of the agencies that is
25 responsible for taking care of evacuating

1 individuals. There was an early warning
2 system. Some called it a siren system. I am
3 now 40 years old. I lived there throughout
4 until I was displaced, and I don't think I
5 ever heard a siren system during the time of
6 an emergency. Of course you would hear them
7 if you were outside during the test period,
8 which they do periodically but, when the
9 explosion shake the house during the actual,
10 you don't hear sirens. I guess I would have
11 to raise the question at this point, were
12 other properties available along the stretch
13 of Iberville Parish along the river? Of
14 course everybody knows that in order for these
15 plants to survive they need water, and the
16 Mississippi is accessible. For traveling
17 south on the River Road from Plaquemine to
18 Whitecastle, you will find large tracts of
19 land, uninhabitted land. I guess I would
20 raise the question at this point, why would
21 anyone locate three industries that close to
22 an African American community of 150 people
23 could determine in fact to have been race? So
24 I am going to let you evaluate that. Who in
25 industry or government were aware at the time

1 of placing those industries there of health
2 risks associated with things like benzene,
3 vinyl chloride, phenyl? Who was aware?
4 Certainly the residents weren't. Traveling
5 from Baton Rouge to New Orleans, I have not
6 found a white community similarly situated.
7 The recent history of plant buyouts along the
8 Mississippi indicate that communities
9 negatively impacted by petrochemical industry
10 or oil refineries are primarily old
11 established African American communities.

12 One might draw the conclusion that
13 industry invaded these old African American
14 communities, and again raise the question of
15 why. Most of these African American
16 communities that I have seen along the river
17 date back along the river to the mid 1800's to
18 early 1900's. As you travel the river, the
19 residents of the once peaceful tranquil
20 African American communities are now being
21 displaced by industries. And in their place,
22 instead of laughter, garden, life, what we
23 find is illness. We find smoke stacks. We
24 find fire, we find massive balls of iron in
25 the air, and we find a way of life, a history

1 and a culture and a people being destroyed. A
2 few examples of displaced African American
3 communities: West Baton Rouge Parish, Sunrise
4 destroyed by Placid Oil. Iberville Parish,
5 Morrisonville destroyed by Dow Chemical
6 Company. Iberville Parish, Revilletown
7 destroyed by Georgia Gulf. However, many more
8 African American communities continue to
9 coexist with industry, and the residents
10 continue to suffer from ill health as they
11 watch their people and their way of life
12 destroyed by industry, and of course industry
13 has the support of government. To name a few:
14 St. Gabriel Louisiana, Iberville Parish;
15 Geismar, Ascension Parish; Alsen, East Baton
16 Rouge Parish; Convent, St. James Parish;
17 reserve. St. John Parish; Mount Airy, St.
18 John Parish; Hahnville. Colona, St. Charles
19 Parish; and the list goes on and on. And
20 black life along the Mississippi corridor
21 known as Cancer Alley continues to decrease,
22 and the people and the history continues to be
23 destroyed.

24 And I'll share with you some
25 information I worked hard on for the last two

1 days cause I know white folk' like stats, so I
2 tried to get you all some stats. And this is
3 not at all reflective of every industry that
4 is next door to these black communities, but I
5 thought I would give you a few of them; and of
6 course it's all within a five-mile radius as
7 in Alsen but, further as you travel along the
8 river, it's a two-mile radius or less. Alsen,
9 Scotlandville: Rollins Environmental
10 Services, two Superfund sites, the new
11 proposed city municipal landfill, Allied
12 Signal, Exxon Chemical Company, Exxon
13 Refinery, Formosa, Laroche, Schullykill,
14 Copolymer. Geismar, Hilleryville, Darrow
15 Prairieville: Agrico Chemical, Allied Signal,
16 Arcadia, VASF. Union Texas Products, Borden
17 Chemicals. Du Pont Burnside Plant, Rubicon,
18 Shell Chemical Company, Uniroyal Chemical
19 Company, Vulcan Materials Company.
20 Iberville Parish: Sunshine St.
21 Gabriel, Carville -- Air Products Company
22 CIBA-GEIGY Corporation, COS-MAR, Fina, ICI,
23 Pioneer. Convent, St. James: Agrico
24 Chemical Company, Air Products and Chemical
25 Company, Occidental Chemical Company. Mount

1 Airy, Garyville, St. John Parish: Marathon
2 Petroleum, Nalco Chemical Company, Marathon
3 Petroleum Company Terminal. Hahnville,
4 Colona: Agrico Chemical Company, Union
5 Carbide Industrial Chemical Company, LP&L
6 Nuclear Power Plant, Occidental Chemical
7 Corporation, Ammonia Terminal, Occidental
8 Chemical Corporation, Shell Chemical Company
9 Taft Plant, Union Carbide Corporation Star
10 Plant. That is 14 black communities with 41
11 industries, and that is not all of them.

12 Now, for your populations: We kind
13 of looked at -- this last year was a real
14 reapportionment period, so we looked at the
15 numbers of black and white folks based on what
16 these white folks turned in to folk in terms
17 of their populations to try and get a sense of
18 how they redistrict and gerrymander the black
19 folk people from voting, so they can get black
20 folk elected. East Baton Rouge Parish, we
21 looked at Council District 2. A large part of
22 it is in Alsen and Scotlandville. Some 25,727
23 African Americans live there. Some 4,660
24 whites; Asians fifty; other, 25 percent.
25 Ascension Parish: Hilleryville, Geismar,

1 Darrow: African American, 3,235; white 1,642.
2 St. James Parish, Convent area: Black, 1,786;
3 white, 856; native American, one, Asian, two;
4 other, 12.

5 East Iberville. There is a little
6 place called Plaquemine Point in East
7 Iberville, and primarily that is the one area
8 where whites live, and you are not going to
9 find that heavy concentration of plants. Not
10 that whites don't die, too. But we found out,
11 even though whites are stupid enough, the
12 police jurors, who think they can put it in my
13 neighborhood and kill me, we found out it
14 dissipates, and what kill me today is
15 eventually going to kill everybody.

16 Plaquemine Point: Black. three; white 329.
17 This is precinct nine.

18 Precinct ten: Also East Iberville
19 has the distinction of having three prisons in
20 the area: Hunt Correctional Center, which is
21 a state operated facility for adult males;;
22 Louisiana Correctional Institute, which is a
23 facility for women which is the state's only
24 adult female institution; and a new federal
25 prison that was not counted in the latest

1 reapportionment plan. And precinct ten which
2 includes parts of Sunshine and St. Gabriel and
3 includes LCI and Hunt. Black nonprison
4 population, 211. Black prison population
5 1,565. Hunt serves as home to 1204 African
6 American men. LCI serves as home to 361
7 African American women. White nonprison
8 population, 894; white prison population, 566.
9 Hunt serve as home to 402 white males, 164
10 white females.

11 Precinct 11, Carville and parts of
12 St. Gabriel: Blacks, 831; whites, 90. And I
13 am almost finished. St. Charles Parish
14 Hahnville, Colona area -- Ward 1, Precinct 2:
15 Blacks, 647; white 987: total, 1651. Precinct
16 3. and some of these you are going to notice
17 in certain areas, you have just a slightly
18 larger population of whites, but when you add
19 the total of usually the affected area, you
20 will come out with a larger black population.
21 Precinct 3 in St. Charles Parish Hahnville,
22 Colona: Blacks, 588; whites, 382. Precinct
23 one, Colona: Blacks 684; whites 60. And keep
24 in mind, in that area, you also have that
25 nuclear power plant.

1 The only parish that did not have
2 statistics from the recent reapportionment was
3 St. John Parish, so we had to use existing
4 statistics from there. District two, Precinct
5 four is primarily Mount Airy and Garyville
6 area, which is primarily black: Blacks,
7 2,541; whites, 2,245. Again, Garyville, parts
8 of Reserve, parts of LaPlace: Blacks 2,975;
9 whites, 2,475.

10 The last comment. I suggest that the
11 commission look closer at the African
12 Americans communities where industries are
13 actively located. Many areas are
14 unincorporated and are in fact small
15 communities like Sunrise, Reveilletown and
16 Morrisonville, and their populations are
17 counted on the census with larger white
18 communities, thus downplaying the racial site.
19 As you can see from the actual numbers
20 presented, actually African American
21 communities are located very close to
22 poisonous or hazardous industries, and these
23 industries pose a threat to life, health,
24 history and culture. If this government can
25 invest money to play war games, support

1 foreign white nations, certainly it can invest
2 money to preserve African American life in
3 America, unless this government is part of a
4 genocidal plan to destroy people that look
5 like me. Any questions?

6 BY MS. ROBINSON:

7 Q. I just have one question, and that is
8 about relocation? I know that the black
9 residents who have lived in these communities
10 were not happy about being displaced, but once
11 they were and the relocation program took
12 place and homes were built for them in another
13 community and various compensations were
14 provided to them; were they satisfied?

15 A. No, ma'am, I am still not satisfied,
16 that is why I am doing what I am doing today.
17 I don't appreciate anybody taking my history
18 and my culture and my life and destroying my
19 home where I wanted to be. If I wanted to
20 live in West Baton Rouge in Bruly where I am
21 currently living, I would have built my home
22 there prior to building it in Reville town.
23 No, I am not at all happy. I don't think
24 anybody would be happy to put somebody to be
25 placed in that situation, because you are

1 faced in a dilemma: Either you continue to
2 live next door to industry with children or do
3 you continue to subject your children to
4 continuous poisoning'. As Florence said, EPA
5 has these standards where they tell us they
6 are emitting within certain guidelines. Well,
7 nobody has looked at cumulative impact or what
8 breathing vinyl chloride on a daily basis for
9 20 years would do to the human body. So you
10 have to make very serious decision. Do you
11 sit there or possibly as time pass subject
12 yourself to gene mutation, and you end up
13 having something produced that nobody else has
14 seen in this world before, or do you move out?
15 And after a long hard struggle with the whole
16 concept, we decided was it safe for the future
17 generations of black folk that we would give
18 up our ancestral land; and quite frankly I
19 think I am going to see how the native
20 Americans felt, and of course, for us it's our
21 second displacement, not that I was around
22 during slavery but of course we were displaced
23 then, too; and I don't think Africans were too
24 pleased about that. So as African Americans
25 we are not at all pleased about displacement

1 this time.

2 MR. QUIGLEY: The documents that

3 you gave us, this is release inventory for the
4 six parishes that you are --

5 A. Correct, for 1989. I hadn't picked
6 up the 90's yet.

7 Q. Can we put these in the record?

8 A. I use those for educating my folk up
9 and down the river, I tell you. What I can do
10 is probably give you -- maybe a sheet of one
11 or maybe -- do you have it? We can run off a
12 copy? We can get you a copy of them.

13 MS. ROBINSON: If you could get it
14 to me along with your written presentation.

15 DR. FORD: Any questions?

16 MS. DICKERSON: I am the resident
17 expert. I've been poisoned, been killed off,
18 and I am raising hell now, so if the
19 commission is really interested in raising
20 some questions, let's see if we can get to
21 some solutions and get this government to
22 actually do something about poisoning of folk.

23 MR. JENKINS: We will recess till
24 nine o'clock tomorrow morning.

25

1 MR. KUTCHER: This is the second
2 day of the factfinding hearings on
3 environmental equity, and we thank everybody
4 for being here again. Again, let me remind
5 everybody of the ground rules. Those
6 speakers, if you have written statements,
7 please give those to the court reporter. We
8 look forward to your statements. We have
9 allotted 30 minutes for your statements and
10 questions and answers from the committee, so I
11 would please ask those members of the
12 committee to ask succinct direct questions and
13 I would ask the speakers to respond a
14 accordingly.

15 With that, Mr. Jenkins wants to make
16 a statement before we start with our next
17 presenter.

18 MR. JENKINS: Thank you. As I
19 indicated yesterday, this particular fact-
20 finding meeting is a case of first impression
21 not only for this advisory committee but also
22 for the U.S. Commission on Civil Rights. It's
23 a highly emotional issue which we found to be
24 last night, after listening to representatives
25 from community groups talk about various

1 things happening in their community regarding
2 toxic issues. We realize that sometimes we
3 often make statements that seem somewhat
4 insensitive from both sides of the arena,
5 however, because we are here in a factfinding
6 process, we want to try to obtain as many
7 facts as possible. Perceptions are fine.
8 They will be recorded and noted during the
9 course of the report. We are asking the
10 participants to please stick to the area that
11 you have chosen to speak on and let's do it in
12 an unemotional way so that we can ask
13 questions in a way that we can obtain
14 necessary facts for us to build a case to make
15 adequate findings and recommendations. Again,
16 we know, it's a highly emotional issue, but
17 let's maintain our emotional level to one we
18 can deal with and be sensitive to the issues
19 that are before us.

20 With that, I will turn it back to the
21 chairperson so that we can proceed today.

22 MR. KUTCHER: Thank you, Mr.
23 Jenkins. Continuing with the presentations
24 from the environmental and community groups:
25 Bill Nevitt is our next speaker. Mr. Nevitt

1 is the president of the Louisiana Sierra Club,
2 which is a national public interest
3 environmental group. Mr. Nevitt, good
4 morning, sir.

5 MR. NEVITT: Actually, chairman,
6 we go by the term "chair" instead of president
7 with our organization, so I would like to
8 correct that, just a matter of format.

9 MR. KUTCHER: Fine. But you are
10 Bill Nevitt?

11 MR. NEVITT: That's correct. I am
12 the state chair for the Delta group which is
13 the State of Louisiana's name for the Sierra
14 Club. My particular issue is toxic and toxic
15 waste; however, I do hear on a daily basis
16 from everybody within the State of Louisiana
17 on just about every environmental issue you
18 can imagine that would be taking place. Of
19 concern right now, naturally you will hear
20 probably about the Formosa issue, the Marine
21 Shale issue, Laidlaw, as I am concerned with,
22 and the nuclear enrichment plant in Claiborne
23 Parish. These seem to be cropping up on a
24 reoccurring basis.

25 What I came to talk to the group

1 about is, I live in Crowley, Louisiana, Acadia
2 Parish. In Acadia Parish, we have two
3 quote-unquote "hazardous" waste blending
4 recycling facilities, one being Laidlaw (GSX),
5 the other being Marco of Iota. Both of these
6 are located -- in Laidlaw's case it's in the
7 German Cove where you have the German ethnic
8 background there which settled that area.
9 Currently that particular site has groundwater
10 contamination that has been documented to
11 about 40 feet below the surface. As a matter
12 of record, there are at least 112 toxic
13 contaminated sites on the federal Superfund
14 list involving recycling as a site activity.
15 Of these, 47 involved waste oil processing; 36
16 resulted from solvent recovery, 25 involved
17 battery recycling, and 14 were caused by drum
18 recycling.

19 DR. FORD: This is the national
20 Superfund?

21 MR. NEVITT: Right.. We are
22 dealing with two in Acadia Parish, one of
23 which may well be added to the Superfund list.
24 They are operating sporadically. The Marco
25 site also had groundwater contamination .

1 documented to to 50 feet. They are currently
2 in violation as far as their Part Two
3 application at the current time. These
4 facilities process carcinogens, mutagens,
5 developmental toxins, reproductive toxins,
6 neurotoxins, acute toxins, chronic toxins,
7 bio-accumulator, persistent chemicals, and
8 ozone depleters. Laidlaw in particular has
9 applied into a permit and has been okayed to
10 process these types of chemicals. A
11 carcinogen includes chemicals known or
12 suspected of causing cancer in humans or
13 laboratory animals. Mutagen -- chemicals that
14 have the potential to produce changes in
15 genetic material that can be passed on to the
16 next generation. Developmental toxins --
17 chemicals that can cause birth defects,
18 miscarriages, growth retardation, mental
19 retardation or learning disorders.
20 Reproductive toxin is that chemical that can
21 damage the ability to reproduce. Neurotoxin
22 -- chemicals that can cause adverse effects on
23 the nervous system, including the brain,
24 spinal cord and nerves.
25 Acute toxins cause serious health

1 effects or death from short-term exposure.
2 Chronic toxins include chemicals that can
3 cause adverse health effects (other than
4 cancer) for long-term exposure, such as liver,
5 lung or kidney damage. Environmental toxins
6 -- chemicals that can cause serious adverse
7 effects on the environment, including wildlife
8 or vegetation. A bio-accumulator -- chemicals
9 that can accumulate in plant or animal tissues
10 over time and pass through the food chain.
11 Persistent chemicals -- substances that tend
12 to remain in the soil or water because they do
13 not readily break down. And ozone depleters
14 that break down the stratospheric ozone layer,
15 allowing increased ultraviolet radiation to
16 reach the earth. These are all being
17 processed at this Laidlaw facility in Crowley,
18 Louisiana.

19 This site is also in violation of its
20 buffer zone requirements which require a
21 200-foot buffer zone between the property line
22 and facility. It's within I would say 20 to
23 50 feet. School children are typically -- are
24 transported along those roads. Approximately
25 22 families are trapped behind the facility

1 because there is no other means of egress.
2 So, when there are fires -- and there have
3 been numerous fires in that area -- that those
4 people will be trapped back there. The local
5 fire departments cannot respond because they
6 are inadequately equipped and have so stated
7 in resolutions to the DEQ, and have so noted
8 to the facility out there. The facility is at
9 best has got fire extinguishers and some type
10 of water system to contain the fire but water
11 and these chemicals do not mix and would tend
12 to spread the fire when the fires do occur.
13 There are numerous emissions and complaints.

14 I currently can't drive out there.
15 Our property -- it's been in the family since
16 the 1800s. I cannot live out there, as I
17 would like to. It's a sensitive wetland also
18 adjacent within one mile of the area. My son
19 was out, that we drove by there to visit a
20 relative. My son has not had any problems
21 with nose bleeds. Within a day or two
22 afterwards, his nose unexpectedly started
23 bleeding. No scientific documentation, grant
24 it, but having not had that happen -- having
25 told me that the odor was bad and driving in

1 that area. I can only suspect that it had some
2 type of -- he contracted it from that area.

3 People from that area have experienced nose
4 bleeds, rashes. Workers out there routinely
5 take blood samples. I don't think they are
6 aware of the fact that, what they are being
7 exposed to, these chemicals accumulate in the
8 tissues of the workers and also of the people
9 living in the immediate area.

10 In addition, the March of Dimes in a
11 campaign against birth defects published an
12 article in The Daily Advertiser, February the
13 third of this year, 1992. In the article it
14 states, "Scientists have long known that
15 certain industrial chemicals, drugs and
16 radiation can damage sperm, leading to
17 infertility or sterility.

18 "The male reproductive tract contains
19 some of the most metabolically active cells in
20 the body, which means that they are also among
21 the most vulnerable to poisons they can kill
22 or maim them and mutagens," as I noted
23 earlier, "that can damage their genes.

24 "Among known sperm-damaging
25 substances are lead, industrial solvents like

1 benzene, toluene, paint thinner mixes and
2 carbon disulphide, pesticides like DBCP
3 (dibromochloropropane) and Kepone, marijuana
4 smoke, large amounts of alcohol and ionizing
5 radiation.

6 "There is also some evidence that a
7 father's exposures to toxic substances can
8 increase the mother's risk of miscarriage and
9 stillbirth." "Links have also been made
10 between certain occupational exposures of
11 fathers and subsequent birth defects or other
12 damage in their children. For instance, in
13 one study, the study of male anesthesiologists
14 were 25 percent more likely than the children
15 of male surgeons to have major malformations
16 like spina bifida heart defects and cleft
17 palate. "Childhood leukemia has also been
18 associated with fathers who have been exposed
19 to hydrocarbons, solvents, petro products, and
20 spray paints.

21 "Children may face an increased risk
22 of brain cancer if their fathers are chemical
23 workers, auto mechanics, machine repairmen,
24 metal processors, electronics workers or have
25 jobs that exposure them to higher than average

1 levels of radiation. "Dr. Marvin Legator,
2 Director of Environmental Toxicology at the
3 University of Texas Medical Branch in
4 Galveston, Texas has conducted extensive
5 studies of sperm damage in laboratory animals
6 exposed to toxic chemicals which include
7 solvents, drugs used for chemotherapy,
8 formaldehyde, pesticides, cigarette smoking,
9 illegal drugs, as well as "Agent Orange."

10 That particular site in Crowley in
11 1989 imported 76.49 percent of its waste from
12 outside the state of Louisiana, 26,217 tons of
13 hazardous waste at Laidlaw in Acadia Parish.
14 These figures come from what is called the
15 annual report that is supplied by law that
16 these facilities have to submit to DEQ to tell
17 them how much waste they have processed. Of
18 the 26,000 tons, 1800 tons were injection well
19 disposed, 1500 tons were put to incineration
20 treatment. Eight thousand five hundred tons
21 went to Marine Shale processing in Amelia,
22 Louisiana. And 15,538 tons were burned as
23 blended hazardous waste fuel or other use.

24 If there are any questions on this, I
25 will be glad to answer. I do have a statement

1 by the Sierra Club of its national policy.

2 MR. KUTCHER: What we would ask
3 you to do is submit the statement as part of
4 the record.

5 THE WITNESS: I will be glad to do
6 that.

7 BY MS. MCDADE:

8 Q. My one question. I may have missed
9 the very beginning of your statement. We are
10 referring to the Laidlaw's basically is what
11 you spoke of?

12 A. Yes, ma'am.

13 Q. Could you give us the ratio of the
14 general area that we are talking about?

15 A. Well --

16 Q. The people affected directly?

17 A. Mainly I would say lower economic
18 level people in that area that were affected
19 by the oil-related industries, layoffs. I
20 would say it's German, white German people
21 mostly in that area.

22 Q. So, we are not talking about
23 primarily nonwhite?

24 A. In this particular case nonwhites. I
25 am glad you mentioned that, though. We are

1 immediately adjacent to St. Landry Parish
2 which is a predominantly black area.

3 Q. Are there are people in St. Landry
4 Parish exhibiting some of the same problems
5 that you have relayed to us?

6 A. Well, in the sense of locating a
7 facility, yes. In an attempt to process more
8 hazardous waste at that facility, Eunice,
9 which is located in St. Landry
10 Parish-Opelousas, which is part of the St.
11 Landry Parish, a contract rail hauler wanted
12 to locate in Eunice. They were subsequently
13 denied by the people there due to the they
14 thought of the hazards, and also they wanted
15 to locate in the City of Opelousas Industrial
16 Park.

17 Q. And the one other thing I would like
18 to request from you. You have given us some
19 pretty provocative statistics and information.
20 Would you mind providing that to the
21 committee?

22 A. Those are all from EPA, not at all.

23 Q. Can you provide that information to
24 us?

25 A. We will leave that here. This was by

1 a study that was done by the Sierra Club and
2 LEAN, Louisiana. I would be glad to leave the
3 entire study with you. All the information I
4 have provided has been provided by: A, DEQ or,
5 B, EPA.

6 Q. Rather than our having to find it, if
7 you would leave it. Thank you very much.

8 MR. KUTCHER: Dr. Hicks, do you
9 have a question, ma'am?

10 DR. HICKS: Yes.

11 Q. Are there black and white
12 environmental groups in that area?

13 A. Yes, very much so.

14 Q. My other question is, do you know of
15 any allowances and cooperative efforts that
16 are being built between those groups and, if
17 so, would you describe them?

18 A. Yes. Well, it would be very loose to
19 start off with. There was a medical waste
20 incinerator that was also proposed back in
21 1988. I would say in Crowley, Louisiana. I
22 was a founder of a group called Hope, Help Our
23 Polluted Environment, whereby the entire city,
24 which Crowley does have at the time -- still
25 does, as a matter of fact, has a -- I would

1 say we are about 30 percent minority makeup, I
2 would say in the city, possibly higher. I
3 can't really give you -- that is not an
4 accurate figure, however, we did go into the
5 black sections of town and they were very,
6 very cooperative and quite helpful in signing
7 the petitions to fight this particular medical
8 waste incinerator that was being proposed in
9 Crowley. Actually outside Crowley. What I
10 found, you know, these facilities want to go
11 where, A, people need a job. It's
12 economically depressed. Unfortunately people
13 will want to take a job at any cost. What
14 people don't realize is the adverse health
15 effects that they will sustain by working in
16 these facilities. If you knew that you would
17 be passing on a gene to your children that may
18 cause future developmental problems, I don't
19 think you would take that job, or if you were
20 at least made aware of it. They are not
21 educated. The only thing they are educated on
22 is how to put out a fire which, again, would
23 signal to me that it's a very dangerous
24 occupation. Why would they send their workers
25 to have their blood tested twice a year to

1 buildup a toxin sensitivity and possibly let
2 go if their blood became too sensitive to a
3 certain toxin. This information is not
4 provided to the people.

5 Q. My other question is this: Do you
6 have blacks or other minorities in the
7 Louisiana Sierra Club?

8 A. Oh, yes.

9 Q. And if so, can you give sort of an
10 approximation?

11 A. I really couldn't. I just became the
12 chair of it, but I would be more than happy to
13 do that for you.

14 Q. Okay.

15 DR. HICKS: That is it.

16 BY MR. JENKINS:

17 Q. Let me follow up on a question that
18 was asked. In the banking area we have what
19 we call a truth in lending regulation. From
20 what I gather from your testimony, that we do
21 not have what you would call truth in
22 employment regulation to list the health
23 hazards if you were employed in this
24 particular plant?

25 A. Yes.

1 Q. Has that approach been tried with
2 some of the waste managers in the country to
3 have such a law?

4 A. I would say -- I can't answer the
5 question accurately. My only thing I can
6 reflect on is that there tends to be -- what
7 we are asking for from the Sierra Club in
8 fact, there is a bill -- there is a House bill
9 which is a Right-to-Know More Act. We want to
10 know more about what a chemical substance will
11 do. What tends to happen is the less
12 information that you are required to give out
13 well, then, the less you know and subsequently
14 you have problems, you don't know where those
15 problems come from. I would like to see full
16 disclosure, if you will, on all chemicals
17 produced in that light. Yes, there is a
18 reporting some reporting loopholes that must
19 be closed. The community Right-to-Know Act,
20 1981, H.R. 2180 expands the limited industrial
21 reporting of toxic releases by companies.
22 That needs to be addressed definitely. That
23 would help along those lines.

24 Q. Given the establishment of some of
25 the areas, some of the plans that you have

1 already in existence, how do you weigh the
2 health benefit of reducing the toxic versus
3 the economic benefits?

4 A. That is a good question. In this
5 particular facility -- well, the Laidlaw in
6 particular is located basically in an urban --
7 more of a suburban ranch style area where
8 people have wanted tracts of land and a house,
9 basically if you will, large tract
10 subdivision. What economic value do you put
11 on a life, you know? Is it like an insurance
12 company? You lose one eye, you get ten
13 thousand dollars, you lose your child, you get
14 a hundred thousand dollars. I don't think
15 anyone is prepared to put a dollar value on
16 any life. I think what has to be looked at is
17 where these plants are located, what adverse
18 health effects they will have on the people.

19 Q. What we have heard yesterday, some of
20 these toxins and things that are emitted in
21 the air, we really don't know long-term effect
22 of them yet?

23 A. That is exactly right.

24 Q. Looking at it from a profit-motive
25 industry, they simply indicate, one, we can't

1 determine what is going to happen. The burden
2 is almost placed on the consumer?

3 A. Give me a dead body.

4 Q. That is in essence what a lot of
5 companies are indicating?

6 A. Yes.

7 Q. By the same token, these companies
8 are there to make a profit and trying to mesh
9 the two in a community, and somehow you are
10 not going to get that perfect mesh?

11 A. I think you are going to have to get
12 a mesh. In fact, you are going to have to
13 have -- some type of ecologically sustainable
14 economy is going to have to be developed
15 between industry and the public. The public,
16 we all like to drive our cars, we all like the
17 different products that society has brought
18 forth. However, if those products are going
19 to kill us, are they of any benefit to
20 society? If we are going to make substances
21 that subsequently kill ourselves, what good is
22 the industry? We have gone through an
23 agricultural revolution. We have gone through
24 an industrial revolution. I think now we are
25 going to go through an ecological revolution

1 to help at least balance what the agricultural
2 and the industrial revolutions have brought
3 forth.

4 If there is benzene or toluene in
5 your water and you die, what good is that
6 worker to that plant? What good is your
7 quality of life if you are on -- you have
8 kidney failure and every two weeks you have to
9 go through dialysis. What good is a nose when
10 you are sitting down talking to your friends
11 and you have a nose bleed. That is something
12 you don't want to tolerate. Why should I have
13 to go see the doctor on a constant basis when
14 I have rashes, kidney disease, things of this
15 nature? What is going to happen is we are
16 going to have to reduce a lot of these things
17 and find an alternate substitute, something
18 else for it. We are going to have to start
19 reusing a lot of our products. Good common
20 sense is going to have to prevail. We can't
21 go along dumping everything into the ground
22 and spewing it into the air. If one thing is
23 magically burning, this stuff is going to
24 change it, I think you are fooling yourself.
25 You are trading ground pollution for water

1 pollution cause these chemicals don't
2 magically disappear, they are going to go
3 somewhere, and we end up breathing them. Very
4 subtle. Very much like cigarette smoke some
5 may say.

6 The answer to your question, industry
7 is in -- what I see, industry has not really
8 taken the initiative until industry has been
9 forced to the wall to do something. Case in
10 point. This particular facility has fought
11 the state on its interim status position.
12 They say they don't belong in it, then all of
13 a sudden they say they do belong in it.
14 Fighting this for just to be fighting it so
15 you don't have to come under regulation cannot
16 be accepted because of the effects of health.

17 Q. Is the onus on the government to
18 impose more regulations? You have a triangle.
19 You have the industry, consumer and federal
20 government, and not only federal and local,
21 state regulations coming into play, and a
22 disproportion. Some of the sites are located
23 in minority neighborhoods.

24 A. In socially economic deprived
25 neighborhoods. I think that has to be brought

1 out, too, that these people, this area is
2 predominantly -- more so than minority areas,
3 plus minority groups have tended to locate
4 throughout the south.

5 Q. The question is, with this triangle,
6 the burdens should shift where? We have
7 industry, profit maker, regulator, consumer.
8 You have the IT decision in the state, and I
9 am trying to look at the correlation. Should
10 we have more government regulations, less
11 regulations or what in order to decrease this
12 toxic waste that we have?

13 -A. Unfortunately we are going to have to
14 have -- industry is not going to do the job.
15 They have not done the job. They have had 50
16 years to prove themselves to do the job and
17 they haven't done it or we would not be
18 sitting here talking. It has not taken place.
19 The consumer or the public is putting pressure
20 on the government, if you will, on that
21 triangle, to force the people to do it, and
22 only then will they come about to do it. The
23 auto industry fought the emissions. The
24 tobacco industry is fighting. They are not
25 going to give up easy, people. But, our

1 American society puts a lot of emphasis on
2 life and our quality of life and the way we
3 live here, our freedoms. You just saw the
4 Berlin wall fall down. You want to see
5 pollution and health hazard effects, go over
6 there. That is what happens when the
7 government doesn't do anything. We are
8 fortunate we have input like this commission
9 is doing right now. Yes, it's going to be up
10 to government to, if you will, nudge, push,
11 encourage, in some way, shape or form,
12 industry to come to the forefront and do these
13 things cause if we kill off half your
14 population, you don't have products to sell.
15 There was something else I wanted to add to
16 that.

17 Government is also going to have to
18 make it -- be able to attract qualified people
19 in the form of salaries to help enforce these
20 issues and to regulate these issues. All too
21 often that regulator, that enforcement officer
22 is grossly underpaid. He will use it as an
23 entry level job to go on to industry. There
24 are a handful of dedicated out there in
25 enforcement area. The federal government is

1 going to have to come to the forefront by
2 those salaries. As a matter of input, the
3 State of Louisiana is the largest contributor
4 to the federal treasury, over two billion
5 dollars. Many of you may not have known that.
6 In the state of Louisiana there is a
7 disproportionate amount of responsibility for
8 sustaining its own economy. There was a study
9 done in the mid 80's that showed that the
10 petrochemical industry had a negative economic
11 impact on the State of Louisiana. Your infra-
12 structure was destroyed, your sewer system,
13 your water quality, the quality of health has
14 been documented. The more you read it the
15 more alarming it becomes. In effect, the
16 State of Louisiana is supporting the federal
17 government on these lines. That has to be
18 addressed. We have a negative economic impact
19 from the petrochemical industry. We are
20 subsidizing the federal government right now
21 in this state.

22 MR. KUTCHER: What was that study?

23 MR. NEVITT: Governor Edwards has
24 it. I don't have it. It's at the -- right
25 now, at the Sierra Club Legal Defense Fund.

1 We are looking at it right now but it was done
2 at the Edwards administration, that basically
3 shows that there is a negative impact from the
4 petrochemical industry.

5 MR. KUTCHER: I am sure everybody
6 on this committee would like to see that.

7 MR. NEVITT: It's very alarming.
8 The coastal parishes have suffered the most
9 because of the quality of water. During heavy
10 employment times, they are not able to sustain
11 the proper water treatment, disposal, things
12 of that nature.

13 MR. KUTCHER: Anybody on this side
14 have any questions?

15 MS. REIBOLDT: It's really
16 unfortunate I think that we have not included
17 people that we are aware of. I know there are
18 all kinds of reasons why, but I am not putting
19 the blame on anybody. But living in
20 Shreveport, several things have happened in
21 the last two or three years. One was brought
22 to our attention yesterday, and one that we
23 are very well aware of, about the apartment
24 complex, that being a chemical plant that was
25 there and closed down 15 years ago and now

1 somebody else bought the land and have
2 apartments, and things are happening there and
3 affecting whites more so even than blacks
4 because that is who lives in that
5 neighborhood, and I think we are going to
6 start to see those type of things crop up
7 because of the fact they have not been held
8 responsible as they should have been in the
9 past. But as you read about these issues on
10 both sides of the issues, I see that gains
11 have been made, even strides, even the guy
12 from the DEQ has been quoted as to say that
13 things are becoming more positively and
14 beginning to make some gains in this area. I
15 just wondered how you felt about that and do
16 you think that really what we are seeing in
17 this state is not so much. and maybe it has
18 been in the past because we have really looked
19 real closely here to what has happened here in
20 Baton Rouge and the areas that have lived
21 around that. As we begin to branch out and
22 see cases, we see that the whole state is
23 being affected. and much of what you have said
24 is that Louisiana, not just the black
25 neighborhoods but the white neighborhoods are

1 being affected. And that we have got to look
2 at at it on the whole.

3 A. It has to be addressed that way. One
4 must remember that DEQ really became a
5 functioning body under the Roemer
6 administration. They had no funds from the
7 general budget until Governor Buddy Roemer
8 took office. Before that it was only
9 maintained through fines. That was the way,
10 if you will, how a political person could
11 govern the effectiveness of an agency. So, it
12 wasn't until that Roemer administration came
13 on board that DEQ actually had a budget to
14 work with.

15 Q. We understand about that. Then I
16 would go on to ask you, what is the balance
17 going to be and where is it going to be? What
18 do you see as a person very involved in
19 litigation, in supporting certain groups to
20 bring litigation, trying to inform people?
21 What is your view? Do you think that the only
22 way we are going to be able to help, not only
23 minorities and whites, is to completely close
24 down these places? Do you think industry
25 should never question DEQ regulations? Should

1 they just sit back and take everything that is
2 dished out to them? Could they be right in
3 some circumstances? What is your view on
4 this?

5 A. Well --

6 MR. KUTCHER: Which question you
7 want him to answer?

8 A. I think as far as industry is
9 concerned, I served on a task force to try to
10 promulgate regulations for hazardous waste
11 facilities and actually promulgating
12 regulations as far as IT decision is
13 concerned. In the beginning of my personal
14 view of how that all came, sitting in on it,
15 the initial industry was there, environmental
16 groups were there. tourists, realtors, the
17 whole nine yards. DEQ made a gallant effort
18 to try to get everybody to try and develop
19 some regulations. In the beginning, industry
20 was very -- if you will, had a nose stuck up
21 in the air and we know everything routinely.

22 Q. Keep in mind the same thing has been
23 said about DEQ. Let me make it simple for
24 you. Do you think where you are coming from
25 that it can be worked out or do you think --

1 A. It cannot be, it has to be worked
2 out.

3 Q. How do you think it's going to be
4 worked out? Is it going to be, we are going
5 shut down industry totally, these type of
6 places in Louisiana, or are we going to try to
7 clean that up? Is there hope?

8 A. If something is going to kill you, do
9 you want it around?

10 Q. So, you are saying no, it can't be?

11 A. No, I am not saying it can't be done.
12 If we know that Toluene and benzene have
13 long-term effects on the health, can we find
14 substitute? That is what industry can do.
15 They have the money, they have the dollars to
16 develop a substitute that might take the place
17 of that particular chemical. You have seen
18 pesticides come and go. That has come way,
19 way down because they had to find another type
20 of biodegradable substances, something more
21 friendly to the environment. Just because it
22 was there 20 years ago, doesn't mean we have
23 to have it today. DDT is not there. Industry
24 can and has the financial wherewithal to
25 develop alternative substances that may be

1 just as good if not better. We saw the space
2 shuttle develop because they thought that was
3 wasteful.

4 Q. If a community comes together and
5 there is a big fight and everybody comes
6 together and you bring in the chemical company
7 and they -- its a small community and
8 everybody is there and they ask questions,
9 they bombard, they throw things at the
10 chemical people or the industry and they try
11 to gather as much information, but the bottom
12 line is the community has agreed that the
13 risks do not outweigh the economic value, and
14 would it be your position as leader of the
15 Sierra Club to continue to try to make that
16 not happen even if the community has said this
17 is what they want?

18 A. I can't speak on that issue, it would
19 have to come from the Sierra Club themselves,
20 the members, and that has not been addressed.
21 What we looked at are alternatives to the
22 situation where we can have a sustainable
23 economy, if you will. If you have something
24 that would kill the people of that community,
25 I think you are going to have to look at it

1 long and hard. I can't see why anybody would
2 want to justify killing another human being.
3 Our society is not tuned, if you will, or not
4 socially accepted. If they came in and were
5 developing an alternative to CFC's and this is
6 going to be less toxic to the workers and we
7 have something, but if you are going to have a
8 plant that, if it explodes, half the town is
9 going to die, I don't see anything
10 accomplished there, but if you have a plant
11 that comes in and we are going to make a
12 substance that will take the place of toluene,
13 then you have something on the leading edge,
14 you know. We just can't say we have had it
15 for 20 years and there is no way to get rid of
16 it, but automobile industry, reduced
17 emissions, we have better fuel economic. The
18 technology is there if we want to address it.
19 If you want to give industry some type of
20 incentives to do it, yes, they need it because
21 they are profit motive -- we are profit-driven
22 economy. They have to stay in business. They
23 have to produce a profit. Workers want jobs.
24 That is what makes our economy move. But you
25 can't do it at the risk of killing people, and

1 that is in some instances what is happening.
2 You have people that are developing leukemias
3 and liver damage and kidney damage from
4 exposure to these things. We have eight
5 inactive and abandoned sites in Acadia Parish
6 alone. We got this in from the Department of
7 Environmental Quality, so also I believe it
8 was mentioned that the normally occurring
9 radioactive materials, when you are drilling
10 for oil, that is going to be a problem. I
11 think that is 1800 documented sites. That is
12 an area that is going to have to be addressed.

13 BY MS. ADAMS:

14 Q. Mr. Nevitt, I had a question as I was
15 listening to your presentation. I am
16 wondering how are we ever going to be able to
17 resolve the big differences of opinion about
18 whether or not industry is in fact killing
19 people, that the actual and potential effects
20 as people from your organization and other
21 community organizations describe. Is it such
22 a variance from what industry is saying and
23 what the scientists, some of whom have
24 presented information to this committee in the
25 last day are saying that are actually

1 happening? How are we ever going to reconcile
2 that big difference as to what really the
3 dangers and the effects of it are,
4 particularly when it appears at least, that
5 our state and federal government are over-
6 seeing this process and have set regulations
7 and are saying, if you do these things, then
8 you are in compliance, and there is no danger
9 or at some level beyond this level. How can
10 we reconcile that? Because it's very dramatic
11 to use the term killing people, killing
12 people, and saying industry can do all these
13 things, and at the same time government is
14 saying, okay, industry, you are complying, and
15 apparently we don't believe that you are
16 killing people. How are we going to bring
17 these two views together?

18 A. Well, okay. Industry will always try
19 to take -- what I find with industry is you
20 draw the line. You can't go beyond that.
21 Their question is, they don't ask how can I
22 make it safer, it's just, how close can I get
23 and get away with it. Even though that has
24 been their attitude, and you can -- you have
25 to start at a basis line somewhere to say that

1 a certain amount -- you are right. How much
2 PCB's do you want in your water? How much
3 toluene do you want to drink? Should that be
4 the question?

5 Q. Well, I think the question I am
6 saying is, is it industry or should your
7 organization and other organizations apply
8 pressure to the controlling bodies who issue
9 permits and who set the standards?

10 A. We do that. Everybody is in the
11 process.

12 Q. Well, if people are complying with
13 the standards, then why are we saying they are
14 killing people?

15 A. A lot of them aren't. In my case,
16 they will go to court to try and change that
17 standard. They don't want to comply. In my
18 case, there is a buffer zone variance. The
19 plant shouldn't even have been there, and they
20 want to go to court to justify where they are.
21 That is not right. They are not in
22 compliance. Now, if there is a base line and
23 you are only supposed to have so many PCB's or
24 contaminants or whatever you want to use in
25 the water, then add here to it, but industry

1 tends not to want to add here to it. When
2 they are caught on a violation, they fight it
3 tooth and nail. That is not how I can correct
4 the problem. It's what can I get away with.
5 If they took attitude that we have gone to
6 every possible length to protect health and
7 continue to keep moving forward, I don't think
8 we would have much of a problem, but that is
9 not the case. You look at everyone of the
10 settlement agreements, you look at all the
11 lawsuits. I would say the majority of them
12 is, what can I get away with. This is not so,
13 that is not so. It's not what can I do for
14 the people. It's what can I do for the
15 company.

16 Q. You are saying they make stronger
17 arguments?

18 A. They try to, yes, and I think in time
19 we are going to continue -- unfortunately it
20 is going to be fought in the courtrooms. It's
21 not that you want to do something that is
22 right. It's a strong word that you are
23 killing somebody, and that is a strong word
24 and it's correct. It's because I want to save
25 a life.

1 MR. KUTCHER: Mrs. McDade had the
2 first question and has the last question.

3 MS. MCDADE: I appreciate the
4 chair putting up with this.

5 Q. Something has come to my mind. That
6 is several months, several years back, several
7 actresses went before the committee and cried
8 that apples were killing our children -- I
9 don't know if I am pronouncing it correctly --
10 avelor?

11 A. Avelor?

12 Q. In the bottom analysis, they were not
13 killing our children, but the apple industry
14 was severely weakened because of the cries,
15 the pleas, the real evidence behind them. How
16 do we avoid those kind of things? How do we
17 avoid making broad accusations, destroying an
18 industry that we desperately need in this
19 country and then finding we were incorrect?
20 How do we do that?

21 A. There may be people that will
22 disagree there were no adverse effects on
23 those people. Again, how much pesticides do
24 we use? Yes, it hurt that industry. And,
25 again, it was not industry's fault. I don't

1 blame the apple industry, I don't blame the
2 farmer. The biggest problem is the chemical
3 industry going around saying it's safe enough
4 to get --

5 Q. And suffer the consequences?

6 A. They were a victim of the chemical
7 industries. They don't want to kill people.
8 The truth of the matter is they couldn't sell
9 their apples.

10 Q. But it was found that that chemical
11 was not --

12 A. I don't know if that was the case or
13 not. I really don't. I have not been
14 satisfied on it. I think it brought an
15 awareness of it. Again, the chemical
16 industry, the ones producing those chemicals
17 are the ones that need -- they could have
18 nipped it in the bud had there been extensive
19 studies done.

20 Q. How do we avoid that kind of thing
21 happening?

22 A. I think whoever administered the
23 governmental programs needs to be strictly
24 enforced and, again, have someone very
25 qualified that is not being tainted by

1 industry. Industry tends to do their own
2 research. I don't mind as a taxpayer
3 subsidizing research for chemical industries.
4 I don't think anyone else out there would.

5 MR. KUTCHER: Sir, we are going to
6 keep this record open until March the 16th, so
7 if you can get that documentation to Miss
8 Robinson before then, we would very much
9 appreciate it, and she will distribute it to
10 members of the committee. Thank you.

11 Our next speaker is Norton Tompkins.
12 He represents the Citizens Against Nuclear
13 Trash (CANT) located in Homer, Louisiana. We
14 have heard Miss Walker talk yesterday about
15 the uranium enrichment plant proposed to be
16 located there, and Mr. Tompkins I assume is
17 going to talk about citizen activities up
18 there, and we welcome you, sir.

19 Mr. Tompkins, if you have any
20 documents that you read from, and that
21 newspaper article, if you could give that to
22 the court reporter; it would make it easier to
23 transcribe.

24 MR. TOMPKINS: Before I start, the
25 blue pamphlet will give you an overview of the

1 uranium enrichment plant and the other package
2 I gave you, we will sort of sing along with
3 each other. If you would remove the clip and
4 take the top sheet, and that is your song
5 sheet, and then I am going to lead you through
6 the exhibits one by one as I go. Okay?

7 MR. KUTCHER: Yes, sir. Did
8 everybody on the committee understand that
9 one? Okay, we are with you so far.

10 MR. TOMPKINS: Are you ready?

11 MR. KUTCHER: We are ready.

12 MR. TOMPKINS: My name is Norton
13 Tompkins. My wife and I live on Lake
14 Claiborne near Homer, Louisiana. I am a
15 member of the organization CANT which means
16 Citizens Against Nuclear Trash. CANT was
17 organized to create a forum from which
18 concerned citizens could oppose the
19 construction of the uranium enrichment plant
20 proposed for construction in Claiborne Parish.

21 Membership of CANT is about equally
22 divided between white and black residents.
23 The black community is concerned for two basic
24 reasons. The plant will be located in the
25 center of their community and will endanger

1 health and safety. The road which services
2 the neighborhoods will be closed and
3 relocated. This road has been in service for
4 generations. Most of the white members are
5 retired persons who own homes on Lake
6 Claiborne and since all of the plant effluent
7 will drain into the lake, we believe that
8 pollution is inevitable.

9 We are here today to address civil
10 rights. I am informed on the Bill of Rights,
11 but I am not sure of the definition of civil
12 rights. I do know that since the day of the
13 announcement of the proposed plant, the
14 citizens of Claiborne Parish have been
15 subjected to misleading and sometimes false
16 information, embarrassment, exclusion from the
17 decision making process, intimidation, and
18 ridicule. To demonstrate each of these
19 actions, I have prepared for this group, the
20 staff and the media a set of exhibits. These
21 exhibits are in more or less chronological
22 order and are numbered one through 11.

23 Now, let's go to Exhibit 1 right on
24 top. On June the 9th, 1989 at a public
25 gathering on the courthouse square in Homer,

1 the citizens were told that the partnership
2 consisting of Urenco, Fluor Daniel and three
3 utility companies: Louisiana Power and Light,
4 Northern States Power and Duke Power intended
5 to build a \$750 million uranium enrichment
6 plant in Claiborne Parish. The citizens
7 assumed that these were the entities that
8 would build and operate the plant. The
9 officials of the utility companies sitting on
10 the stage knew at that time at that very
11 moment, that the utility companies would be
12 involved only through the period of licensing
13 and would have no part in the ownership or
14 operation once construction began. The truth
15 became known only after the utility companies
16 were questioned by their respective state
17 utility commissions.

18 If you will just look at this
19 quickly, page one is on LES letterhead and
20 states what the ownership is going to be.
21 Then at a press release, a news conference on
22 April the 27th of 1990, they said, well,
23 really it's not going to be these three
24 companies, we are going to set up some little
25 subsidiaries, limited partnership subsidiaries

1 for each one of them.

2 Now, the next page of this exhibit is
3 a newspaper ad that I prepared and we ran in
4 the Homer and Haynesville newspaper on
5 November the 15th of 1990, and it is testimony
6 and correspondence each of the utility
7 companies had with their public service
8 commission in Minnesota, North Carolina, and
9 right here with our own Louis Lambert in Baton
10 Rouge, and they all said, we want -- we will
11 not own a piece of it. We are going to get
12 out. Just before they -- the first spade of
13 dirt is tossed, we will be gone, and then it
14 will become owned by -- it will be just like
15 any self, and it will be an entity just like
16 AT&T or General Motors, Texaco or Exxon or
17 whoever.

18 And then it can go broke just like a
19 savings and loan or a bank or US Air or TWA,
20 whoever, they can go broke and they are
21 generating 4,000 tons. They will be
22 generating 4,000 tons per year of low level
23 radioactive toxic waste. The plant will be
24 licensed for 30 years. At the end of 30
25 years, you will have 120,000 tons of low level

1 radioactive toxic waste sitting in Claiborne
2 Parish, Louisiana.

3 Incidentally, that last page is a
4 picture of our Senator Johnston in Courthouse
5 Square in January 1989 announcing he will be
6 bringing to Louisiana and Claiborne Parish the
7 savior for our economic situation.

8 Exhibit two. On June the 10th, the
9 next day after the original announcement, the
10 day following original announcement, a meeting
11 of LES officials and some of Claiborne Parish
12 civic leaders was held. To explain the
13 plant's operation, an LES representative
14 displayed rock salt crystals and said, the
15 plant's product will resemble rock salt. Dr.
16 Philpot, that is Ph.D., doctor, director of
17 the LSU Experimental Farm near Homer, didn't
18 understand what was said, but asked for a
19 sample of the crystal, the rock salt crystals.
20 The next day, June the 11th, within 48 hours
21 of the original announcement of the plant, on
22 June 11, Dr. Philpot drew an audience at his
23 church and explained that crystals were the
24 real thing and totally harmless when, in
25 reality, the real thing would have burned a

1 hole in his hand. The LES representative was
2 standing alongside Dr. Philpot but did not
3 correct his misstatement. Consequently
4 several months later, Dr. Philpot, made a
5 public apology for his mistake. The
6 embarrassment was unfortunate and LES should
7 have not allowed it.

8 Now, if you flip to -- here is the
9 public apology that appeared in the two papers
10 in Homer and Haynesville where Dr. Philpot --
11 Note that he didn't put Ph.D. behind his name
12 when he made the public apology, but later on
13 in my presentation, he is quite proud of his
14 Ph.D.. I will not read this whole thing. You
15 take it with you, that is why I gave it to
16 you, so you will have it for the record.

17 Go to exhibit three. The 450 acre
18 parcel of land which LES picked for siting the
19 plant is bisected by a Parish road. LES
20 requested from the police jury assurance that
21 road would be closed and relocated, if and
22 when the plant construction commenced. On
23 June the 22nd, 13 days later, the Claiborne
24 Parish police jury was quietly exploring the
25 legality of closing and relocating the Forest

1 Grove Road which connects two black
2 communities. The residents were not
3 consulted. The district attorney prepared the
4 legal opinion and on November the 9th, 1989,
5 the police jury passed a resolution agreeing
6 to close and relocate the road. It was not
7 until the proceedings of that meeting were
8 reported -- that police jury meeting were
9 reported in the local newspaper that the two
10 black communities knew of the road closing
11 possibility. Protests by the black people
12 have been to no avail. The conduct of the
13 police jury has been less than one of
14 consideration for the welfare of the black
15 communities.

16 Now, exhibit three is a copy of the
17 legal opinion that was prepared by the
18 district attorney. I want to draw your
19 attention to two. On page one down here at
20 the heading is the Emerson property, and get
21 on over to page three and the heading is
22 LeSage tract. Now, I am going to get back to
23 that later, so I am calling that to your
24 attention. The legal opinion was prepared and
25 submitted on October the 25th of 1989. See,

1 the original announcement, go back to June
2 9th, a few months later, October the 29th,
3 they have the legal opinion. They can do it
4 if they do it right, follow the procedures,
5 they can close that road. Then the very next
6 police jury meeting from the 25th of October
7 to the 9th of November, they passed the
8 resolution saying that they would close the
9 road to accomodate the uranium enrichment
10 plant. The resolution follows the legal
11 opinion. Here is a copy of clipping out of
12 the Guardian Journal on November the 16th
13 where it says the police jury did that. Then
14 on January the 18th, no protest in December,
15 but two months later, there is a newspaper
16 article, a couple of them here of the black
17 community going to the police jury protesting.
18 And the president of the police jury says to
19 the black protestors, the vast majority of the
20 people in this parish want the plant.

21 Now then, go to exhibit four.
22 Exhibit four consists of three maps and an
23 excerpt plus an excerpt from the LES/NRC
24 license application. Let's go to the first
25 map. The first map is there to show you the

1 relative location of the town of Homer, Lake
2 Claiborne on which I live, down here, and the
3 crosshatched section up here is the 450 plant
4 site acreage. I call your attention to the
5 road that runs right through the plant site.
6 You got it?

7 Go to map two. I have taken that
8 portion that is immediately adjacent to the
9 plant and enlarged it by 120 percent to give
10 you better -- so you could see it better.
11 Now, taking that same map, and I have traced
12 the roads only. Let's flip. I placed the
13 roads only from the second map to show you the
14 location of the plant and the road. Each one
15 of those small black circles represents a
16 residence of a black family. Note the scale
17 of miles down here at the bottom. Are you
18 with me?

19 COMMITTEE MEMBERS: Yes.

20 MR. TOMPKINS: Right down here at
21 the bottom, that little triangle, that is the
22 nearest white resident to that plant site.
23 You see up here where the little road crosses
24 in the middle, there is a larger circle and a
25 square right in the middle, see that? That is

1 a black church and a black and white cemetary
2 right across the road from it. You see, right
3 up here at the top, there is a larger white
4 circle? That is another black church, black
5 Methodist church within not more than three or
6 four hundred yards from the boundary of the
7 plant property. That is all black
8 neighborhood. We are here to talk about
9 minority -- what is that word you all have
10 been using -- "environmental equity"? Is that
11 what it is?

12 MR. KUTCHER: Yes.

13 MR. TOMPKINS: This is
14 environmental equity. Now then, I want you to
15 flip to the fourth page. This is straight out
16 of the LES/NRC license application. I drew
17 your attention a while ago to the Emerson
18 property and the LeSage property. Now, the
19 LeSage property is the property that has been
20 purchased, the 450 acres. Now, this is what
21 they call a fine screening that they use in
22 selecting the plant site. They started out --
23 according to what in Economic Development here
24 in Baton Rouge told me, they escorted
25 representatives of LES all across North

1 Louisiana. They must have looked at a hundred
2 potential properties. And they finally got to
3 Claiborne Parish, and they decided, got it
4 down to three sites, and this is the way the
5 sites were graded. And over here on the left,
6 I am not going to read all this, but these
7 things -- each of these 13 items were weighed
8 or graded, and then the plot, the land that
9 got the highest score was the LeSage property.

10 I am just going to throw this in, and
11 I am not trying to influence you one way or
12 another, I am just here giving you facts. You
13 want facts, I am giving you facts. The prison
14 site, column one is within one mile away
15 correctional center which houses 1100
16 prisoners, and some of them are hardened
17 prisoners. Site No. 2 is Emerson. Now, I
18 pointed that out to you on the map, map No.
19 2. That backs right up to white residential
20 development on Lake Claiborne, if you want to
21 go back and look at your map. There is a lot
22 of roads, there are a number of roads along
23 the lake shore that have been built since this
24 map was made. There is a lot more white
25 retirement homes right there now than when

1 this map. The LeSage property, the one that
2 scored best is this one right in the -- you
3 want to talk about environmental equity? You
4 want to talk about minority neighborhoods?
5 There it is, folks, there it is. This is not
6 an opinion of mine. This is facts. I am not
7 getting emotional. I am not getting
8 emotional. I am fixing to.

9 Let's go to exhibit five, page two.
10 On January 11, 1990 an "Open Letter to the
11 Citizens of Claiborne Parish" signed by the
12 elected officials and civic leaders was
13 published in the local newspapers in both
14 Homer and Haynesville, Louisiana. The theme
15 of the letter was crude criticism of all
16 persons who opposed the plant. One brief
17 quote from the letter reads-"similar
18 individuals in years past were against the
19 light bulb, the telephone, the automobile and
20 even the smallpox vaccine."

21 Now, what you have here is a
22 reduction of a full page ad. Here is the real
23 thing (displaying ad). Now, I want to draw
24 your attention to the signatures down at the
25 bottom. This is the way the game is played,

1 folks: A. D. Williams, director of Housing
2 Authority , Bill Bailey, president of police
3 jury and director of the Claiborne Parish
4 'Vo-Tech School. J. R. Oaks, sheriff of
5 Claiborne Parish; Travis Tinsley, owner of
6 Tinsley, Inc.; Bryant Lewis, treasurer CPIDF;
7 George Emerson, owner of Emerson Oil Company;
8 Joe Michael, mayor of town of Homer; Tom
9 Crocker, mayor of town of Haynesville. J. T.
10 Taylor, industrial development plant. Now,
11 here is a name, James Scriber, superintendant
12 of the Claiborne Parish School Board. Mack
13 Waits, vice president of Planters Bank;
14 Sherman Brown, Claiborne Parish School Board;
15 Loy Weaver, president of Homer National Bank;
16 Mary Woodall, Dr. Harry Woodal, Blake
17 Hemphill, and Nelson Philpot, Hill Farm
18 Research Center director. This exemplifies
19 the integrity, the character --

20 MR. JENKINS: Mr. Tompkins, I ask
21 you to refrain from making those type of
22 comments cause you are treading on very
23 dangerous water now.

24 MR. KUTCHER: What I can ask you
25 to do, we can read these along so if you are

1 simply going to be reciting from the document,
2 I think the committee members would have
3 questions for you, and rather than take up
4 your time reading something.

5 MR. TOMPKINS: I am going from
6 here to Jacksonville, Florida to a funeral. I
7 am just trying to get across to you, this is
8 how the game is the played.

9 MR. KUTCHER: Sure, I understand.

10 MR. TOMPKINS: Now, I did want to
11 go to two more exhibits, if I may.

12 MR. KUTCHER: Sure.

13 MR. TOMPKINS: Let's get to
14 exhibit No. 8.

15 MR. KUTCHER: Okay.

16 MR. TOMPKINS: An article in the
17 Shreveport Times July 3, 1991 quotes Secretary
18 of Energy James Watkins. "In support of the
19 safety of the LES plant, Mr. Watkins, said,
20 "Similar plants in Ohio and Kentucky are
21 operating successfully and safely." That is
22 the first page and the second page. Let's go
23 to the third page, and this is a report by the
24 General Accounting Office dated July the 25,
25 1989 states, "It could cost more than three

1 billion dollars to decommission the three DOE
2 enrichment plants. Portsmouth, Ohio and
3 Paducah, Kentucky plants are still in
4 operation. The third plant in Oak Ridge,
5 Tennessee was permanently shut down in 1987."
6 If it's going to cost three billion dollars,
7 and I have report later than this one which
8 says that cost may run as high as ten to 15 to
9 clean up the --

10 MS. MCDADE: Is that attached to
11 exhibit eight?

12 MR. TOMPKINS: This is. That is
13 straight out of the GAO report. The whole
14 report is about this thick.

15 MS. MCDADE: I am sorry.

16 MR. TOMPKINS: I didn't bring it,
17 but there is a later report that says it could
18 run as high as 12 to 15. They don't know.
19 They don't know yet what is there. Now, the
20 thing I am calling your attention to is that
21 this is a statement by the Secretary of
22 Energy, a member of President Bush's cabinet.

23 The next exhibit is nine. The
24 gentleman who is quoted is Ed Davis. He is
25 president of the American Nuclear Energy

1 Council in Washington. That is a lobbying
2 group for the nuclear power industry, and he
3 was quoted in the Washington Post saying, if
4 we cannot locate this thing -- "if we cannot
5 site this plant in North Louisiana, we can't
6 site any nuclear plant anywhere." And I wrote
7 a letter to the editor, and I said, well, what
8 did Mr. Davis know that we don't know. Mr.
9 Davis within two weeks time had sent letters
10 to the editor all across North Louisiana, and
11 he said, one of -- this is quoting: "A small
12 minority is working against this vital project
13 for reasons clear only to themselves. That is
14 their business. One of them, Norton Tompkins
15 of Homer, recently distorted my views by
16 misrepresenting in a letter to the editor a
17 statement that I made last March to the
18 Washington Post." Now, I don't know what I
19 did to distort what he said or misrepresent
20 his views because he didn't say. That is all
21 he said: "If we can't site it in North
22 Louisiana, we can't site it anywhere."

23 We go to the next exhibit ten. I am
24 going to wrap it up. In September of 1990,
25 Bennett Johnston was campaigning in North

1 Louisiana. He made a statement at his rally,
2 go to, turn to page two, quoted right out of
3 here: "There are always a few soreheads who
4 don't get the word or are scientific
5 illiterates who cannot understand what the
6 real issues are."

7 Gentlemen, ladies, I graduated from
8 Louisiana Tech with a degree in mechanical
9 engineering in 1943. In 1946 as a full
10 lieutenant in the Navy, I was a part of
11 Operation Cross Road. Anybody here know what
12 Operation Cross Road is? That was the Bikini
13 Bomb Test. I was there. I wasn't there when
14 the bomb exploded, but I was a part, and I
15 flew over something. I spent 26 years working
16 in a chemical plant. Now, if I am a
17 scientific illiterate, I just ask you a
18 question: How would you classify someone,
19 someone with a law degree and a career as a
20 professional politician?

21 MR. KUTCHER: Probably as good a
22 note to end on as any.

23 MR. TOMPKINS: I may be a
24 scientific illiterate, that is okay. I have
25 been called worse.

1 MR. KUTCHER: Lawyers have been
2 called worse, too.

3 MR. TOMPKINS: The last exhibit I
4 will go into, but I am talking about false
5 statements, untrue statements that have been
6 made, and this was the testimony I gave at the
7 LES/NRC Environmental Scoping Meeting held in
8 Homer, Louisiana on July the 30th, 1991. I am
9 concerned about Lake Claiborne. I am also
10 concerned about the black neighborhood, but my
11 wife and I live on the lake. This is our
12 primary concern. Now, 50 pages -- right at
13 the top of page two, I want to tell you --
14 now, these are false statements out and out-
15 right from the LES is license. It says that
16 Lake Claiborne was damned up and flood
17 control. Right here, right out of the statute
18 that is established, the law, the law that
19 established Lake Claiborne, and it apparently
20 states: the lake was put there to provide
21 water for commercial municipal and other
22 purposes, both within and without the
23 district. It was not a flood control lake.
24 Last April 26, our house almost got water in
25 it like about this much (indicating). The

1 lake rose eight feet in 36 hours. Enough of
2 that. But those are false statements by LES
3 in an effort to get a license from NRC.

4 I brought along these two little
5 pieces of paper. They are just clippings out
6 of the newspaper. The one on top, LES
7 attempted to give checks to the two black
8 churches as I pointed out. They attempted to
9 give a check for \$500 to each of the black
10 churches after the people out there began to
11 oppose the plant. They turned them down. No
12 sooner than the plant had been announced, LES
13 gave to the Claiborne Parish Industrial
14 Development Foundation a check for forty
15 thousand dollars. Within a week, Industrial
16 Foundation hired Mr. Blake Hemphill who was to
17 be the public PR man. He stayed on the
18 payroll for 11 months to the tune of two
19 thousand dollars. Mr. Travis collected rent
20 for his office space to the tune of a thousand
21 dollars a month. When the 40 thousand ran
22 out --

23 MR. JENKINS: Again, may I caution
24 you.

25 MR. KUTCHER: Okay. Miss

1 Reiboldt, do you have any questions?

2 BY MS. REIBOLDT:

3 Q. Just to say that basically you are
4 apposed to the plant being located --

5 A. Ma'am?

6 Q. You are apposed to the plant being
7 located in the area?

8 A. Yes, ma'am.

9 Q. Because of the negative environmental
10 impact?

11 A. Yes, ma'am.

12 Q. In a letter that was included in our
13 packet of information, you said that Nuclear
14 Regulatory Commission is conducting an
15 environmental impact study scoping meetings
16 regarding the construction of the plant. Was
17 that ever done?

18 A. Yes, ma'am.

19 Q. Did I miss that?

20 A. Exhibit No. 11 and the testimony that
21 I personally gave at that meeting, and it
22 lasted from seven in the evening till about 11
23 at night, and it was held in the cafeteria of
24 the Homer High School.

25 Q. Is there a study of that?

1 A. It gave the public a chance to make
2 input into the licensing process.

3 Q. So, it was more of a meeting rather
4 than something written?

5 A. Nothing legally binding.

6 MR. KUTCHER: I think the question
7 is, has an Environmental Impact Statement been
8 filed and approved by the NRC?

9 MR. TOMPKINS: No, no. We are a
10 bunch down the road from that.

11 MR. KUTCHER: Anybody else on this
12 side have any questions?

13 MS. ROBINSON: Yes.

14 Q. In that this facility has not been
15 actually located there in the community, yet
16 which is different from what is happening in
17 so many other communities that we have heard
18 about, the facilities are already there. What
19 are you all doing and what would you
20 recommend -- what would you suggest doing to
21 prevent this facility from being located
22 there?

23 A. For the two ladies in Shreveport, you
24 asked, what would I suggest? I would suggest
25 that the two ladies, particularly from

1 Shreveport, that they write a letter of
2 request to Senator Johnston. The unemployment
3 situation in Caddo Parish is as bad as it is
4 in Claiborne Parish. Now, Shreveport would
5 love to have jobs just as much as Claiborne
6 Parish. I suggest that this plant be located
7 out on the west side of Shreveport with all of
8 the effluent to go into Cross Lake which is a
9 source of drinking water for Shreveport. That
10 would be my suggestion in answer to your
11 question.

12 MS. ROBINSON: That would be
13 environmental equity you feel?

14 MR. TOMPKINS: Yes.

15 MR. KUTCHER: Or inequity.

16 MR. TOMPKINS: That would be my
17 suggestion. There is one thing I would like
18 to bring up, if I may. Yesterday there was a
19 number of times it was said that these plants
20 went because the property was cheap in the low
21 income neighborhood, right? Do you recall
22 that?

23 MS. ROBINSON: Yes, sir.

24 MR. KUTCHER: Yes, sir.

25 MR. TOMPKINS: I don't have a

1 whole bunch to hand out. But yesterday I went
2 to the office and prevailed on them to make me
3 a couple of Xerox copies. I particularly want
4 the ladies from Shreveport to have this.

5 MS. MCDADE: You know, they could
6 put it in Arkansas.

7 MR. TOMPKINS: You are close to
8 the plant and you keep up better than the
9 people in South Louisiana. Now, the LeSage
10 properties that I pointed out on the map is a
11 parcel of land that is owned by a white
12 family, and all surrounding, its owned by
13 black people that have owned the land for
14 generations literally. On the common fence
15 side there is a Youngblood estate. You can
16 find it on the map, six hundred acres, and
17 they are incorporated, and those heirs live
18 all over the United States, but Miss
19 YYoungblood is sort of the chairman of the
20 board and she looks after it. The LeSage
21 property, it is right in the middle, are
22 probably owned by all black residents.

23 Now, this is right out of the Homer
24 newspaper and straight out of the clerk's
25 office. The sale for 442 acres at a total

1 price of \$536,461.80 for a cost of \$1,213.60
2 per acre, plus they were able to -- they were
3 given -- I don't know where it says it here.

4 MR. KUTCHER: Mr. Tompkins, we
5 could read that.

6 MS. REIBOLDT: This reminds me of
7 the landfill situation where someone tried to
8 sell property for what it was worth, so we
9 have sort of faced --

10 MR. KUTCHER: I know the members
11 on this side of the chair have some questions,
12 and I am sure you will entertain them. I
13 would ask the questions to be succinct and
14 your responses to be succinct as well. Miss
15 McDade, do you have any questions?

16 MS. MCDADE: If I ever have to
17 make a presentation before any group, I want
18 your name and phone number. You have made an
19 excellent presentation.

20 A. Thank you, ma'am.

21 Q. And you have backed it up with facts
22 and figures, and I truly do appreciate that.

23 A. I did my best.

24 Q. You have done a very good job. I
25 have a few questions, not that you didn't

1 cover them, but for clarification for my own
2 benefit. You say the police jury, and you
3 have documented every step of the way. Did
4 they actually -- and this is not a criticism,
5 I want to know this -- break any laws
6 governing their activities? Did they, for
7 instance, do they have laws stating that a
8 certain kind of notice must go out before
9 rezoning or before closing or changing roads
10 of any nature? Are there any laws, and if
11 not, what would you recommend that might have
12 prevented some of this trouble -- that be
13 enacted, whereby the police jury would have
14 had to have garnered public input and given
15 you a chance to make your feelings known
16 before their decisions were arbitrarily made?

17 A. Well, the chairman called me down a
18 time or two, and I don't know that I can
19 answer your question without being reprimanded
20 again.

21 MR. KUTCHER: Just answer the
22 question. That is all I want you to do.

23 Q. Did they harm you by not abiding any
24 laws?

25 A. I can tell you that, yes. I can give

1 you a positive answer. They did not break any
2 laws.

3 Q. What laws do you think could be
4 enacted that would have forced them to let you
5 know what was going on early on?

6 A. The reason I was reprimanded -- I am
7 going --

8 MR. KUTCHER: Just answer the
9 question. You don't need to go into that,
10 just answer the lady's question.

11 A. You are not going to correct it by
12 law. You are not going to govern more or
13 less. You are not going -- you know that.
14 This is morally wrong that they went through
15 these antics.

16 Q. Maybe you don't understand what I am
17 saying.

18 A. Yes. I do. What I am saying, but he
19 won't let me say it.

20 MR. KUTCHER: No, Mr. Tompkins,
21 that is unfair. Say what you like but I would
22 like you to answer her question. I am not
23 trying to shut you up. My only concern is we
24 are running about a half hour behind.

25 MR. TOMPKINS: I am ready to go.

1 BY MS. MCDADE:.

2 Q. You indicated in your presentation,
3 and I believe you, that there was sort of a
4 railroad situation, and the decisions were
5 made before you really had a chance for input.
6 What can we recommend on up the line as
7 changes so that before decisions are made, you
8 have a chance to organize and oppose those
9 decisions? Having gone through this process,
10 having been railroaded, and I believe that you
11 were, what could we recommend? See, that is
12 our charge. What can we say that should be
13 recommended perhaps to your police jury should
14 be done to prevent that from happening? Cause
15 I do know that more or less cannot be
16 legislated. I understand that, other than
17 killing, stealing, things like that.

18 A. I don't know. When people -- the
19 point I am trying to make this morning, and I
20 have cut my speech short, I had the perfect
21 closing, but we are running short of time, and
22 I want you to read my closing.

23 MR. KUTCHER: Yes, sir.

24 MR. TOMPKINS: But we have this
25 truth and things are becoming endangered

1 species, and it reaches all the way from the
2 local level of Claiborne Parish to the halls
3 of Congress in the White House. I am telling
4 you that Secretary Watkins lied or made false
5 statements. I will clean that up. Bennett
6 Johnston calls us scientific illiterates and
7 soreheads. This is the conduct of the people
8 in the White House and Congress, and we are
9 sitting down here in Claiborne Parish, a group
10 of people, I am down here at my own expense.
11 I don't have a -- I am a taxpayer's expense,
12 but I am the taxpayer that is paying my
13 expense. My wife typed that. We got a
14 secondhand Xerox machine on our front porch,
15 sunroom, and I ran all this stuff off myself.
16 I don't have a staff of people.

17 MS. MCDADE: Please understand I
18 am not criticizing.

19 MR. KUTCHER: Why don't we go on
20 for another question. Jean, do you have a
21 question?

22 MS. ADAMS: I like your maps and
23 things, too, Mr. Thompson. I am particularly
24 interested in the drawing of the black
25 community and the placement of the proposal

1 facility. Can you tell me how much -- and I
2 am a map illiterate, so how much distance are
3 we talking about between in this area? How
4 big?

5 A. See this here from here, that is one
6 mile. Transfer that up here and that is about
7 two-thirds of a mile from the south of the
8 north end of the plant.

9 MS. MCDADE: That is really not
10 very far?

11 A. From here to here is roughly two and
12 three quarters mile.

13 Q. Thanks, all right.

14 A. These people are living within a few
15 hundred yards.

16 Q. Two and three-quarter miles.

17 MR. TOMPKINS: I am through
18 whenever you are.

19 Q. One of the exhibits concerning the
20 churches that you mentioned, I was reading it
21 as you went through, and it mentioned that
22 combined cogregations of the two churches
23 which are both of those points surrounding the
24 plant was 147 people. Do you know how many
25 total black people we are talking about in

1 this area approximately?

2 A. I would say roughly two hundred, 250
3 people. When they talk about those two
4 churches, those are two Methodist churches.
5 You have Baptist churches.

6 Q. I am just trying to get a feel for
7 the population.

8 MR. KUTCHER: Dr. Hicks.

9 BY DR. HICKS:

10 Q. I want to thank you for the revealing
11 report, number one. And this is my question:
12 Have you been able to -- I mean, your
13 organization, to develop any significant
14 cooperative arrangements with officials or key
15 individuals of the industry that we have been
16 discussing in addressing the environmental
17 issues that you have discussed and
18 specifically the negative impact on that
19 community?

20 A. Have I developed cooperative
21 arrangement with who?

22 Q. Have you been able to? Has your
23 organization been able to develop any kind of
24 a cooperative arrangement with any of the
25 officials of that that plant to discuss these

1 issues as they relate to that constituency
2 around?

3 A. I am on first name basis with their
4 PR man, Mr. Blake Hemphill. We kid each
5 other.

6 Q. But I mean to talk about the issues
7 seriously?

8 A. No, ma'am. They do not invite. They
9 do not invite me or one of our group to sit
10 down. The only time we have sat down together
11 has been when NRC and/or DEQ were the
12 moderator. I have sat with them. I have sat
13 with them in Baton Rouge, I have sat with them
14 in Homer, Louisiana. I have been to
15 Washington and had some visitation around the
16 capitol building.

17 MR. KUTCHER: Let me ask you one
18 question. I am sorry, Doctor.

19 DR. HICKS: Thank you.

20 BY MR. KUTCHER:

21 Q. What is the membership of CANT in
22 terms of numbers?

23 A. Our active membership would probably
24 number 50 people. I was told that statement
25 was made here yesterday -- I didn't arrive

1 until afternoon. I heard yesterday that
2 statement was made -- Miss Walker, that it was
3 understanding that there were only a small
4 group of people in Homer opposed to the plant.

5 MS. MCDADE: I made the statement,
6 and I have relatives in Homer.

7 MR. TOMPKINS: They confuse these
8 two ladies from Shreveport all the time. I
9 was quoted in the Shreveport Times about the
10 community of town of Homer, and I read you a
11 while ago the names of the people who signed
12 that newspaper letter. Homer is 4,000 people.
13 The entire parish is 16,000, and Claiborne
14 Parish is one of the largest parishes, if not
15 the largest Parish, in the State of Louisiana.
16 I said, and I didn't think the reporter was
17 going to put it in the paper, but she did,
18 that in Homer, Louisiana everybody either
19 works for, is kin to, or is sleeping with one
20 of the establishment.

21 MR. KUTCHER: That is contained
22 and we did see that in the newspaper articles.
23 My only question to you was, what was the
24 membership.

25 Q. You told me about 50 people; is that

1 right?

2 A. The point I am trying to make is
3 there are a lot of people who oppose the plant
4 but will not and cannot --

5 MS. MCDADE: My relatives are not
6 involved in that.

7 MR. KUTCHER: Thank you, Mr.
8 Tompkins.

9 Wilford Greene. Mr. Greene, you have
10 a tough act to follow. Mr. Greene is a
11 representative of the River Area Planning
12 Group located in Wallace, Louisiana. Miss
13 Walker spoke yesterday about proposed Formosa
14 Chemical Plant located there, and Mr. Greene
15 is going to share with us his views on the
16 River Area Planning Group. Welcome, sir, if
17 you have any written materials to distribute.

18 MR. GREENE: My name is Wilford
19 Greene. I am from the Parish of St. John the
20 Baptist.

21 MR. KUTCHER: You might want to
22 move that mike a little further away from you.

23 MR. GREENE: I am from the Parish
24 of St. John the Baptist. I am a member of and
25 founder of the River Area Planning Group, a

1 group whose purpose is to enlighten, to
2 educate and to make people aware of the danger
3 that they face in the Parish of St. John the
4 Baptist. I am a native born citizen of that
5 community. I know the community. I have been
6 there long enough to know it. I have been
7 associated with people who were there at least
8 a hundred years before me. The heritage of
9 the black man in St. John Parish especially in
10 the area of Wallace stretches beyond the
11 imagination. There is only -- there was once
12 only one school on the west bank of St. John
13 Parish for black people. The community still
14 exists. I would like to see it preserved
15 because it is a place where I learned that
16 there was a difference between an A and a B.
17 There was a cemetery in the community which to
18 the best of my knowledge is at least a hundred
19 and fifty years of age. I would like to see
20 it preserved. Why? My great grandparents
21 were buried there. My father is buried there,
22 my mother is buried there, and the rest of my
23 father's 18 sisters and one brother, they all
24 are buried there.

25 Now, to look at what transpired in

1 the Parish of St. John the Baptist, you have
2 to look back at history. To see why we are
3 poor, why the plants are coming into the
4 parish. And, as I see it, it's a form of
5 economic racism. I couldn't see it any other
6 way in a manner in which it has been done.
7 There has been no respect, no consideration,
8 no concern for what the black people want. It
9 is what the politician wants and what the big
10 conglomerate plants want. We do not want to
11 trade jobs for life. We would like to live.
12 One of our parish council was recorded saying,
13 he wanted to be in national news magazine. It
14 is not how long you live that counts but how
15 well you live. And I would like to ask him,
16 how can I live long if I don't live for a long
17 length of time. I would like to live forever
18 if it was humanly possible, but I know it
19 isn't. I would like to enjoy. I am a retired
20 man now. When I retired I had hoped, and I
21 prayed that, if I retired in St. John the
22 Baptist Parish, I would be able to live in
23 peace, and the greatest thing that any man can
24 get out of his life is peace and happiness.
25 There will be none for us.

1 The politicians came along with all
2 kinds of answers. They are going to bring
3 employment to the community, and I say, there
4 will be no employment for black people. First
5 of all, there is no education for them. They
6 say they are going to bring high technological
7 plant into the community, and you tell me who
8 you are going to staff it with? We have not
9 educated the people. They said they are going
10 to bring in three thousand people in this
11 community. I would like to know where are you
12 going to put them when you are buying up all
13 of the property of the poor black man in that
14 community for your plant, and where are you
15 going to put the people to live? They don't
16 know. Maybe upstairs somewhere. When we look
17 at what is going on in that community, we say
18 to our ourselves, oh, God, be our helper
19 because we have nobody to help us. Because
20 the government body in St. John the Baptist
21 Parish, all of the actions are just as
22 predictable as yesterday's obituary. They
23 don't care anything about us. They don't care
24 anything about anybody else. To understand
25 really the true nature of that community, you

1 have to go back a hundred, two hundred years
2 ago with the big problem. The land in that
3 community was being used for farming, and that
4 part was just set aside for black people, was
5 set aside because it had no value to the
6 farmers. But now that part which they gave to
7 the black man because he became a problem to
8 them, they had to take care of him if he lived
9 on the farm, has become the most important
10 piece of property in St. John Parish.

11 Because, if they build a plant, they will have
12 to have a port. They cannot build a port
13 where they have bought, land where they have
14 bought plantation. They cannot build a port
15 there. My father told me that when I was a
16 little boy that high, there is a sand bore
17 there. You can walk three hundred feet into
18 the river and water will come up to your
19 waist, no higher. But in the community where
20 we live, that is where the water is deep and
21 that is what they need.

22 So, what they did? Here is a few
23 dollars, we will buy it up. Do what you want.
24 But the poor people will have nothing to go
25 with. It will bring devastation to the

1 community. It cannot bring anything other
2 than devastation to that community. Why? One
3 day try to buy land. I have an original copy
4 of the contract that was given to me. They
5 want to buy the rear of your property, they
6 want to buy the front of your property, and
7 leave you with that in the middle. There is a
8 scenario here. A clause in that contract
9 says, in the event that you ever wanted to
10 sell the remaining part of that property, you
11 had to sell it to the Formosa Plastics
12 Company. Well, anybody would read it with
13 common sense would see what is going on.
14 After a certain length of time, you are not
15 going to want it. No one else is going to
16 want it, so you will have to sell it to them
17 at any price that they are willing to pay for
18 it.

19 When poor people in that community
20 will have to leave, where are they going?
21 They don't have any place, anywhere to go,
22 they don't have any place to go. Poor people
23 are inclined to believe that a hundred
24 thousand dollars is a lot of money, but what
25 is a hundred thousand dollars when you have to

1 divide it with ten or 15 of your brothers and
2 sisters, and then where do you go? Nowhere.
3 That is what is going on in St. John the
4 Baptist Parish. Every family has a large
5 family. Whatever they get for their property
6 would have to be divided up with a large
7 number of people. Where are think going? You
8 ladies and gentlemen are asking for
9 information. I am not giving information that
10 is from behind the (inaudible), I am giving
11 you actual factual information as I know it.
12 Nobody wants to listen to the truth. Our
13 government put up a sign about three days
14 before the actual rezoning came about, and all
15 of a sudden we found out our community had
16 been rezoned. Why? Because we are black? We
17 are poor? That is the only reason I could see
18 why.

19 They went around the property,
20 surveyed, they ran across your property,
21 nobody asked you any permission to go on your
22 property. After all, I had certain rights,
23 and I think that anybody who comes on my
24 property should ask me whether or not they can
25 enter on my property. If you know, then you

1 jeopardize your own life. That is fine.
2 Mine. I bought it. If I didn't buy it, my
3 ancestors handed it down to me. They bought
4 it. I don't care what they paid for it. They
5 bought it. It is ours and we are protected.
6 We are the people in a community who we call
7 what? We are not the endangered species. We
8 are the neglected species. The reason that we
9 was criticized is we're categorized as saying
10 we are shiftiness, we are lazy, I don't know
11 what they -- ask ourselves, who made us that
12 way? They never give us a thing to work with.
13 We need an education. And when I was a little
14 boy, a gentleman said to me at (inaudible)
15 School in New Orleans: Education will make
16 you free. And how well do I know it today?
17 Because there was two things that no one
18 wanted you to know, and after you have studied
19 this, you know it. In days gone by, it was a
20 sin and people were even put in prison for
21 teaching black man how to read and write, and
22 I said to them, educate them, educate them,
23 because if you educate them, then the economy
24 of the community will rise up. Without
25 education, there will be no community. You

1 can build plants all over the place. Run up
2 and down the highway and see how many plants
3 there are and see how many Negroes sitting
4 around doing nothing. What are you going to
5 do with him in the plant if he doesn't know
6 anything? Educate him, then you will be able
7 to use him.

8 If you read the paper just recently,
9 the School Board had given the Formosa Plant
10 nearly four million dollar tax break over a
11 four-year period. They took it away, they
12 have given it back. Why? Who paid the
13 taxpayer? We? The welfare mothers?
14 Everybody pays the tax. That is taxpayers'
15 money. You are going to give it to them, and
16 at the same time they tell us, we can't
17 improve the school system cause we have an
18 eight billion dollar deficit. That is pretty
19 sad. Why don't they educate them through the
20 conglomerate if they are going to give away
21 four million dollars. Four million dollars
22 over a ten year period, that is about ten
23 thousand dollars per year, which means, they
24 could give that to the community as well as I
25 could walk out on the street and give some kid

1 35, 40 cents.

2 So, you are going to do all this for
3 us? Why not let the money stay here and build
4 schools for us, educate us. We had to reach
5 out to clubs like the Sierra Defense League
6 for help. We don't have the help, we don't
7 have the money. We can't hire lawyers to
8 protect us. So, what do they do? They do
9 anything they want. We don't have the things
10 that are necessary and need it. I am asking
11 you ladies and gentlemen, when you consider
12 the information that you are getting from all
13 these different people, groups bringing to
14 you, consider the blight of the black man,
15 consider the blight of the poor whites in the
16 same community because they are in just as bad
17 a shape as I be in.

18 If you do not do that, history will
19 repeat itself, and it will say in the years to
20 come, you did not do your job. I hope and
21 pray that you take time out to study the
22 information. Don't make rash judgments.
23 Don't just listen to what I have to say.
24 Listen to what these fellows have to say,
25 weigh the information and ask yourself where

1 will the greatest good be done. And, if you
2 weigh it and can see that jobs outweigh human
3 life, you can say it. That is what we are
4 fighting for now is human life. I have plans,
5 I have ideas what can be done in that
6 community to improve it. Not a chemical
7 plant. It's a beautiful community. The last
8 28 miles of green space in Louisiana. You can
9 ride 14 miles this way and 14 miles this
10 direction east or west and you will not see a
11 plant. People like me are retiring. We would
12 like resort home, we would like resort
13 community. Why can't that community be
14 diversified and other things be brought in?
15 Why has it taken two hundred years for the
16 power structure in that community just now
17 beginning to realize we need jobs? We have
18 been needing jobs for 200 years, jobs and
19 education so badly that my parent had to send
20 me out of the community to school. It was not
21 until 1954 that people in that community had
22 high school. That is pretty bad.

23 And, when you think back and look at
24 what is going on and ask who is going to
25 profit from a chemical plant in the community?

1 Will the people in that community profit from
2 this or will the men or the people with the
3 money who will come into the community,
4 operate the plant and, when night falls, move
5 back to their ivory tower? They won't breathe
6 the air. I will have to breathe it. My
7 family will have to breathe it. They will be
8 the ones that are dying, and I ask myself,
9 what good is a job if I have to give all my
10 money to a doctor to try to get well again?
11 It doesn't pay. I would like to see
12 improvement in the community but not the way
13 it is being done. It is being done at the
14 expense of destroying the community,
15 destroying the heritage of the black man.

16 Again, as far as history is
17 concerned. To you ladies and gentlemen who
18 are white, you came to America free. My
19 people didn't. My people were brought to
20 America against their will. Yours came
21 willingly. Why were my people brought here?
22 They were brought here for a purpose -- to
23 till the soil, to perpetuate the good of the
24 rest. Now the table is turning. The things
25 they were brought into St. John Parish for,

1 farming is on its way out, so somebody has to
2 look out for the farmer, and what are we
3 looking out for now? The farmer. They have
4 all the land. They have to sell it, and they
5 are the ones going to reap the benefit of it,
6 and the poor people in the community are going
7 to be the sufferers. There can be no other
8 choice but for me to say to those who want it
9 there, I oppose it. If you can do it in any
10 other way besides the way in which it is being
11 done, maybe I will. But under the
12 circumstances, I cannot do so. I cannot
13 listen to selling an acre of land for six
14 thousand dollars. When I take that six
15 thousand dollars, I have to go in the next
16 community and pay \$17,000 for a lot where I
17 can stare and shake hands with my neighbor.
18 Why do they do all these things? I don't
19 know.

20 They have taken my land and taken the
21 front and called it commercial property. The
22 middle, residential property. The rear, heavy
23 industrial property. What choice have I got?
24 When they take all the back, they will be with
25 plant, pipelines and so forth. The front will

1 be with walls and they say, who is going to
2 pay? How are all these people going to
3 improve the community? I am almost driven
4 from there now, but nobody is listening. We
5 are asking, we are begging, we are pleading to
6 ask you, go up and down the parish, go up and
7 down the State of Louisiana. I have heard
8 people speak. I have been around. I have
9 seen the suffering that my people have. I
10 have seen how they have taken these plants and
11 stack them right at the door.

12 When you stick your head out the
13 window, you smell the air from these plants.
14 Then you ask somebody, where do you go from
15 here? You have a place to go? Go to the
16 cemetery. Say, I don't want to lay around in
17 the cemetery. Then when the doctor comes
18 around and says, doc, what have I got? Wait a
19 minute, son. I have to study it a minute. He
20 goes in the back and comes back and says, hey,
21 son, have you ever had it before? Yes, I had
22 it before. Well, you got it again. He
23 doesn't know what I have. And that is what
24 will happen around this chemical plant.
25 Nobody will know what I have, but I will die

1 from it.

2 So, I can't tell you any more. I can
3 show you a lot of things that exist in my
4 parish that I know and that I have documented
5 of -- There have been organizations been there
6 for the last hundred years -- to show you how
7 bad are their needs. I have documented things
8 from 1892 that will show that many of these
9 organizations that were developed in that
10 community was developed for a simple purpose.
11 They could not bury their dead, they could not
12 take care of the sick. So what did they say?
13 Let's band our finances together and maybe we
14 will have enough to take care of our fellow
15 brothers. They are going to be destroyed.
16 The people are going to be destroyed. There
17 will be nothing left of us. So, you can do
18 it. I hope you can. I hope you understand
19 the blight and the thing that we are going
20 through, and if it has not been for many of
21 these organizations, especially the Sierra
22 Defense League who has come to our rescue, we
23 don't have money -- free of choice, maybe we
24 all would have been looking for a place to
25 live.

1 MR. KUTCHER: Thank you, Mr.
2 Greene. Mr. Greene, I think some members of
3 the committee may have some questions. Before
4 we open it up to questions, though, I am going
5 to ask members of the committee to be succinct
6 in their questions and not make statements,
7 and I will also ask you, sir, to simply answer
8 the question that they ask you.

9 MR. GREENE: I will try my best
10 to.

11 MR. KUTCHER: I know you will try
12 your best to. I just want an abbreviated
13 response.

14 BY MS. ADAMS:

15 Q. Thank you, Mr. Greene. This
16 committee is here to look at the impact of
17 environmental decision making on minority
18 communities, and I understand your community
19 is primarily or totally black?

20 A. Ninety-five to 98 percent black.

21 Q. We have had some people who have
22 provided information to us in the last day and
23 a half about the buyout process, particularly
24 in your community, and I would like to
25 understand more about it from the landowners'

1 point of view. How has it been operating?
2 Are you being forced to sell? Are the members
3 of your community, other members of your
4 community, are some of those people interested
5 in selling? What has the response been to the
6 buyout process or the offers?

7 A. Well, that will depend on how you are
8 going to look at what is going on in that
9 community. If you want to say it's forced. I
10 wouldn't say that anyone has really exercised
11 force in making anybody leave. But, there is
12 always a way to exercise force, and force can
13 be exercised through some of the ways that we
14 least expecting of you. By telling people --
15 one time we were told in the community that
16 land was going to be expropriated from people
17 in the community, and you can assume what
18 happened to many of the people at that
19 particular time. They became frightened,
20 nobody went around with a gun and said, well,
21 you have to sell it, but they became
22 frightened and all of a sudden they sold their
23 land.

24 Q. So, on the information that community
25 received, some members elected to sell?

1 A. Some did. And, let me say this to
2 you. I heard a gentleman who preceded me I
3 think and did said that there are a lot of
4 people in the community who have sold, there
5 are a lot of people who are unwilling to
6 speak. They have a reason not to want to go
7 speak. Most of them work for the parish, they
8 work for the School Board or they work in some
9 plant where some politician exercise some
10 control and authority. There are plants -- we
11 can't say we have documented evidence to that
12 effect, but we are not so naive to know that
13 things goes on and a lot of information comes
14 back through the grapevine. If you are not
15 one of the growing boys and you are working in
16 one of these plants, you can start looking for
17 another job.

18 Q. Let me just ask one quick follow-up
19 question. In the buyout process today, have
20 the majority of people sold out or been bought
21 out, whichever term you want to use? Has the
22 majority of the community expressed an
23 interest in the buyout, or is it the majority
24 of the community that doesn't want the plant
25 and doesn't want to sell and doesn't want to

1 leave?

2 A. I couldn't say the majority of the
3 people have sold and I could not say that the
4 majority of them have not, because there are a
5 lot of people who have sold that have not said
6 that they have, and there are a lot of people
7 who have not sold and they have been talking.
8 Now, the only thing I can speak of is that
9 which I have gone to the courthouse and got
10 documented records of as to who has sold and
11 who hasn't, because in working with this
12 organization, I was very interested in knowing
13 who has and who hasn't.

14 Q. Well, I am interested in knowing if
15 your community has had a part in the decision
16 making process about the plant and the part
17 that you would play, is whether to sell and
18 make the space available for the plant or not
19 to and say, no, we don't want the plant?

20 A. Now, if you are talking about having
21 any input into the decision making process,
22 the answer is no.

23 Q. No, I meant at the point where -- if
24 you don't sell your property, the plant cannot
25 come in and build on that property?

1 A. I wouldn't be able to answer that
2 question. I couldn't answer.

3 MR. KUTCHER: Dr. Hicks or Ms.
4 Madden, do you have a question?

5 BY MS. MADDEN:

6 Q. You had just mentioned you are
7 working with the Sierra Defense League. Are
8 you filing suit, your group of citizens or
9 what is going on right now?

10 A. Under that part of it I think it
11 would be far better if you would consult the
12 attorney.

13 MR. KUTCHER: Spoken like a true
14 client.

15 BY DR. HICKS:

16 Q. Does your group have membership from
17 both constituent groups that are being
18 negatively impacted? I know that there is a
19 large black group. You also mentioned that
20 there is also a poor -- that there are blacks
21 and whites. Poor whites who are equally
22 impacted. Does your group have any of those
23 persons?

24 A. To the best of my knowledge --

25 Q. Is it just black?

1 A. They are in attendance when we have
2 meetings, but I don't know of any of them who
3 have really signed the roll and said I have
4 become a member. However, some of the most
5 influential whites in the community who know
6 our plight and are looking out for their own
7 safety do participate with us -- lawyers,
8 doctors and others. They participate with us.
9 We had to start something because we had to.
10 The thing is moving and moving so fast that we
11 had no choice other than band ourselves
12 together to try to fight that which we
13 disagreed with.

14 BY MS. MCDADE:

15 Q. Many people who have appeared before
16 our committee have indicated that one of the
17 problems in minority communities is a lack of
18 understanding of the political process of what
19 is going on, of how to fight these particular
20 industries coming into their area, and you
21 mentioned that you had relied on groups like
22 the Sierra Club. Other than legal help, has
23 this group or any of the environmental groups
24 offered you help, information, financial help,
25 any other kinds of help?

1 A. I don't have any money. I am here
2 from my pocket.

3 Q. But, they have offered you no help
4 other than legal?

5 A. Not money.

6 MR. KUTCHER: Mr. Quigley, you
7 have a question.

8 BY MR. QUIGLEY:

9 Q. How many people live in Wallace?

10 A. Approximately seven hundred.

11 Q. How many of the seven hundred would
12 have to move if they put the plant there?

13 A. Well, there will be two reasons why
14 people will have to move. One, we can't do
15 anything about it, and one I think will be
16 beneficial to the community. That is, the one
17 where the bridge is being built. I think it's
18 being called Lutchter something bridge. I
19 don't know what it's called. But, to the best
20 of my knowledge, I think 38 families will have
21 to move because it will be an unpassable road,
22 but the bridge will bring prosperity to the
23 community. The plant will not.

24 Q. How many people have to move if the
25 plant comes?

1 A. In total numbers, I don't know the
2 exact total number, but I do know at the last
3 meeting that I attended, approximately 38
4 families will have to move.

5 BY MS. REIBOLDT:

6 Q. This committee is charged to look at
7 any type of discrimination or denial of equal
8 protection because of race, color, national
9 origin, age, et cetera, and you had mentioned
10 in your presentation that you felt that your
11 rights have been denied.

12 A. I think to some degree they have.

13 Q. And I was wondering if you could give
14 us some examples of ways that you feel your
15 rights have been denied. You mentioned that
16 in the past and perhaps right now, your rights
17 have been denied in the way of health and
18 education, but could you be specific about the
19 way you feel they have been denied regarding
20 this environmental impact that might exist in
21 your community?

22 A. Well, when they took liberty of
23 coming on my property, surveying it, no one
24 asked me anything, drawing maps of it. I
25 thought that was a violation of my legal

1 rights. There are barges out there parked
2 now, to the best of my knowledge, standing on
3 the batture. I own apart of the river
4 batture. I don't have the money to fight them
5 in court, and I don't think they have the
6 right to be there. That is my property, see.
7 I can't say exactly what date it was, but I
8 have the documentation at home. I rent that
9 batture to people. I think it's CL&B for
10 \$3.75 per foot for a year for a total of maybe
11 three thousand dollars a year, and now I have
12 been asked to sell it for six thousand
13 dollars. I had to be a big fool. I would
14 have to be real stupid, see. And, when they
15 are asking you to sell it to them, they say
16 what? Three dollars a linear foot. You buy
17 land by square foot.

18 Q. In those two examples, what
19 recommendations do you think that a government
20 body could be given to improve that situation
21 or make it not happen again?

22 A. Well, I don't have a legal mind, but
23 I think there should be some way in which the
24 rights of black people could be protected. We
25 should have some recourse rather than say,

1 every time I have to run to court, I have to
2 have five or six thousand dollars. Where am I
3 going to get it from? I am poor. I can't
4 afford lawyers to go to court. I don't have
5 that kind of money. I am trying to survive.
6 That is all I have ever been doing in America
7 is trying to survive. The eagle, the sparrow,
8 the bouies, the fish and everybody on the
9 endangered species list. You know what list I
10 am on? The neglected list, because everything
11 that has been done in America has never been
12 done to promote me. It's always been to
13 demote me or to say, here is a handout. I
14 don't want a handout. I want a hand up. I
15 want to get up. I don't want a handout. And
16 now what is it saying to me now? Putting you
17 right back where you came from when you put
18 that hand out. And that is not what I want.

19 BY DR. FORD:

20 Q. Mr. Greene, can you give me an idea
21 of the current environmental condition in your
22 community? Are there plants near by? Miss
23 Dickerson last night talked about St. John the
24 Baptist Parish, and I remember her enumerating
25 some number of plants in the vicinity of that

1 Parish?

2 A. There are some on the opposite side
3 of the river.

4 Q. Are you impacted at all by those?

5 A. Yes, sir, I am and another plant
6 would only add to my problem: It would only
7 add to my problem.

8 MS. ROBINSON: I had two
9 questions. Thank you.

10 Q. Is the Formosa plant a done deal,
11 meaning, it will be located there, or is that
12 still --

13 A. I didn't quite understand you.

14 Q. Will the plant be located in your
15 area? Has that been finalized?

16 A. Not yet.

17 Q. And that is the reason why you have
18 gotten the Sierra Club for a lawsuit of some
19 type?

20 A. Right.

21 Q. Was the IT decision, are you familiar
22 with the IT decision, which is the economic
23 cost versus the environmental cost?

24 A. No, I am not familiar with it. But I
25 have a general idea what you mean.

1 Q. Was any type of environmental impact
2 study done to determine what the impacts were?

3 A. I think they are in the process of
4 doing it now. What impact it will have on the
5 community?

6 Q. Right.

7 A. I think they are in the process of
8 doing it now. I don't want to castigate the
9 company. I want to tell facts as I see them.
10 I don't want to pass judgment on them for the
11 sake of making a judgment, but I think it's
12 being done now. As I foresee and I told you
13 in the beginning, I cannot perceive of
14 anything beneficial to black people coming out
15 of it -- jobs, living condition improvements,
16 nothing of that kind. I don't see that. If
17 somebody else sees it, we remember it. We are
18 here cause this is America. They have right
19 to their opinion, and I think I am doing the
20 best I can to put my opinion to you.

21 MR. KUTCHER: You have done it
22 very well. Thank you, sir.

23 Our next presenter is Amos Favorite.
24 He is not here. We have a presentation from
25 the Calcasieu League for Environmental Action.

1 I think that is a written statement; is that
2 correct, Mrs. Robinson? Natalie, you have a
3 statement from the Calcasieu League?

4 MS. WALKER: I was waiting for one
5 phone contact with Miss Ruth Shepherd who was
6 going to read the statement. Who was after
7 me? Are they here? I could probably just --
8 I am the only one -- ask the gentlemen who
9 just left to come back.

10 MR. KUTCHER: I know you plan on
11 going later in the day. If you feel
12 comfortable going now we have some time.

13 IDENTIFIED SPEAKER: I would like to
14 go later on. My presentation is being typed
15 this very minute.

16 MR. KUTCHER: Then we will
17 certainly give you the opportunity to get it.
18 I think the only thing we can do --

19 MS. WALKER: Could we take five
20 minutes to get this phone call finished? I
21 have a point of clarification in her
22 statement, and I just couldn't get the
23 clarification last night.

24 MR. KUTCHER: We will take five
25 minutes, and it will be a written statement

1 and we will insert it in the record.

2 MS. WALKER: It is not in a format
3 to put into the record.

4 MR. KUTCHER: You can read it when
5 we come back from lunch. We will return at
6 1:15.

7 (A lunch recess was taken.)

8 MR. JENKINS: We will reconvene
9 the meeting of the Louisiana Advisory
10 Committee for U.S. Commission on Civil Rights.
11 We are asking the committee members to please
12 come forward. While they are walking up, we
13 will ask the next speaker to identify herself
14 and what organization she is representing
15 today.

16 MS. WALKER: My name is Nathalie
17 Walker. I am with the Sierra Club Legal
18 Defense Fund, but I have been asked today to
19 appear for the Calcasieu League Environmental
20 Action Now, also known as (CLEAN).
21 Specifically one of their members Ruth
22 Shepherd has a statement which she would like
23 to give to the commission.

24 If I might before I start, I was able
25 to contact Mr. Favorite who was supposed to

1 testify this morning. He is ill. He has
2 indicated he will write up a statement and I
3 will assist him in getting it into the record.
4 One other point of clarification for Miss
5 McDade with respect to the Alevor (phonetic)
6 issue. Whether or not Alevor is dangerous is
7 being litigated right now.

8 Ruth Shepherd of the Calcasieu League
9 for Environmental Action Now has written a
10 statement about what is now known as the BFI
11 SECO's Hazardous Waste Site in the tiny
12 community of Willow Springs which is entirely
13 African American: On a beautiful day in 1976,
14 my son and I decided to explore an area on the
15 Little River about two and a half miles away
16 from our home which is north of Sulphur and
17 Sulphur is close to Lake Charles. Although we
18 had lived here about five years, I had never
19 been in this particular area. We drove down
20 Willow Springs Road to the river, and coming
21 back observed tank trucks with the BFI name on
22 them coming down the road. Curious as to what
23 they were doing in this area, we turned around
24 and followed. From the Willow Springs Road,
25 they turned off on to another narrow obscured

1 road with overhanging trees. A short distance
2 down this road, we came upon a large cleared
3 area of about forty acres consisting of open
4 pits. The odor was overpowering. No fence
5 secured the area. We saw trucks emptying
6 their contents into these pits. The immediate
7 area around this open dump which is located in
8 the community of Willow Springs consists of
9 home and farms of African American people.

10 Willow Springs is a small community,
11 neat with friendly people who wave to you. I
12 made several telephone calls and discovered
13 that there were no laws at that time
14 regulating the operation that we saw. I
15 visited the neighborhood and talked to some of
16 the residents. Mrs. Mabel Jones, one of the
17 residents had presented a petition to the
18 local police jury protesting the dumping and
19 the attendant operation connected with that,
20 but the residents didn't hear anything further
21 from the police jury.

22 Later when I went out to check on
23 activities there and attempted to count
24 trucks, I was cursed by the truck drivers and
25 told to stay out of the area. The owner of

1 the property, at that time, a Mr. Butch Elkins
2 had been telling people in the area when the
3 operation started, that resort was going in,
4 and that holes they were digging would be fish
5 ponds. A meeting of neighborhood residents,
6 both black and white was held and a committee
7 was organized to combat this situation.
8 Finally this hazardous waste dump was required
9 to get a permit, but that hasn't been the end
10 of the problems associated with this hazardous
11 waste area. We have now been attending
12 meetings and hearings and protesting for the
13 past 15 years, and we still have a leaking
14 landfill and an operating injection well. We
15 know that landfill leaks.

16 Finally in 1983, we were able to get
17 Governor Treen to procure funding from the
18 Transportation Department so that wells could
19 be drilled down to the water bearing sand in
20 the area, and in fact we found pollution.
21 Recovery wells had to be drilled to bring all
22 of the pollutants out. To this day, however,
23 the landfill still leaks. We don't have money
24 now to undertake that expensive testing again,
25 but we have no doubt that leaks continue.

1 This hazardous waste site has had a
2 devastating effect on this community. People
3 have lost cattle, hogs and one man lost all of
4 the fish in his pond from a leak from one of
5 the pits.

6 The impact on this community has
7 taken its toll. Land values have decreased,
8 and most frightening of all, about 20 people
9 have died from cancer in recent years. The
10 people around Willow Springs never asked to
11 have this toxic dump but now we are expected
12 to live with it for good. And this coming
13 Monday, BFI and SECO's will be attending a
14 hearing where they will be asking for a
15 modification for their permit, so that instead
16 of being restricted to accept one particular
17 kind of waste from one area, they will now be
18 able to accept all hazardous wastes from
19 anywhere.

20 That is the end of her statement.

21 MR. JENKINS: Thank you. Are
22 there any questions?

23 COMMITTEE MEMBERS: No.

24 MR. JENKINS: In the absence of
25 the chairperson, the advisory committee

1 chairman is on his way here, I will ask the
2 substitute chair to carry on in his absence.

3 DR. FORD: Thank you, Mr.

4 Chairman. This is the beginning of our sixth
5 session. This is Session VI, and our first
6 speaker is Dan S. Borne, president of the
7 Louisiana Chemical Association. Mr. Borne, if
8 you would come forward, you can elect to stand
9 or sit.

10 MR. BORNE: I think I would like to
11 use the lectern, if that is all right, cause I
12 can see you all better. Mr. Kliner and Mr.
13 Fran (both spelled phonetically) are
14 distributing documents which support the
15 presentation that I will make, Mr. Chairman.
16 I would respectfully ask that those documents
17 be entered into the record at the appropriate
18 place and that my remarks, if they are for
19 some reason cut short, be entered into the
20 record as they were presented in the formal
21 presentation.

22 What I will be referring to is the
23 very first document which has sort of the gray
24 cover on it, and the title is "The Chemical
25 Industry and Environmental Equity in

1 Louisiana," and I will flip through these
2 pages with you, if you all would like to go in
3 that manner, and hit some of the highlights
4 under the main topics.

5 As Dr. Ford said, my name is Dan
6 Borne. I am the president of the Louisiana
7 Chemical Association. The LCA represents 65
8 companies that operate at 85 locations around
9 Louisiana. Most of the operations are located
10 between Baton Rouge and New Orleans along the
11 Mississippi River, but we also have a
12 substantial concentration of facilities in
13 Southwest Louisiana, notably Calcasieu Parish
14 which is on the line, sort of the state line
15 near Texas. I want to welcome you to
16 Louisiana on behalf of the companies that are
17 members of the LCA and tell you how much we
18 appreciate the opportunity to visit with you
19 today. We are concerned about the impact that
20 industrial activity may have on the health and
21 overall quality of life of Louisianians.

22 The families who live next to our
23 facilities are even more concerned. And we
24 appreciate this invitation to contribute our
25 views with this factfinding group. In the

1 past, the chemical industry has not adequately
2 addressed its neighbors' anxieties, fears and
3 complaints. At times, we have not always
4 reached far enough beyond our fence lines to
5 provide information, and to extend the hand of
6 help and a hand of opportunity.

7 In the past, industry thought that it
8 was enough to provide jobs, to pay taxes, and
9 to obey environmental laws and regulations.
10 Then public expectations changed, and industry
11 was slow to recognize and respond to those
12 changes.

13 LCA's polls show that the average
14 Louisiana citizen does not trust the chemical
15 industry and has a low opinion of our
16 performance. Blacks and other minority
17 citizens trust us even less. More often our
18 polls show that blacks and other minorities
19 surveyed do not agree the chemical industry
20 can operate in an environmentally sound
21 manner. Nor do they agree that we are trying
22 to reduce pollution. They do not agree that
23 we are listening to our neighbors. They are
24 also less likely to agree that we are
25 providing needed jobs.

1 In the past, industry challenged
2 these perceptions but today we have opened our
3 minds to the truth that supports these
4 beliefs. We think that there is a cultural
5 change taking place in the chemical industry
6 and it is a change for the better. Like
7 society as a whole, Louisiana's chemical
8 industry is making progress, but our work is
9 far from being done.

10 Industry made mistakes in the past
11 and is now acting to correct problems and
12 improve performance. Plant managers see
13 beyond the fence line. They realize that
14 their neighbors' problems are often complex
15 and that solutions to problems can be elusive.
16 They are learning that answers can be found
17 through partnerships with their neighbors,
18 with other businesses, with citizens groups
19 and with government.

20 On page two of the booklet, we talk
21 about site selection and changing
22 expectations. I know a lot has been said over
23 the course of the last day and a half about
24 site selection. And many people, many
25 concerned people are have raised a legitimate

1 question: Why are Louisiana chemical plants
2 located in certain areas?

3 In Louisiana, chemical companies
4 select sites based on sound business criteria
5 that match their special type of manufacturing
6 to the state's unique and diverse natural
7 resources. The racial makeup of the
8 surrounding community is not now nor has it
9 ever been one of these criterion.

10 Most Louisiana plants are vast world-
11 class operations designed, and sited to
12 compete for business in the global market of
13 bulk commodity chemicals. In fact 25 percent
14 of everything that we make in Louisiana is
15 exported abroad.

16 In the past, the criteria used to
17 select these sites shared many common
18 characteristics such as: Deep river ports for
19 shipping, rail transportation to reach
20 domestic markets, abundant land to site large-
21 capacity operations, access to natural
22 resources, access to natural gas pipelines,
23 and many times a neighboring plant to supply
24 chemical feedstocks.

25 For example, the site selected for

1 the Olin plant at Lake Charles provided an
2 almost inexhaustible supply of high quality
3 salt from the West Hackberry Salt Dome, a
4 ample calcium carbonate from oyster shell
5 deposits, an abundant supply of natural gas,
6 and excellent transportation facilities. So
7 Olin began purchasing land from farmers and
8 cattlemen in the 1930's.

9 Many of these same commercial siting
10 factors were also very important during World
11 War II when Louisiana's modern chemical
12 industry was really born. The Oak point plant
13 now owned by Chevron down in Belle Chasse,
14 Louisiana was built in 1941 to produce engine
15 oil for the Navy. It used to be a forested
16 swamp but the site was selected because it
17 provided close access to the Gulf of Mexico
18 and much less vulnerable to German or Japanese
19 attack than plants on the east or west coast
20 of the United States.

21 During that period, the Louisiana
22 plants produced lubricants, aviation fuels,
23 synthetic rubber, explosives, aluminum, and
24 all of these were for the war effort. Our
25 river and rails provided the means to move

1 immense quantities of these war materials to
2 other U.S. factories and huge volumes to fuel
3 U.S and Allied forces around the world.

4 Now, more recently, site selection
5 criteria have expanded as expectations of both
6 the public and of industry have changed.

7 These are some new considerations:

8 Environmental impact of the facility on the
9 site and on the surrounding community. Local
10 hiring. Community acceptance of the facility,
11 company commitment to civic leadership.
12 Quality of education and state and local tax
13 burden on business.

14 In addition to this, the Department
15 of Environmental Quality must examine site
16 suitability based on criteria that are defined
17 either by regulation or by case law. A key
18 question LaDEQ must consider is, have the
19 potential and adverse environmental effects of
20 the proposed facility been avoided to the
21 maximum extent possible?

22 Here are some of the factors that the
23 agency has to consider: Is the site in or
24 near environmentally sensitive areas? Is the
25 site in a flood plain? Is groundwater

1 protected? Is air quality protected? Have
2 site characteristics been studied? What is
3 the potential environmental impact of the
4 waste to be disposed of at this site? How
5 leachate be prevented and/or collected? How
6 will the facility be closed once its useful
7 life is over? What are the post-closure plans
8 for the facility?

9 Each plant's history is different,
10 but in no case have minority communities been
11 targeted for the siting of chemical
12 manufacturing plants in Louisiana. This
13 concern does not square with the economic and
14 logistic realities that must be faced in the
15 site selection process, nor with the history
16 of properties purchased by LCA member
17 companies.

18 Many LCA companies built on old
19 plantation sites where the surrounding
20 community probably was, and may still be
21 predominantly black. Some facilities were
22 built in rural areas that had no communities
23 around them until many years later. In some
24 cases the surrounding community had been
25 mostly white and then changed over time. Some

1 of the members who will follow me today will
2 discuss some of the demographic patterns that
3 changed over time.

4 That was yesterday. Today in
5 Louisiana more plants and largely black
6 communities do share the same neighborhood, so
7 the relevant question is what are we doing to
8 be better neighbors now? Partnerships are
9 working in many areas, so I think it's
10 important that we look at the work that is
11 being done and the job that lies ahead.

12 On page four, we give a list of
13 things happening in the area of environmental
14 performance improvement. Over the last three
15 years reductions in toxic emissions have been
16 substantial in Louisiana. These emissions,
17 although legal and permitted were too high.
18 And in the course of the last several years,
19 they have been reduced by over 50 percent.
20 Many of our companies have signed on as
21 partners with EPA in the so-called 33/50
22 Program which seeks a 33 percent cut in the
23 corporation's nationwide emissions of certain
24 chemicals by 1992 and a 50 percent cut by
25 1995.

1 Many LCA companies have also
2 voluntarily joined Responsible Care and under
3 Responsible Care must follow Codes of
4 Management Practices designed to improve
5 performance. And I might add, that in each
6 one of these codes, public participation is
7 not only encouraged, public participation is
8 required. We have supported the Clean Water
9 Act of 1989 and Louisiana Clean Air Act.

10 Ozone Task Force groups have been
11 formed in Baton Rouge and in Lake Charles to
12 attack ozone problem, and the thing that is
13 unique about the Baton Rouge experience is
14 that it is a partnership between government,
15 industry and the public, and in the
16 seven-parish area, this partnership is
17 developing a plan to deal with ozone
18 nonattainment in the lower atmosphere in the
19 greater Baton Rouge area. Some of the other
20 proactive improvements in is environmental
21 performance are also listed on page four.

22 On page five, we discuss a program
23 that really originated in Louisiana:
24 Community awareness and emergency response
25 care program. We recognized after Bhopal that

1 we had a lot of work to do with respect to
2 emergency procedures and community
3 preparedness. And now CAER of, a voluntary
4 program to improve community preparedness has
5 been adopted nationally and internationally.

6 When the federal Right To Know Act
7 became law in 1986, we began publishing -- LCA
8 companies began publishing in volume form on a
9 year to year basis all of our emissions that
10 were covered under the Toxics Release
11 Inventory law and all of the reductions that
12 are being realized in those. Page five gives
13 further examples of the type of cooperation
14 that is currently going on between industry,
15 government and the public.

16 Page six discusses cancer. Louisiana
17 has for some years now been dubbed Cancer
18 Alley, at least that area between Baton Rouge
19 and New Orleans. I know that Dr. Nitzkin
20 appeared before the panel yesterday and
21 probably got into the cancer issue. I think
22 it's important that good information be made
23 available so that people who have health
24 backgrounds and epidemiology backgrounds can
25 draw the proper conclusions about cancer in

1 Louisiana. And with that in mind, the LCA
2 contributed approximately \$300,000 to LSUMC,
3 Louisiana State University School of Medicine
4 to computerize and publish cancer incidence
5 data that had been sitting in file folders for
6 years and they had never been computerized or
7 interpreted. Now, we gave them the money
8 because no one else would. But the people who
9 are publishing this material are world famous
10 epidemiologists who stake their reputations on
11 their conclusions, and so we thought it was
12 important to get the information out, and
13 those folks now are publishing it and
14 discussing it in forums in New Orleans and in
15 Baton Rouge.

16 What the cancer incidence data tells
17 us is that Louisiana's mortality problem and
18 cancer is not being driven by incidence.
19 Mortality is how many people die. Incidence
20 is how many people get cancer. So incidence
21 is a much more reliable indication of the
22 cancer burden on a population. And what we
23 are told by those epidemiologists is that
24 generally incidence rates in Louisiana are
25 just about the national average. We have high

1 mortality rates in white male lung cancer, we
2 have high mortality rates in black male lung
3 cancer in the City of New Orleans. But, with
4 respect to other types of cancer where there
5 is high mortality, they do not seem to be
6 given high incidence. An example, cancer of
7 the cervix, high mortality; however, we think
8 with early access to the medical system, with
9 early periodic screening, that women who are
10 diagnosed with cervical cancer can be cured.
11 And we have just last week begun discussing
12 with the Louisiana Cancer Consortium in New
13 Orleans a program to set up a statewide
14 screening program in key areas of cancer
15 incidence.

16 Page eight discusses education, and
17 those things that chemical companies are doing
18 in their communities, adopting predominantly
19 black schools, providing tutors in
20 predominantly black schools, hiring programs
21 for teachers, summer internships for students,
22 sponsoring a number of programs, many of them
23 minority youths. And of course one of our
24 most important initiatives as an association
25 is (CEPUP) Program, Chemical Education For

1 Public Understanding. We have taken two
2 hundred teachers from around the state and
3 assisted them with workshop material and
4 course study guides to help them teach
5 environmental science in our schools.

6 Page nine discusses recruitment,
7 training and employment. You may have heard
8 yesterday about who gets hired and where. We
9 do know from the statistics provided to us by
10 our companies, that over 50 percent of the
11 people who work at our plant live in the
12 parishes in which the plants are located.
13 About 47 percent of them live in adjacent or
14 adjoining parishes. We do know that from an
15 internal survey of our members, that
16 minorities make up about 25 percent of our
17 work force and, according to the latest
18 affirmative action report from the Louisiana
19 Department of Employment and Training,
20 minorities represent about 26.5 percent of the
21 state workforce.

22 However, of the 44 LCA facilities who
23 reported, blacks represent 21 percent of their
24 workforce. In comparison, the U.S. Bureau of
25 Labor Statistics reports that black workers

1 hold 10.8 percent of jobs for all Louisiana
2 manufacturing industries.

3 On page ten, we talk about economic
4 development in Louisiana, and the importance
5 of the chemical industry to the state's
6 economy. It doesn't matter how important we
7 are to the state's economy, we do not have a
8 license to indiscriminately pollute.
9 Irrespective of how important we are to the
10 manufacturing sector and irrespective of the
11 number of people that we employ, we cannot use
12 economic development as an excuse for
13 polluting. And so our companies recognize and
14 realize that we have to be affirmative in our
15 activities to reduce our emissions; however,
16 economic impact is very important because 40
17 percent of all the value that is added in the
18 manufacturing sector in this state added the
19 chemical industry.

20 We employ over 35,000 people
21 directly. Those are folks that go to work
22 everyday at plants throughout our system. And
23 that has a tremendous reverberative effect in
24 the economy as there are about eight jobs out
25 there for every one job at a chemical plant.

1 We are very capital intense. We
2 spend a lot of money on machinery and
3 equipment and because of that parishes where
4 we are located generally have some of the
5 highest per capita income in the state. The
6 parishes in which we are located generally
7 have higher property tax collections per
8 capita than other parishes, and the parishes
9 in which we are located generally have higher
10 sales tax collections per capita than other
11 parishes. So, that little section on page ten
12 deals with the economic development benefits
13 for everyone.

14 I want to conclude my section here by
15 referring you also to one of your appendices
16 which deal with a public statement made by our
17 board of directors recently. This commitment
18 includes continuing to improve relations with
19 our neighbors. The chemical industry knows
20 that much of our environmental performance is
21 driven by the public and that the plant
22 manager who is not spending time out in his or
23 her community will soon lose the right to
24 operate in that community.

25 Again, we appreciate very much the

1 opportunity to contribute to these
2 proceedings. There are a lot of challenges
3 ahead for us, a lot of challenges ahead for
4 the state. But success will come with
5 continued partnerships in understanding among
6 government, industry, and citizens. We think
7 that we can show the nation that Louisiana is
8 a leader, both in environmental quality and in
9 economic development.

10 Mr. Chairman, I would be delighted
11 now to try to respond to any questions. Let
12 me say in advance, however, I have just been
13 informed that there is a lady here from St.
14 John the Baptist Parish who cannot be with us
15 this evening for the public portion of the
16 meeting, and I would be more than willing --
17 as a matter of fact, I would be delighted to
18 yield a portion of my time to Miss Virgie
19 Johnson, who is a librarian in the St. John
20 the Baptist Parish Baptist Parish School System
21 for her to make some remarks with respect to
22 the Formosa plant that is locating in her
23 parish. It is my understanding that several
24 things were said about Formosa yesterday.
25 Miss Johnson would like to discuss some of

1 those, but she is incapable of being with us
2 later this afternoon.

3 MR. KUTCHER: Why don't we do
4 this? Why don't we have, entertain some
5 questions and then see where we are timewise.
6 Roberta, do you have any questions?

7 BY MS. MADDEN:

8 Q. Yes, I have a couple. The first
9 relates to a statement made yesterday by Dr.
10 Templet about the fairly controversial plan to
11 tie industrial tax exemptions to the
12 environmental record of companies, and of
13 course that was put into effect by the Roemer
14 administration. It is not in effect any more.
15 What was your organization's position on that
16 and why?

17 A. We were against the program because
18 of the spirit that was behind it. The
19 environmental score card was an attempt in our
20 opinion to punish petrochemical industry in
21 Louisiana. By making it more difficult to get
22 property tax exemption. Robby, I have to go
23 back a little while and set the table for you
24 on this. The reason why there is an
25 industrial tax exemption in Louisiana is

1 because the people who wrote the constitution
2 in the early 1970's recognized that property
3 tax system in this state was out of whack that
4 business and industry paid ninety percent of
5 all property taxes in Louisiana and the people
6 who wrote that constitution kept in it the
7 ten-year property tax incentive so that plants
8 that purchased billions and billions of
9 dollars of equipment and machinery to update
10 and modernize their plants would not have to
11 pay exorbitant property tax rates from the
12 very day that that machinery became operative.
13 So, they recognized it was important to jump
14 start this industry in Louisiana. And the
15 reason is, as I said, business and industry
16 paid ninety percent of the property taxes,
17 others pay ten percent, notably residents. If
18 companies were forced to pay the full freight
19 of the property tax burden from day one, the
20 types of investments that keep our companies
21 running would go offshore or they would go to
22 some other state.

23 So, the people who wrote that
24 constitution recognize that the environmental
25 score card was an attempt to make those types

1 of exemptions more difficult to get, not to
2 improve the environment, but to penalize what
3 DEQ said on more than one occasion were dirty
4 jobs and jobs that should not come to
5 Louisiana. We disagreed with that, we
6 disagreed with the fact that score card was
7 retroactive, that you could be penalized for a
8 problem that you had several years ago. We
9 opposed it because it singled out a particular
10 area of the Louisiana economy, refineries,
11 petrochemical plants and paper plants. And we
12 considered it punitive. The only
13 gubernatorial candidate who said he would keep
14 the score card was Governor Roemer. Every
15 other candidate, every other one from Edwards
16 to Duke to Dent, to the whole crew said that
17 they did not think it was good to mix those
18 apples with those oranges.

19 Q. I do have one more question. This
20 one is about the political aspects of this
21 struggle that we have been hearing about for a
22 couple of days. We have heard some of the
23 folks who represent environmental groups say
24 one, the reason for these problems is that
25 blacks have less access to political power,

1 and have less political power. We have heard
2 also that environmentalists may have more
3 people but that the chemical companies have
4 more money and more political access in terms
5 of PACS and so on. Could you comment that
6 whole area?

7 A. Sure. I think chemical companies do
8 have PACS. Of course, they are legal under
9 the system. But I see that whole relationship
10 changing dramatically, and I can only point to
11 the Louisiana Air Toxins Law that passed a few
12 years ago to tell you, no amount of money in
13 the world could have kept that law from
14 passing. Issues mature over time. The
15 environmental issue in Louisiana has matured,
16 it's grown up. People are paying attention to
17 it, especially politicians. Politicians
18 recognize now the perception of the people
19 they represent are not just perceptions, they
20 are realities in a political sense. And that
21 passed because politicians agreed it was time
22 to do something about air toxins in Louisiana.
23 We could have sat down and tried to influence
24 this process in a negative way but realized we
25 were going to be rolled if we tried that. The

1 best thing to do was get into the swing of
2 things, get with the program and become part
3 of the solution rather than an impediment to
4 it. I suggest to you that more and more
5 people will have power in the political
6 process simply because they are being
7 organized better, they have access to the
8 media, and they will see some concrete
9 results.

10 MS. MADDEN: Thank you.

11 MR. KUTCHER: Dr. Hicks, Miss
12 Adams, Miss McDade? Miss Reiboldt.

13 BY MS. REIBOLDT:

14 Q. You mentioned, and I will ask this in
15 a two parter and you can refuse to answer the
16 second if you so desire.

17 MR. KUTCHER: You could also
18 refuse to answer the first.

19 A. I am glad I didn't propose to my wife
20 that way.

21 Q. You assert here that, and I think we
22 are pretty much agreeing with it, especially
23 on the second day here, that blacks, other
24 minorities, are less likely to agree that the
25 chemical industry can operate in

1 environmentally safe, sound manner. And, I
2 would like to get some feedback on why you
3 feel that this is the case, and then my second
4 question would be for you to comment on
5 something that I am perceiving just to see if
6 it's off the wall. I know that a lot of
7 people that have been here yesterday are being
8 represented by national organizations that
9 have also testified, like the Sierra Club,
10 ACORN and others who have somewhat radical
11 agendas in some people's opinions, and I am
12 wondering if that is contributing to this
13 problem of misconceptions even after you have
14 gone into the community and tried to show
15 them?

16 A. Well, on the first part, I think that
17 minorities in general just feel
18 disenfranchised. Whether it be in political
19 activity or in activity vis-a-vis a chemical
20 plant or many other of the social ills that we
21 perceive, even in education. I think that
22 they trust us less, let say, than white folks
23 because we haven't spent enough time working
24 with the black community, listening to their
25 problems, bringing them into the plant, having

1 them articulate their concerns and trying to
2 respond to them. As I say in my testimony,
3 for years we thought paying taxes and
4 employing people was all you had to do and be
5 guaranteed a license to operate. In the
6 course of doing that, we ticked up off a lot
7 of people and didn't listen to them. Now we
8 are listening. The true test will be whether
9 we perform in the way that we are promising to
10 perform. We did not earn this distrust
11 overnight. And we are not going to earn the
12 trust overnight either. What we are going to
13 have to do is work on it, perform better,
14 lower our emissions and basically deliver on
15 what we promised. So, when we say track us
16 and don't trust us, we better be sure that we
17 are willing to deliver.

18 On the second thing, some of the
19 national groups do add to the polarization.
20 There is no question about that. Some of the
21 national groups tend to be more radical than
22 some of the local groups, but that doesn't
23 mean we shouldn't be working with all the
24 groups. They all have agendas, they all have
25 concerns. I don't think we will ever be able

1 to please the more radical groups. I think
2 what we need to work with is that large group
3 in the middle that is not radical at all.
4 It's just concerned. They tell us we love
5 your jobs, we love what you do for the
6 schools, we think it's great, your endorsement
7 for the Chamber of Commerce. This is all
8 great. We understand how important you are.
9 Just clean up your act a little bit more.
10 Lower those emissions, listen to us when we
11 tell you we're afraid of what is going on.
12 That is the group we really need to work with,
13 the group who are our neighbors and who will
14 continue to live with us and buy us for as
15 long as we operate.

16 MR. JENKINS: Let me follow up
17 with that.

18 Q. How do you propose working with these
19 groups, particularly, some blacks have raised
20 concerns about the operation or the distrust.
21 How do you intend to work with those groups?

22 A. In virtually every area of the river
23 now, we have community advisory panels made up
24 of cross sections of the communities in which
25 our plants operate. Now, some plants have

1 panels for a plant. One plant has a panel.
2 In other areas, several plants have a panel
3 because the plants are so closely associated
4 with one another that it makes logistical
5 sense to have more than one panel. On these
6 panels we have women, minorities and cross
7 sections of the community. One way to work
8 with folks is sit down and talk to them. You
9 will be surprised. One of the panels, we
10 thought that the concern of the people were
11 going to be environmental. The primary
12 concern was economic. Folks said, look, we
13 know what you can do on the environment, we
14 know you have a lot of emissions, we think you
15 are going to lower them. Tell us what you are
16 going to do to do more business in the parish.
17 That plant went out and studied purchasing
18 powers in the parish and explained to the
19 group, here is what we already do in the
20 parish, here is what we think we can do better
21 but we need to educate vendors on how to do
22 business with us. As a result that company
23 has begun How to do Business with my Company
24 in that parish, so more local vendors can
25 benefit from the economics of the plant.

1 Q. These advisory groups, do you have
2 some of those who are more aggressive than
3 others or you are just listening to one voice
4 or all the handpicked persons who represent
5 your view?

6 A. Individual companies can respond to
7 that. I think I can speak for most of the
8 people here by saying, some of the more out-
9 spoken, outspoken critics choose not to serve
10 on the panel. Why? You have to ask them why.
11 Maybe they are being counseled, don't talk to
12 chemical companies at all because there is no
13 way what those guys tell you will be true.
14 But some of the most outspoken critics choose
15 not to serve on the panels, so we try to ask
16 folks who we think will be interested in
17 serving who will tell us the truth and who
18 will tell the truth.

19 Q. That is a big question, what is the
20 truth?

21 A. Yes.

22 BY DR. FORD:

23 Q. Mr. Borne, this issue of
24 environmental equity speaks to effect. Now,
25 actually on page three, you admit that by

1 virtue of using the siting criteria that you
2 articulated, which are business driven, it
3 happens that in many instances, your business
4 indicators lead you to select sites that
5 happen to be properties owned by or close to
6 minorities. Would you then admit that, in
7 effect, though your purpose was not to
8 disproportionately impact upon minorities, but
9 in fact as a result of the ownership patterns
10 of land and your criteria for siting, that in
11 effect you have had a disproportionate impact
12 on minority communities?

13 A. I think in some instances you can
14 point to that, Dr. Ford. However, in some
15 instances it was not immediately an all-black
16 community. In some instances it might have
17 been a predominantly white community that
18 changed over the years. In some cases the
19 communities moved towards the plant and in the
20 course of evolution, the people that live
21 there think they have been disadvantaged
22 because of the site.

23 Q. You have a very impressive list of
24 proactive initiatives. I didn't see anything
25 on transporting of hazardous wastes. Isn't

1 there an analogue to the care program?

2 A. There is a distribution code which
3 has been developed through Responsible Care
4 which deals with transportation of hazardous
5 materials cradle the grave. That code I think
6 has been adopted by the CMA. If it hasn't
7 been adopted, it's very close to being
8 adopted, but the distribution code is one of
9 the six major codes under Responsible Care.

10 Q. So, your organization and the
11 companies in Louisiana would move in the
12 direction of adopting those codes as well?

13 A. Yes.

14 MR. KUTCHER: Did that answer your
15 question?

16 MS. ROBINSON: Mr. Quigley has one
17 and then I have three.

18 BY MR. QUIGLEY:

19 Q. First of all I would like to thank
20 your organization. I understand you are the
21 people who have been doing the videotaping and
22 those tapes will be made available to the
23 commission members?

24 A. Yes.

25 Q. I know not everybody has been able to

1 be here for every speaker and because of the
2 importance and the kinds of things we are
3 hearing, I know those that weren't here would
4 like to review them. The question I would
5 like to ask is we have gotten a couple of
6 suggestions from people of things that they
7 think would improve some of the problem areas
8 that you point out in your polling, and I
9 would like to ask you whether the LCA, in your
10 opinion, could support these sorts of things.
11 The first one is a request that there be more
12 disclosure earlier to communities where
13 chemical plants are going into, that
14 disclosure be done not only in technical and
15 scientific terms, but done in a way that
16 ordinary citizens can understand it and early
17 enough in the process so that people don't
18 feel as we have heard again and again, that
19 they have been railroaded by the powerful
20 interest of business and the politicians
21 together. Do you think your organization
22 would have any opposition to earlier and more
23 fuller disclosure on siting issues?

24 A. No, I don't think there is any
25 problem with that. I think Bob Kuehn made

1 that point yesterday as part of the Tulane
2 Environmental Law Clinic. Whether it's an ad
3 in the paper or community meeting or whatever
4 it takes to give the people the full picture
5 of what is coming, sure.

6 Q. The second thing that was suggested
7 is people were saying that they feel
8 powerless, that they don't have access to
9 engineers, they don't have access to legal
10 assistance other than the Sierra Club, Tulane
11 that would come down. Would you support the
12 concept of providing technical assistance to
13 effected communities so that they can hire
14 people to give them legal assistance or give
15 them engineering expertise to be able to
16 evaluate the information that you are giving
17 them?

18 A. I think there may be a way of doing
19 that as long as there was some agreement on
20 who the people were. There may be a consensus
21 that can be worked out between a community and
22 a plant, for example, as to who is a credible
23 third party member. That is possibility. We
24 will look at that, yes.

25 BY MS. ROBINSON:

1 Q. My first question is to address the
2 statement that you made regarding the fact
3 that it appeared that most of the communities,
4 the black communities that you had dealt with,
5 that you were aware of were more concerned
6 about economic issues versus environmental
7 issues. And I would suggest that most of the
8 information that we have received over the
9 last day and a half and other supplemental
10 information would indicate that most of these
11 folks are really interested in environmental
12 issues.

13 A. May I respond to that first.

14 Q. Can you support?

15 A. First of all, what I said is that the
16 panel that this particular plant convened was
17 more concerned about economic issues than
18 environmental issues, the panel, panel. Now,
19 that panel is a group of both whites, blacks,
20 men, women, et cetera. The second point is
21 that, in a statewide poll that was taken by
22 Harris and Associates and in other polls that
23 have also been taken by media groups, the
24 number one issue in Louisiana is not
25 environment among whites or blacks. The No. 1

1 issue in Louisiana is jobs and the economy,
2 followed by depending on what the issue of the
3 year happens to be -- drugs, crime, education.
4 Environment tends to be fifth or sixth on the
5 list consistently. Now, this is not to say
6 that the folks that appeared yesterday do not
7 have the environment as their major concern.
8 I am sure they do. I am simply saying that,
9 on a statewide basis, environment when ranked
10 with other issues among both blacks and whites
11 does not come out as high. So I hope that
12 clarifies it.

13 Q. My next question is this: What is
14 the association's position on the IT decision,
15 because we have heard quite frequently that
16 that particular decision has not been enforced
17 to the level that it needs to be enforced.
18 What is the organization's position?

19 A. It's my understanding that DEQ has to
20 take that decision into consideration when it
21 looks at permits. There has been some
22 question about codification or putting that
23 decision into law. My feeling would be, what
24 is the spirit behind codification. Is it the
25 same spirit behind environmental score card

1 that was trying to ratchet down jobs in the
2 state, or is the spirit, a legitimate spirit
3 of trying to balance these needs. I am not
4 without equivocation saying that we would
5 support or oppose putting that into statute.
6 We would have to look at who was proposing it
7 and why.

8 MR. KUTCHER: Last question
9 belongs to Mrs. McDade.

10 Q. It says here in the background
11 material that LCA represents more than 60
12 member companies or organizations at more than
13 80 plant sites throughout the state. What I
14 would like to know is, do you have a built-in
15 policing mechanism? For instance, let's say
16 one of these member organizations blatantly
17 violated both your code and everyone else's
18 code. Do you have a self-policing mechanism?

19 A. No, we do not. We do not. Let me
20 give you a little bit of background on
21 Responsible Care and how that works. 60
22 percent of our companies are members of CMA
23 and are Responsible Care companies. About 40
24 percent of our companies are not members of
25 CMA and not Responsible Care companies. Those

1 companies have an opportunity to become what
2 they call participating or partners with
3 Responsible Care but not all of our companies
4 are under the Responsible Care umbrella. Our
5 responsibility as an association, as I see it,
6 is to bring the Responsible Care Program to
7 all of our companies, to educate all of our
8 companies on Responsible Care, to give them
9 all the codes, to give them all of the
10 information and hopefully to get those who are
11 not members of CMA interested enough in
12 Responsible Care so that they too will at
13 least in principle adopt the program.

14 MR. KUTCHER: Thank you very much,
15 Mr. Borne. I think that the consensus of the
16 committee on this, unless somebody here is
17 opposed, why don't we entertain at least
18 briefly the presentation of the lady from St.
19 John the Baptist Parish.

20 MR. BORNE: Thank you very much.
21 I appreciate your courtesies and please come
22 back to Baton Rouge.

23 MR. KUTCHER: I would ask you to
24 please make a brief presentation. Since we
25 don't know who you are, please identify

1 yourself.

2 MS. JOHNSON: Virgie Johnson from
3 St. John, Edgard, Louisiana, which is on the
4 west bank of St. John Parish. I am also a
5 member of the West Bank Civic Association,
6 which we are a 40-member group and ten board
7 members, so we do have recognized organization
8 who, at this particular time, our main purpose
9 of forming this organization was to help the
10 Formosa company to locate its facilities on
11 the west bank of St. John Parish. Now, there
12 is a perception of the community of the west
13 bank that -- to some west bank residents, that
14 Formosa company is not welcome there, and I am
15 here today to somewhat be able to shed a
16 little bit of light to put a little bit of
17 that perception to rest because not everyone
18 on the west bank do oppose the Formosa site.
19 And the reason why is because the siting of
20 Formosa has been a question for sometimes, and
21 we feel -- I feel that I can answer some of it
22 at this portion now. Any industry, not just
23 Formosa, looks for assets such as the river,
24 rail transportation, an abundance of land,
25 resources. South Louisiana, however, holds a

1 large tract of land that would have to access
2 and/or align somewhere to our plantation
3 sites. Unfortunately, we as minority live
4 close to our ancestry work and that has not
5 changed. It is indeed a reality.

6 However, rather than reflect it on
7 why industries locate in certain areas, I am
8 more concerned about what is the outcome and
9 the result of their location. Environmental
10 has been a topic of discussion regarding
11 Formosa locating in St. John. It is also a
12 reality. Industry cannot build facilities
13 unless they have to meet strict regulations
14 through EPA and the DEQ or they will not be
15 able to get them permits so that the industry
16 will be able to locate in their area. And I
17 feel that with the high technology that we do
18 have today, after reviewing different phases
19 of the process that have to go through, I
20 think if they are not qualified to have to be
21 permitted, they will not be. However, I do
22 recognize, an effort to clean up the
23 environment must and should continue for a
24 variety of social and ethical reasons, but
25 this should not mean eliminating industry

1 because, when we do eliminate industry, our
2 economics suffer and the economy does suffer
3 as well. Fortunately for all of us, these
4 chemical processes manufacture items that we
5 do find in our everyday living.

6 Some of the consumer products are
7 even used in our daily lives. Therefore, I
8 welcome industry as long as there is first
9 true commitment to the community in which it
10 comes to, the environmental commitment as
11 well, the educational commitment as well, and
12 also the economic development that it can
13 bring. With the advance of technology, I have
14 stated today we can control and minimize the
15 impact of the pollutants on local communities.
16 Without industry, there would be no community.
17 Formosa has worked with the West Bank St. John
18 Civic Organization, and they have supported
19 the local 4-H by purchasing livestock and
20 donating to the senior citizens of the west
21 bank of St. John. They have committed to
22 educational excellence as well into our
23 parish. They have done a few things into the
24 school system. We have industry surrounding
25 us in St. John, St. Charles. St. Charles

1 Parish is very prosperous through this because
2 they do have numerous numbers of things. They
3 support the parish with the school, the
4 recreational facilities. And Formosa, we
5 cited these things to them and they have
6 stated they will be a good neighbor to us
7 also. I think that is most concern of a lot
8 of residents on the west bank, is once Formosa
9 locates, we will definitely try our level best
10 as the civic organization to be a watchdog as
11 you so heard here today because we are the
12 local residents and we feel that we should be
13 able to have some input as to our physical and
14 health at the same time, and I do thank you
15 for this time which you have allotted me and I
16 will answer questions if you have any.

17 MR. KUTCHER: Can you give the
18 court reporter your street address?

19 MS. JOHNSON: Yes, I can. Post
20 Office Box 146, Edgard, Louisiana 70049.

21 MR. KUTCHER: Thank you.

22 BY MS. ADAMS:

23 Q. Thank you, Miss Johnson. We heard
24 from someone in your community this morning,
25 so it's very helpful to hear the other side of

1 this issue. Were you by any chance contacted
2 by the advisory committee about this?

3 A. I heard that there would be an
4 advisory committee meeting. I tried to
5 attend, but I was not able to attend all the
6 hearings, and I did try to fit in a time that
7 I would be able to come.

8 MS. ADAMS: We are glad to have
9 had the opportunity to hear you. Thank you.

10 BY MS. MCDADE:

11 Q. Were you contacted by the staff and
12 invited to participate?

13 A. I am on a mailing list whenever there
14 are different topics of concern. It's not
15 just with Formosa and industry all together,
16 because I am concerned also about the
17 environment.

18 Q. The reason I am asking is I see that
19 you definitely have something to say, and the
20 only groups we have heard from are groups that
21 opposed these things, and I am wondering, I am
22 sorry that you were not invited to participate
23 as part of the program. I think you had
24 something to offer, and I think we as a
25 committee need to perhaps discuss that later

1 on as to why.

2 MR. KUTCHER: We have a number of
3 representatives who are in favor, so I don't
4 think it's fair to say, but perhaps we ought
5 not discuss our -- what may or may not be our
6 dirty laundry any further.

7 MS. MCDADE: I am just saying I
8 wish she would have been invited.

9 MS. ROBINSON: I would like to
10 know first of all, how did you find out? Did
11 you hear from the media or some contact in the
12 community or from someone in the industry, and
13 then I have two other questions following
14 that.

15 A. I read it in the newspaper and on
16 channel eight at six o'clock news yesterday I
17 saw it.

18 Q. Very good. So that was effective.
19 Right. My next question is that I would like
20 to know how far away will you be from the
21 actual plant, your residence?

22 A. I am approximately two miles from the
23 plant.

24 Q. And how far is the plant from the
25 initial residence? Are there any residences

1 that are closer to the plant?

2 A. Yes, there are residences that are
3 close.

4 Q. How close are they?

5 A. In walking distance I guess you could
6 call it that.

7 DR. FORD: Just one brief
8 question. Has there been any communication
9 between your civic organization and it's
10 called the River Area Planning Group?

11 A. I attended one of the meetings that
12 the River Planning Area Group had in the
13 Wallace area. They usually have meetings. If
14 I am able to attend, I attend the meeting as
15 well.

16 MR. KUTCHER: Thank you very much.
17 I appreciate it. Our next presenter, what do
18 you want to do? Split your time?

19 MR. BARONE: I would like to thank
20 you for the opportunity to participate in
21 this. My name is Guy Barone from the Public
22 Affairs Office of Dallas Division and
23 Plaquemine, Louisiana across the bridge south
24 of Baton Rouge. Joining me is Mr. Michael
25 Liythcott. Mr. Liythcott is with the firm of

1 Prudential Relocation, and instrumental in the
2 formation and implementation of the
3 Morrisonville relocation program. He is
4 available here to answer your questions
5 concerning that program that follows my
6 presentation. In our allotted time here, I
7 could talk about Dow's specific investment in
8 the minority community. I could talk about
9 the \$25,000 contribution recently given to
10 Southern University for the upgrade of their
11 computer system. I could talk about our ten
12 million dollars in purchases last year from
13 minority owned companies or any number of
14 other outreach programs we have underway. Mr.
15 Borne mentioned the community advisory panel.
16 We have hot lines. The purchasing policy that
17 Mr. Borne mentioned, and so on down the line.

18 Instead I prepared a packet of
19 information that you can review at your
20 leisure to communicate a great deal of that.
21 And I will be glad to answer any questions
22 about our outreach programs. Instead today I
23 would like to present a subject that has come
24 up in discussion in prior testimony at this
25 meeting as well as one that I feel is most

1 applicable to the mission of your meeting, and
2 that is the Morrisonville relocation program.
3 The purpose of the Morrisonville relocation
4 program -- can everyone see the slides?
5 Otherwise you have a hard copy of the slides
6 in the package that we gave you.

7 The purpose of the Morrisonville
8 relocation program was to create a green belt
9 or safety ozone around the Dow facility in
10 Plaquemine, Louisiana. As you can see from
11 the aerial photo here, a shot of our plant, a
12 photo of our plant, this is the Baton Rouge
13 area up here, down here is the North
14 Plaquemine area. This area back here is
15 Morrisonville and Cut Off. Two communities
16 adjacent to our fence line. The Morrisonville
17 community is predominantly black. It's to the
18 lower section of the picture and the Cut Off
19 community is predominantly white community:
20 You notice that plant itself surrounds
21 Morrisonville. The borders of the
22 Morrisonville are the Dow Plant, the large
23 manufacturing facility that it is, the river
24 to the north, the river to the south and what
25 is called Australia Point, an area that is

1 flooded for most of the year as a result of
2 the river levels.

3 MS. REIBOLDT: Can you point those
4 out?

5 MR. BARONE: This is river to the
6 south, the river to the north, the fenceline
7 Dow and Australia Point. The community of
8 Morrisonville right here.

9 MR. QUIGLEY: Where is Cut Off?

10 THE WITNESS: Here, here literally
11 separated by a bayou.

12 MR. BARONE: Again, this is a
13 graphic representation of the proximity of the
14 community to Nazarene Baptist Church here
15 right next to one of your plastic plants. You
16 could stand at the front steps and throw a
17 stone and hit our operating facility. Before.
18 I get into logistics of the program itself, I
19 would like to talk a little bit about the area
20 of our environmental performance, and the fact
21 that we are creating a safety zone does not
22 preclude us to reduce our intention or our
23 efforts of reducing our emissions and
24 improving our safety and health performance.

25 In the last three years we have

1 reduced our toxic emissions some 50 percent.
2 The Occupational Safety and Health
3 Administration has awarded us a star site
4 designation. We are one of only 60 in the
5 United States. As of today we reached 3.4
6 million man hours without a loss time injury.
7 What that means is no one has been hurt, and
8 as a result cannot report for work the next
9 day. So, that is quite a safety record. Our
10 employee mortality studies have been fairly
11 extensive and have shown us no excess deaths
12 as a result of cancer or other diseases, and
13 we continue that commitment by applying more
14 than a hundred million dollars annually in
15 capital and operating expenditures into the
16 reduction of our toxic and waste emissions.

17 Back to Morrisonville, the Greater
18 Morrisonville Community demographics: roughly
19 three hundred people that lived in that
20 Morrisonville area, 60 percent of those people
21 black; 40 percent white. Roughly 87 people
22 own property in Morrisonville. Two hundred
23 acres. There were two churches, two
24 cemeteries, six businesses and 30 tenants,
25 those people who actually rented plots in

1 Morrisonville.

2 The approach that we used in my mind
3 was very unique. We wanted to develop a
4 relocation program fair and consistent that
5 treated people with respect. Those that own a
6 great deal of property and those that own very
7 small amount of property. We wanted to be
8 responsive to the community as well as the
9 company's needs and weigh both of those needs
10 in this program. We wanted to make it a
11 voluntary program but at the same time those
12 that chose not to participate, that we would
13 commit to them to be a good neighbor.

14 And, in the past in Morrisonville, we
15 had done a number of emergency response
16 efforts in order to increase their safety,
17 like putting in one-way receivers in their
18 homes so that we could notify them of any
19 emergencies that had occurred or were
20 occurring in the plant as well as installing
21 in the late 80's a siren system in the
22 community of Morrisonville that we could
23 engage from our plant site to let people know
24 there was an incident taking place in the
25 plant.

1 We wanted to be sensitive to the
2 uniqueness, to the diversity, to the history
3 and to the heritage of Morrisonville, a
4 hundred year old community that it was, and
5 the fact that it was started by a freed slave,
6 Renold Robert Morrison. We also wanted to
7 implement this program in a very open manner,
8 that was above board, and open for public
9 scrutiny. The status of the program, the
10 number of participants is 95 percent.

11 Roughly four families as of Monday had not
12 committed to participate in this program.

13 The specifics of the program included
14 hiring a relocation firm, and again I
15 introduced Mr. Liythcott. That firm had the
16 expertise in relocation. We are a chemical
17 manufacturer, we are not a relocation company.
18 That firm brought that expertise into our
19 fold. We conducted extensive research, six
20 months worth, beginning both on similar
21 industry programs, other corporate relocation
22 programs, as well as the history specific to
23 this community so that we could adjust and
24 write the policy around that community. We
25 made fair and consistent offers, based on a

1 process that encompassed appraisal values, a
2 variable component, as well as fixed
3 component. We received community input
4 throughout the process and in fact changed the
5 process as a result of community input. At
6 one point we changed the values of land
7 itself, one component of the offers, and went
8 back and paid those people that had already
9 closed and sold their land. That cost Dow a
10 half a million dollars, and Dow had no legal
11 obligation to do that under this program. We
12 counseled individually with each family, tried
13 to identify their needs and meet those needs.
14 It is very difficult to relocate for anyone,
15 especially in the community of Morrisonville
16 that had such history and heritage. We opened
17 a program center in the center of the
18 community so that people could have access if
19 they had questions. We gave an opportunity to
20 the residents to stay together, meaning that,
21 if the community of Morrisonville wanted to
22 relocate in its entirety together, we would
23 build them a subdivision so that they could
24 move together. As it turned out, we ended up
25 building two subdivisions and assisting with

1 other cluster developments and still other
2 people moved out on their own. So they voted
3 with their dollars and moved to different
4 areas.

5 We presented a policy booklet which
6 you have copies of in packet. The original
7 version looks like like this. We had a number
8 of community meetings, both informal and
9 social, and also had newsletters, periodic
10 newsletters with upcoming events in the
11 program. We enshrined a local cemetary as
12 part of the move of one of the churches and
13 also promoted a scholarship being used by a
14 Morrisonville resident as far as an
15 apprenticeship program for those that wanted
16 to move away, build a house, were unemployed,
17 and learn a new trade. This was an
18 opportunity to build their home and learn a
19 trade at the same time and be supplemented by
20 outside training as well. A few people took
21 advantage of that.

22 Another thing, we took care of the
23 renters. They were paid a certain amount, and
24 legally there is no obligation for us to do
25 this, but they were paid ten thousand dollars

1 so that they could in turn relocate after the
2 land was purchased out from under them, and we
3 also gave the improvements back to the
4 resident. So, in many cases they moved their
5 houses to another location, the same houses
6 that they lived in and were able to buy their
7 property. In some cases they built a home,
8 moved the other home and gave their other home
9 to their family.

10 To give you an idea of the minimum
11 offer with regard to the Morrisonville
12 program, we used an appraised value as a
13 variable component. That appraised value is
14 determined by an independent appraisor. If
15 they didn't like that appraisor, they could
16 select their own appraisal, as long as that
17 person was qualified to do appraisal work. We
18 also offered a primary resident owner premium.
19 In certain situations there was a state
20 situation in that the people of Morrisonville
21 owned property in community with others and
22 weren't able to take the proceeds from the
23 sale and move away and buy a home, a modest
24 home and, as a result, this premium was a
25 fixed amount that enabled them to get over the

1 top, also acknowledgable for disruption in
2 their lives. Land and lot value based on
3 highest and best use fair market value and
4 above relocation allowance, sign-up bonus.

5 So the minimum offer that would be
6 given would be \$50,000 offer. In that case
7 would buy a 1500 square foot home four-bedroom
8 house in Iberville or West Baton Rouge Parish.
9 We will show you pictures in a while.

10 Other benefits included:

11 subdivision, tax counseling and preparation
12 paid for by Dow. They would go to see a CPA
13 of their tax consequences as a result of
14 relocation. Legal assistance paid for, real
15 estate broker to represent them; and normally
16 in a real estate transaction, the broker is
17 paid by the seller agent. In this case, we
18 pay brokers to represent Morrisonville people
19 because many had never bought or sold real
20 estate in the past. We acted again in
21 individual counseling, and then information
22 clearing house.

23 Here is a picture of the program
24 center that was located again in the center of
25 the community. And here is the cemetery that

1 again was enshrined. The pavillion was built
2 in the background. The foreground, the brick
3 wall there, the paved area, and that can now
4 be used for perpetual use by Morrisonville
5 residents, and Dow will maintain that
6 facility.

7 Now what I would like to do is show
8 you a brief videotape. This videotape
9 contains three interviews of former
10 Morrisonville residents. However, the people
11 in the tape are willing to speak to you on an
12 individual basis, and I will be glad to
13 provide the information as far as their
14 address and telephone numbers for your use.
15 Basically I made these interviews last week.
16 The first lady you will hear from was a
17 Morrisonville resident. The second person was
18 a former Cut Off area resident, and then the
19 third is another Morrisonville resident.

20 Former resident interviews, February
21 7, 1992: Mrs. Baladell Deloch.

22 Q. How did you like living right next
23 door to big chemical plant?

24 A. Sometimes it was very frightening to
25 be honest with you because sometimes the flare

1 would sweep across the top of my house, and
2 then Dow constantly would have some kind of
3 (inaudible) going. There was a terrible
4 explosion once but they had several
5 explosions, but one bad explosion down here,
6 and that frightened all the people there, not
7 only in Morrisonville. The people in
8 Plaquemine, too, were frightened, and we got
9 scattered from each other. I was serving
10 supper that night.

11 Q. When was that? Do you remember about
12 what year that was?

13 A. That was in the 50's -- the 60's.
14 The early 60's I think it was.

15 Q. The people in Morrisonville, were
16 they rich, were they poor? Were they in
17 between? What was the kind?

18 A. Well, everybody in Morrisonville were
19 poor people. I consider to be poor people,
20 yes. We weren't rich. Some lived better than
21 others, some had a little bit more than
22 others, but they were still poor people.

23 Q. How did the community receive
24 Morrisonville relocation?

25 A. Well, you know how they received it.

1 Some did and some didn't, and they were back
2 and forth, and now I think I have heard
3 several say, we all should be together. But,
4 if you know, it was their fault because they
5 had David Vay (phonetic) to draw up the plans
6 and show us what it would be like up there.

7 Q. To stay together?

8 A. To stay together, yes. They didn't
9 want to, and that was the reason I just split
10 because I didn't want to go to Plaquemine.

11 Q. What did you think about the program
12 itself, the way it was laid out, the
13 counselors and the program center, thing like
14 that?

15 A. It was good, real good. I liked it.
16 Now I can't speak for everybody, you know
17 that.

18 Q. What did you think about where you
19 live now? What about this community you are
20 living in now?

21 A. This is a real nice community to live
22 in. I love it. Really nice. Everybody minds
23 everybody's own business. You see them in
24 church or meet them all at the post office.
25 You speak, you laugh and you go their way and

1 they go theirs. That is good. I like it
2 here.

3 Q. So, your quality of life versus
4 Morrisonville and here, I am not talking about
5 the house or money, I am just talking about
6 overall your quality of life, how would you
7 compare it to the way it was in Morrisonville
8 versus now?

9 A. I can't compare this to Morrisonville
10 because there is still something missing. You
11 know, like family.

12 Q. Yes.

13 A. And, when you get a distant from
14 family people and you don't see them
15 everyday -- right now, you see, it's long
16 distance for me to call down there, so I don't
17 call as often. And I go down there every week
18 to church, and I see them then, and sometime I
19 miss them. Be glad when they come close, my
20 close family that is down there. Those are
21 the ones that are coming this way, and I will
22 be glad. We can't compare this to
23 Morrisonville, but this is a real nice
24 neighborhood. I love it. And I am sure when
25 they come this way, they are going to find a

1 difference, too, and after they get here, you
2 have to settle in. And after you get settled,
3 then you get a good feeling that I wished I
4 had been here all along. It's real nice. I
5 like it.

6 Q. Is there anything else you want to
7 add? Is there anything in general you would
8 like to say?

9 A. I just can praise God for his
10 blessings. You know, I can't eat that up. I
11 have to praise God because it's all good and
12 perfect gifts comes from God, and I know it
13 was through God -- I mean, through Dow that
14 God worked this program because all the people
15 that I talked to from Morrisonville, I tell
16 them that this was a blessing from God the Dow
17 program came in.

18 (Mr. Charles Quaitrev):

19 Q. How did you feel when you lived next
20 to Dow with regard to our environmental
21 performance, the problems that you had with
22 the plant or your relationship with the plant
23 people, that kind of thing?

24 A. I didn't feel bad. I had a good
25 relationship with Dow. If I had a problem, I

1 would call them, they would correct it. If I
2 had -- coal shaker woke me up, shook my house
3 and they said it was vibration -- air
4 vibration but it was ground, but they would
5 cut it off. The flare, I couldn't sleep at
6 night with the flare, they put another flare
7 in. I mean, we had the complaints, they
8 corrected the problems, you know. As far as
9 public relations, I had no problem with Dow.
10 I worked at the chemical plant. I know you
11 have to operate to make money. I know this.
12 And when you live by them, you make the best
13 you can out of it as long as they are trying
14 to meet your -- on this, on environmental.

15 Q. Do you think there is some
16 discrimination, blacks versus the whites in
17 the way the program worked out? Maybe not
18 because of race but as far as economics, their
19 house more than your house?

20 A. Yes.

21 Q. Why so (inaudible)?

22 A. I don't know really. I don't know
23 for what.

24 Q. The way the program was laid out?

25 A. The way the program was laid out.

1 Q. As far as what somebody would get on
2 a small lot?

3 A. Versus what I got from mine, I think
4 there was discrimination. Like cypress house
5 on a small lot, 59,000 for it, and the lot
6 wasn't -- again, the lot wouldn't have covered
7 what my house was, and I paid 59,000 for it.
8 Plus, and this is what stinks. I sold, I had
9 to do our own improvements on this land, I
10 done it all. I paid for that out of my
11 pocket. That is why they never finished the
12 house. Where are your blacks? Dow built them
13 a subdivision. In other words, they had a
14 land. All they had to do was put a house on
15 it.

16 Q. In a general sense was this program a
17 positive thing or a negative thing?

18 A. How do you mean positive and
19 negative?

20 Q. Well, like the way people are right
21 now in the community they are living. The
22 houses they live in versus what they lived in
23 before, overall quality of life?

24 A. Overall quality of life I would say
25 85 percent of them, they came out smelling

1 like roses. See, I can understand somebody
2 that is living on a small lot, this small
3 house. I am all for you.

4 Q. They are in better shape?

5 A. They are in better shape. They are
6 away from the plant in a better environment.
7 I feel like a minority. I know how a
8 minority -- I didn't think I was minority at
9 one time, now I know how minority feels.
10 (Inaudible) I will -- I think I have been
11 discriminated against.

12 (Mrs. Aslee Bell):

13 Q. If you would, tell me about
14 Morrisonville, what you thought about
15 Morrisonville when you lived there, how long
16 have you lived there, what did you think about
17 it? Was it a nice community to live in?

18 A. It was a nice community to live in.
19 And everything was all right, but we was too
20 close to the plant, I still say that. I am
21 glad that something come along that
22 (inaudible) this is what I always prayed and
23 cause you don't know what might happen in a
24 (inaudible). But the other side of that, we
25 got along very well with our neighbors.

1 Q. When this Morrisonville relocation
2 program came along, what did you think about
3 that? Was that hard to swallow at first?

4 A. No, I didn't -- I wasn't swallowed
5 up.

6 Q. Why?

7 A. Because I just was tired of the plant
8 and if I could find something and get what I
9 wanted, that was it.

10 Q. The program itself, did they work
11 with you and try to help you to get what you
12 wanted?

13 A. Yes, work with us, all of us, yes.
14 The scanners from Port Allen to White Castle,
15 different places, different areas, that we
16 thought we would like.

17 Q. What do you think about the area that
18 you are living in now? Has your quality of
19 life stayed the same or -- not with regard to
20 the house and all that stuff, but just your
21 enjoyment of life? Has it stayed the same?

22 A. I enjoy it out here. I should have
23 been out here. It's much quieter. It's much
24 quieter out here. Everybody we left from the
25 same place together and living as neighbors.

1 MR. BARONE: Thank you for
2 allowing me to submit that. I think it's
3 important to hear from people that have
4 participated in the Morrisonville program.
5 These are only three people that did
6 participate in this program. I am sure if you
7 interviewed all of the people that did, you
8 would get that diversity of response.

9 One thing we do at Dow is do quite a
10 bit of public opinion polling. We do care
11 what our public has to say on a number of
12 issues. One of the things we did last May is
13 we polled our public to find out their
14 feelings about it, how we were performing and
15 their expectations. One of the questions we
16 asked with regard to these types of programs
17 is: Chemical companies should develop -- the
18 statement was made, and asked people to agree
19 or disagree, and the statement was made:
20 Chemical companies should develop safety zones
21 around their plant sites even if it means
22 relocating families. Of those respondents in
23 West Baton Rouge and Iberville parish, again
24 this was a poll taken at a 95 percent
25 confidence level representative of the two

1 parish area. Of the black community, 91.6
2 percent agreed with the statement and five
3 percent disagreed with the statement. 3.4
4 percent had no opinion.

5 So, quickly in summary, we feel that
6 the Morrisonville program was good for our
7 situation but I caution that every industrial
8 facility is different. It may not be good for
9 all facilities. We have made progress in the
10 environmental performance and committed to
11 continuous improvement. In that end and we
12 have placed the priority on listening and
13 responding to our community concerns.
14 Questions.

15 MR. KUTCHER: Thank you. Does any
16 member of the committee have any questions?
17 Very nice presentation.

18 BY MR. QUIGLEY:

19 Q. There relocation -- I couldn't tell
20 from the map where they have any other
21 residential areas on the other side of the
22 plant? Are you establishing a zone all around
23 it?

24 A. Yes, there is actually a zone all the
25 way around the plant with the exception of the

1 Morrisonville area.

2 Q. How far does the zone extend?

3 A. That is difficult to say. You want
4 to take a stab at this?

5 MR. LIYTHCOTT: The river forms
6 the river forms a natural boundary on one end.
7 Australia land is condemned land, although
8 privately owned. Highway 1 is on the other
9 end, opposite Morrisonville of the plant, and
10 several hundred acres of Dow owned property
11 that is currently just a green belt on the
12 other side, although other side of the train
13 track. Highway and train track which form a
14 natural buffer zone or a green belt, if you
15 will for operating facilities.

16 Q. Do you think that this buffer zone
17 green belt is a good idea for all plants of
18 this size?

19 A. I can tell you, I work for a company
20 that does thousands of corporate relocations a
21 year and we have recently opened the division
22 for environmental relocations. The issues
23 that have been talked about here are very
24 important. We talked about sometimes the
25 pressures of outside advocate. Sometimes the

1 people that live on the fenceline are held
2 hostage by national agenda. The plain fact of
3 the matter is that even when a plant operates
4 in an environmentally safe and technologically
5 modern fashion, it's a drag to live next to a
6 plant -- often noisy, smelly. Responsible
7 Care codes, when people have gone out and
8 talked to their near neighbors, you need to
9 make a distinction when somebody says
10 community, whether they are talking about the
11 general community they operate in or their
12 fenceline community. When you talk to the
13 fenceline communities, as tough as it is to
14 tear yourself away from land. By the way,
15 these are the direct descendants of the freed
16 slaves who worked the Australia Plantation on
17 that land which now sits the Dow Plant. When
18 you talk to them and you go through the tough
19 decisions and you look at the family issues,
20 the answer to the question is, I would rather
21 live somewhere else and be safe than to live
22 up under the plant.

23 The problem is that in the history,
24 land acquisitions for large industries have
25 been traditionally done by land agents or

1 right-of-way agents. The deal there is get it
2 as quick as you can, don't tell this one what
3 you paid that one. Hold out to the end cause
4 you will get more. So, you develop, I think
5 in the historical progression, a position
6 where people don't trust the motives of a land
7 acquisition.

8 I have worked or I have talked with
9 companies that said, well I am going to offer
10 somebody fair market value for their property
11 and that is a good thing to do. Some of the
12 houses at Morrisonville appraised for \$1500
13 with a family of eight living in them. Some
14 of the houses in Morrisonville appraised for
15 \$1500, some of the houses in Morrisonville
16 appraised for a hundred thousand dollars with
17 a couple living in it. If you give somebody
18 \$1500, that is fair market value; but they
19 cannot take that money and go out and do
20 anything with it. The reason the
21 Morrisonville program was designed the way it
22 was and why Mr. Qaitrev feels discriminated
23 against, minimums were set up based on what
24 builders told us they could reproduce for a
25 certain cost to make sure that everybody in

1 that community could participate.

2 Now, things are changing. One of the
3 first things Dow Chemical did to me, sent me
4 in New York -- I was living in New York at the
5 time -- was the history of Morrisonville.
6 They said, before you start doing any other
7 research, we want you to study who these
8 people are. This is an article on
9 Morrisonville which was written by a resident
10 of Morrisonville. It was published in a local
11 newspaper. Other plants that had attempted
12 buyout programs came and sat with us and said,
13 look, we were the first ones to try it.

14 We tried it. We were surprised by
15 this. We would probably do this differently.
16 In response to Responsible Care, I am seeing
17 firms, not putting engineers out to deal with
18 community residents but putting people whose
19 job it is to do that. Just by sheer weight of
20 occurrence, we feel it is a significant and
21 important response. It's not a solution, but
22 for the people who live on the fenceline, it's
23 a very viable response.

24 MR. LIYTHCOTT: I would add to
25 your question that every situation is

1 different. I think you would have to take
2 same approach in looking at that possibility,
3 but the final outcome may be completely
4 different.

5 MR. BARONE: Yes. You can't say
6 these dollar figures should become standard.
7 I am talking with a client that wants to buy a
8 community out of Torrance, California, outside
9 Los Angeles. Real estate values there around
10 their plant are three hundred thousand
11 dollars. They have a totally different set of
12 issues, however the plan will be successful if
13 somebody sits with them, talks about what
14 their issues are, what their needs are and
15 designs plan that accomplishes both. I think
16 that is what we are saying. It's the process.

17 MR. LIYTHCOTT: Even before the
18 decision point on whether I am talking about
19 whether or not to offer such programs. Every
20 plan is different before you even get to that
21 point.

22 BY MR. QUIGLEY:

23 Q. What made you decide to do this?

24 MR. BARONE: It's obvious that
25 that community is basically surrounded by Dow.

1 If we were to have a catastrophic incidence
2 that would cut off the River Road to the south
3 and River Road to the north, they had no way
4 out other than swimming in the river. As a
5 result, in the past we had worked towards
6 something similar to this by acknowledging the
7 fact they needed some emergency response
8 assistance by putting alert receivers, radios
9 their homes where we could communicate with
10 them and that we had the siren system put in
11 a little bit later. The next step was to
12 offer voluntary relocation and that was what
13 we did and a decision and something we had to
14 look at, and not necessarily should be the
15 decision for every facility in the state.

16 MR. KUTCHER: Anybody else?

17 MS. ROBINSON: Just to follow up
18 with that. Believe me, I don't believe
19 anything I read in newspapers because I am
20 often misquoted. But, in this particular
21 article that was in our little booklet, it's
22 dated Baton Rouge Morning Advocate 8-12-91,
23 and it says, but in Sunrise as in more than
24 the other communities lying (inaudible) people
25 in -- (inaudible) and such petrochemical -- as

1 Dow, Exxon and Georgia Gulf to buyout the
2 communities pay millions for relocation and
3 health costs. I guess the question I have
4 is:, is this something that you were forced to
5 do?

6 A. No.

7 Q. What made you do this?

8 A. Again, the consideration that we just
9 talked about. The safety reasons is, we
10 wanted to create safety zone around the plant.
11 That is the bottom line. No matter what you
12 read in the newspaper or what you hear on the
13 street, that is bottom line.

14 MR. LIYTHCOTT: I think also it's
15 fair to say in terms of the industry, a
16 fence-line community represents potential
17 problems -- toxic tort or whatever in case
18 there is a catastrophic accident, so many
19 companies who consider buyouts who have easier
20 evacuation scheme that could be possible to
21 Morrisonville, consider it an investment.
22 Engineers think retrofitting green belts
23 around these plants is just good environmental
24 business. Also it's good business.

25 MS. MCDADE: My question is, you

1 have obviously done everything humanly
2 possible to help the people around your plant.
3 All of these things that you did working with
4 the residents, were these things satisfactory
5 to the environmental groups or did they ask
6 for more or were they happy with all that you
7 did?

8 MR. LIYTHCOTT: All of our
9 community meetings were open to the public,
10 and the Gulf Coast Tenants Association were
11 informed when we were going to have a meeting.
12 When we had published a document or a
13 newsletter, we made sure we got it in. I can
14 say this. That, all the local environmental
15 groups came into Morrisonville and held
16 meetings with residents to which we were
17 excluded in attempts to represent them instead
18 of them dealing directly with Dow or with our
19 program to represent them. A team of lawyers
20 also came in the middle of the program and
21 attempted to organize a class action suit.
22 None of the groups that came into that
23 community had any success in gaining the
24 representation of those people simply because,
25 as I think Mr. Borne said this morning, we sat

1 down, we were talking, we changed our program,
2 people had input into the program. And I
3 think that, once you get to that point where
4 you can do that, then -- I think the role of
5 the community advocate is very important,
6 certainly if you look at how poor people have
7 been disadvantaged systematically; but also I
8 think the chemical industry, as demonstrated
9 in this state, can sit down face to face with
10 fence-line neighbors and talk about mutual
11 interests, common goals and solutions.

12 MS. MCDADE: What you are saying is
13 the environmental groups that came from
14 outside did not come to you to find out what
15 you were planning to do? They simply went to
16 residents and attempted to organize them?

17 MR. BARONE: Exactly, and there
18 was one meeting that I attended and I was
19 asked to leave because I am a Dow
20 representative. And before I did leave, I
21 asked the representative from environmental
22 group to come and find out about the program
23 and then go back into the community and talk
24 to the community, and that person did take me
25 up on my offer and we sat down and talked

1 about it, but that was the only dealing we had
2 with the environmental group.

3 BY MS. ROBINSON:

4 Q. I have one question in terms of the
5 relocation program. Generally overall, the
6 information that has been provided by you
7 would indicate that basically everyone was
8 satisfied with the relocation program. Could
9 you describe the people that have not been
10 relocated and if there were some people that
11 are in opposition to the relocation? Are
12 there some outstanding situations there?
13 Because I believe some people still live in
14 and around the plant.

15 MR. BARONE: We will both respond
16 to this. What I meant to say is, I didn't
17 mean to paint a rosy picture of this. There
18 was a lot of hard work on the residents side
19 and Dow side. There were a lot of issues that
20 had to be faced head on in order for this
21 thing to work. It was a very hard thing to
22 do, an emotional thing to do, and I think the
23 end result is that it did work out in a
24 general sense very positive. Now, Mike, you
25 might want to address it.

1 MR. LIYTHCOTT: I think there is a
2 mixture. Even given parameters that we showed
3 you here, there are some people that are not
4 happy with their offer. There are people who
5 talk about reparations, people who feel that a
6 \$20,000 premium, the appraised value of the
7 house plus the bonuses doesn't appeal to them.
8 There are also people there whose ownership
9 position in the property, whose lifestyle
10 right now as occupying resident is much better
11 than their lifestyle would be once the
12 distribution of the funds were distributed
13 among 32 heirs who have an interest in the
14 property. So, that there are a combination of
15 reasons. The program is a voluntary program
16 and, as Guy said, Dow wants to continue to be
17 a good neighbor.

18 MR. LIYTHCOTT: Does that answer
19 your question?

20 MR. KUTCHER: Last question
21 belongs to Mr. Jenkins.

22 BY MR. JENKINS:

23 Q. Let me take the flip side of this
24 particular plan you offer for a reasonable
25 location area, good location program. The

1 flip side, and I look at you as an expert
2 being involved in relocation. Have you seen
3 turnabout programs in some that you have heard
4 about, read about, or you be may have been
5 involved in. What went wrong with those
6 programs? Briefly describe that.

7 A. What is wrong with the program,
8 people are attempting to do what the last one
9 did with no concern for the uniqueness of this
10 community or this facility. As I said, the
11 notion of offering fair market value for a
12 property. Nothing fair often about living
13 next to an industrial facility and no housing
14 market anywhere in the country right now.
15 Someone cannot provide for their family,
16 cannot relocate a family on three thousand
17 dollars. So, I think what is happening in
18 programs that I have seen that don't work, and
19 there are numbers of them in the records, and
20 I can certainly submit you a list of buyouts
21 across the country that you might want to take
22 a look at. And I don't mean to talk out of
23 turn here. Chemical engineers are good at
24 producing chemicals and improving the quality
25 of life in our material world. They are good

1 at that. They are often not good at going
2 across the fenceline and talking with people
3 with whom they have very little cultural in
4 common. We found that Morrisonville on one
5 hand had people who were absolutely uneducated
6 and then on two hundred yards away, someone
7 with a college degree.

8 What we find is often people don't
9 talk productively across the fence. In those
10 cases, I think -- well, I will put it this
11 way. I was recently talking -- I am working
12 with a company in Texas. One of the community
13 residents was very emotional, said, we wrote
14 to the chairman of the company and asked him
15 to come here and sit on our fenceline and talk
16 with us. And I am scared to talk to him. I
17 am standing next to a catalytic converter I am
18 terrified of. It's easy to understand when
19 you don't understand what happens inside the
20 plant, you can be terrified. That is why
21 Responsive Care is inviting people in to look
22 into the plant to look. I think the programs
23 that force people without consideration for
24 the unique needs or what they are going to do
25 as a result of the buyout simply are

1 impractical.

2 MR. KUTCHER: Thank you very much,
3 gentlemen.

4 Our next presenter is Harry Lloyd.
5 Mr. Lloyd is with the public relations
6 department of Georgia Gulf. He is the manager
7 of that department. They are a manufacturer
8 of chemical and plastic products located in
9 Plaquemine, Louisiana. One of you people is
10 Mr. Lloyd and one of you isn't, unless I am
11 playing To Tell The Truth. One of you still
12 isn't Harry Lloyd and he isn't.

13 Why don't you tell us who you is.

14 MR. SCHMITT: Ed Schmitt, the plant
15 manager of the location. When Miss Robinson
16 sent the letter, she invited Harry, cause we
17 asked her to send it to Mr. Lloyd to make sure
18 we got it. I am a chemical engineer.

19 MR. KUTCHER: We are not going to
20 talk to you. Let's talk to the public
21 relations guy.

22 MR. SCHMITT: My name is Ed
23 Schmitt, the general manager of Georgia Gulf
24 Corporation in Plaquemine, Louisiana located
25 in Iberville Parish. Actually southeast of

1 the town. I have been general manager for
2 three years and I have worked at the plant
3 since 1980.

4 With me here today is Mr. Harry
5 Lloyd, industrial relations manager. Harry
6 has worked at the plant for more than 20
7 years.

8 I would like to tell you a little bit
9 about our company, what we do. Our main
10 products are commodity chemicals and polyvinyl
11 chloride resins, which are used for industrial
12 raw materials, and many useful consumer
13 products, such as computer parts, vinyl
14 window, frames and siding, automotive trim,
15 medical and surgical supplies.

16 Georgia Gulf's Plaquemine facility
17 was originally owned by Georgia Pacific. They
18 started the operation in 1971. In 1985 was
19 the year that Georgia Gulf purchased the
20 facility from Georgia Pacific. The plant
21 today employs over nine hundred people
22 including contract workers, and we are proud
23 to say that half of those folks live right
24 here in Iberville Parish.

25 In 1991, Georgia Gulf paid more than

1 \$1.3 million dollars in taxes to the community
2 of Iberville Parish while paying approximately
3 \$3.65 million dollars in state taxes.

4 We are extremely proud of our
5 environmental record. We have reduced our
6 SARA Title III emissions by 87 percent since
7 1987, and we are committed to further
8 protection of the environment.

9 We are also committed to our
10 community. We have reached out to our
11 neighbors in the areas of health, education
12 and the economy, and continue to search for
13 new ways to positively impact our community.

14 We were specifically requested today
15 to talk about Reveillettown which was a small
16 community located about two hundred yards of
17 our fenceline. Harry Lloyd will address that
18 topic as well as touch on our community
19 outreach efforts. And after he concludes, I
20 will make a following statement.

21 MR. LLOYD: Thank you, Ed. Let me
22 begin by qualifying the role that Georgia Gulf
23 played in siting this plant in Plaquemine. We
24 don't know all the reasons that our
25 predecessor company, Georgia Pacific

1 Corporation, chose to locate the plant where
2 it did. However, this acquisition was
3 attractive to Georgia Gulf for several of the
4 reasons that you have heard here today: It
5 was located on a large block of land, some
6 eight hundred acres. It was available at a
7 reasonable price. We have excellent
8 transportation modes, the Mississippi River,
9 railroads, interstate highway. Abundance of
10 natural resources, including natural gas,
11 salt. Georgia-Pacific plant is located up the
12 river from ours, to which we furnish chemical
13 feedstocks. Also, the availability of a good
14 work force and a good community in which to
15 operate was very important.

16 One of my areas of responsibility
17 over the past 20 years has been to stay in
18 touch with our neighbors in Iberville Parish.
19 I have attempted to fulfill this
20 responsibility with personal contact and by
21 participating in civic and charitable
22 organizations in Iberville. When there were
23 concerns or problems about the plant, we tried
24 to answer and to resolve them. Let me add
25 that, Iberville Parish residents supported the

1 plant by passing a bond issue which financed
2 our construction. I firmly believe that the
3 majority of the residents of Iberville Parish
4 still support our operation.

5 During the 1970's, Georgia-Pacific
6 worked with the residents of Reveilletown.
7 Many on a one-on-one basis. In addition, G-P
8 worked very closely with the church, often
9 assisting with repairs and other things that
10 church may need.

11 In conjunction with the plant
12 expansion completed in 1975, a gathering of
13 was held on our plant site where we reviewed a
14 new community alert system and our emergency
15 response plan with the resident of the
16 Reveilletown area. It was at this gathering
17 that the relocation of houses in Reveilletown
18 was first discussed with some of the
19 residents.

20 Because of the interest expressed by
21 some of those property owners, Georgia-Pacific
22 commissioned appraisals and descriptions of
23 all the properties at its expense and decided
24 to make purchases from people who wanted to
25 sell. As a result, between 1977 and 1981,

1 Georgia-Pacific purchased nearly a dozen
2 properties in Reveilletown.

3 At the time of these purchases, G-P.
4 continued to maintain friendly relationships
5 with many of the residents and continued to
6 address the needs and concerns of that
7 community.

8 For example, G-P continued to work
9 closely with the church's pastor, often making
10 repairs to the church when they were needed.
11 G-P provided health care assistance to a
12 number of Reveilletown residents, such as
13 helping some acquire needed medications and
14 other medical services. On occasion
15 transportation was provided for medical
16 treatment for the residents and they also
17 delivered Thanksgiving and Christmas baskets
18 to the residents.

19 About the time Georgia Gulf purchased
20 the facility, the pastor in the church in
21 Reveilletown informed us that he was
22 experiencing a dropoff in membership and
23 therefore contributions at his church. He
24 attributed this downturn to the fact that the
25 church was located adjacent to a chemical

1 plant. He asked if we would consider money to
2 make further repairs to the church. And
3 during these meetings with the pastors, the
4 possibility of relocating the church was first
5 discussed. As a result of these discussions
6 and again responding to the needs of the
7 community, Georgia Gulf contacted a contractor
8 and working with the pastor and the
9 congregation developed plans to relocate the
10 church.

11 By this time, however, a lawsuit had
12 been filed against Georgia Gulf, and this
13 complicated the situation. The lawsuit, known
14 as the Mitchell suit, was filed by about half
15 of the then residents of Reveilletown alleging
16 property damage, personal injury due to the
17 proximity of the chemical plant. In the
18 course of the lawsuit, there have never been
19 any medical or scientific evidence presented
20 that documented any adverse health effects
21 resulting from our operations.

22 A Court settlement was reached in
23 June of 1988, and as part of that settlement,
24 we gave a lump sum of money to the plaintiffs'
25 attorneys who then distributed that among the

1 residents. In exchange, Georgia Gulf received
2 the property of all the plaintiffs in that
3 suit.

4 Construction of the new church was
5 completed in 1989, and Georgia Gulf worked
6 with the contractor who constructed about a
7 dozen homes that effectively relocated the
8 remaining residents of Reveilletown. The new
9 subdivision is located about two miles up the
10 river from our plant and is called
11 Reveilletown Park.

12 I would like to turn the panel's
13 attention to what Georgia Gulf is currently
14 doing in the community. We are an active
15 community participant in the City of
16 Plaquemine and throughout Iberville Parish.
17 We realize the importance of reaching out to
18 our neighbors and responding to their needs
19 and concerns.

20 If you will refer to the map in our
21 handout, in addition to Reveilletown, we have
22 several other neighbors and continue to work
23 with them: St. Louis Subdivisional, the Ella
24 Road community, and Random Oaks Subdivision.

25 Let's discuss what we are currently

1 doing to reach out to our neighbors. We focus
2 on three major areas: health, education and
3 economy.

4 Responding to request from area
5 residents living in the Ella Road community,
6 Georgia Gulf established a free community
7 health fair that offered medical and health
8 screenings to the entire public. In
9 cooperation with the River West Medical Center
10 and the Bellview Health and Raquet Club, the
11 health fair, in its fourth year, offers
12 testing for various medical conditions. In
13 addition, a substantial amount of literature
14 is distributed about health care including
15 cancer, pregnancy and drug abuse.

16 A counseling area is provided to let
17 participants know the test results. If
18 necessary, participants are also referred to a
19 local physician specializing in their
20 particular area of need. More than 1500
21 Iberville Parish residents participated in the
22 1991 health fair.

23 We are also aware of the importance
24 education plays in the community. The future
25 of Louisiana's economy and its work force

1 depends upon education, and we are involved at
2 all levels.

3 Each year Georgia Gulf awards the two
4 largest scholarships in Iberville Parish. At
5 five thousand dollars each, one student from
6 Plaquemine High School and one from White
7 Castle High School are chosen by their
8 respective school staffs to receive the award.
9 Both White Castle and Plaquemine High School
10 by the way have very large minority
11 enrollments.

12 Georgia Gulf is the largest
13 contributor to the Plaquemine High School's
14 Renaissance Program. The Renaissance Program
15 system is one that is designed to award
16 scholastic achievement in much the same way as
17 athletic achievement has always been awarded.

18 Georgia Gulf continuously sends
19 employees to local schools to serve as science
20 fair judges and give demonstrations as well as
21 to read to classes in the lower elementary
22 grades.

23 We have provided summer employment to
24 some college age students living in the True
25 Hope community to assist them in paying for

1 their college tuition. Georgia Gulf has a
2 standing offer with the community schools that
3 if any school has a particular need, it should
4 contact us. We believe the schools would
5 agree that we have responded where there has
6 been a need.

7 For instance, most recently, school
8 officials at White Castle High came to us and
9 asked if Georgia Gulf would assist them in a
10 mathematical tutoring program. We responded
11 by providing nine employees one hour a week
12 during work hours to furnish this much needed
13 math tutoring for some 45 students. The
14 principal, teachers and parents have all
15 noticed the improvement in the students' math
16 skills.

17 Every other month we publish a
18 community edition of Georgia Gulf's newsletter
19 to keep the community informed and updated
20 about our operations.

21 We also attempt to use local vendors
22 wherever possible and we pay particular
23 attention to minority vendors. They are
24 included in our bidding process, and we give
25 special consideration to minorities in the

1 awarding of bids. We are and always have been
2 committed to our community.

3 MR. SCHMITT: I would have to say
4 you have a quite impressive community
5 relations program. Thank you, Harry.

6 Let me reemphasize that Georgia Gulf
7 is committed to protecting our environment.
8 We are also concerned about the safety of our
9 employees and the surrounding communities, and
10 we strive to continue to improve the quality
11 of life for everyone and proud of our record.
12 And I would just like to review some of the
13 important things that has happened in the
14 environmental area for Georgia Gulf.

15 Like I said before, since 1987, we
16 have reduced our SARA Title III emissions by
17 87 percent. We have successfully completed
18 one of the first large scale bioremediation
19 projects in the United States. This was state
20 of the art technology. The project was cited
21 for a "Brown Pelican" award given to an
22 environmental reporter for covering a story
23 that shows a commitment to protecting
24 Louisiana's environment.

25 We are continuing to reduce waste at

1 the site and recycle on site more than 98
2 percent of the hazardous waste generated.

3 To significantly reduce odors and
4 protect groundwater, we have closed six of our
5 surface impoundments and replaced them with a
6 new biotank wastewater treatment system. That
7 system has reduced organic contaminant
8 discharge to the Mississippi River by 99
9 percent. The water we now release from this
10 system contains less organics than what is
11 allowed in your own drinking water.

12 By recycling our process water of the
13 plant, we have decreased our discharge into
14 the Mississippi River by more than one million
15 gallons a day.

16 To further prevent groundwater
17 contamination, we have upgraded our railcar
18 loading areas by installing curbed concrete
19 pads to recover and treat minor drips
20 associated with the loading of those
21 chemicals.

22 Georgia Gulf voluntarily, not
23 regulated, voluntarily installed a barge-
24 loading vapor recovery system and secondary
25 carbon absorption beds system to reduce the

1 volatile organic carbon emissions which
2 contribute to the ozone formation which you
3 know is a problem in this area.

4 In cooperation with the state and
5 other industry representatives, yes, we are a
6 member of the ozone task force and voluntarily
7 monitor ozone levels during the peak months.
8 And we are presently starting up. When I
9 wrote this, it was adding, but we are
10 presently starting up a new efficient boiler
11 that further reduces our NOX emissions at the
12 plant.

13 By the end of 1992, Georgia Gulf will
14 reduce its emissions by 94 percent compared to
15 1987, due to some other projects we are
16 currently working on. We are proud of what we
17 accomplish, and I think it speaks for itself.
18 We are committed to achieving even greater
19 improvements in environmental performance.

20 Ladies and gentlemen, we recognize
21 that changes have been made in the way the
22 chemical industry does business. We also
23 recognize that the bigger you are in the
24 community, the more you are expected to do.
25 We at Georgia Gulf are very responsive to

1 public concerns and we acknowledge important
2 role of the community in our operations. We
3 are committed to Iberville Parish and more
4 specifically committed to our neighbors, and
5 we will continue to work with that community
6 to address their concerns and improve the
7 quality of life for everyone. If you all have
8 any questions, we will be happy to answer
9 them.

10 MR. KUTCHER: Thank you. I am
11 sure we do. Anybody over here have any
12 questions?

13 BY DR. FORD:

14 Q. I have a question. Did you see the
15 previous presentation just before yours?

16 A. Yes.

17 Q. And you may or may not choose to
18 answer this question, but given that you also
19 had a relocation and buyout program, are you
20 willing to make some comparison to the
21 relative compensation that was received by
22 persons in Morrisonville versus those in
23 Reveilletown under your buyout program?

24 MR. SCHMITT: We will probably
25 bounce back and forth. Harry was more

1 involved with that than I was but I do know a
2 couple things. The exchange value, what the
3 people that received outside of the lawsuit.
4 The lawsuit stuff is definitely totally
5 different. The lawyers dealt with that. It
6 was between 45 and \$55,000 per home, and
7 Reveillettown is located just next to
8 Morrisonville, the new Morrisonvilles Estates
9 where some of these folks moved from
10 Morrisonville.

11 DR. FORD: So that is about
12 comparable.

13 MR. LLOYD: Ours was, we didn't
14 intentionally start out to buyout a community.
15 We had gathering at the plant to show the
16 emergency program in '75. We wanted them to
17 listen to the community alert system we had
18 put in and get familiar with it. At that
19 time, some of the residents in the community
20 then said, I hear what you are saying about
21 how safe the plant is and about how you use
22 state-of-the-art equipment, but I am still
23 very nervous and afraid living next to a
24 chemical plant. We told them at that time, if
25 they were in fact interested in selling their

1 properties, we would be interested in buying.
2 Enough people expressed an interest in it at
3 that time for us to go get a company to start
4 making appraisals and this kind of stuff, but
5 never a formal program until we got program to
6 relocate.

7 DR. FORD: Do you see this as a
8 trend as far as strategy? Cause you both
9 talked about siren systems, then a couple
10 years later, one-way communication devices at
11 homes, then relocation. Do you think that
12 that is going to be at least an intermediate
13 solution that is going to keep on?

14 MR. SCHMITT: I think that is a
15 good choice of words to use "intermediate
16 solution." I think the solution to any of
17 these pollution problems or emergencies is
18 better and better technology, and the more we
19 allow that to continue, the better equipment
20 that the plants will have to do some of the
21 more exotic things that chemical plants do to
22 make some of the products we use. But, I
23 think that depending on the situation, the
24 community that is adjacent to the plant, how
25 far it is, how many people live there, each

1 situation is going to be different. I don't
2 think that you can set, make laws that say you
3 must do.

4 It's going to be okay for some,
5 companies and other companies, it will put
6 them out of business. But, the community --
7 the needs of the community definitely have to
8 be a part of any decision, business decision
9 made today.

10 DR. FORD: Thank you.

11 MS. REIBOLDT: Who was the
12 plaintiffs' attorneys in the Mitchell case?
13 Do you recall? I just wondered. Let me ask
14 you this.

15 MR. SCHMITT: I can't remember his
16 name.

17 MS. REIBOLDT: Were there any
18 environmental groups involved in that? The
19 Mitchell case did they join?

20 MR. SCHMITT: As part of the
21 lawsuit, I don't think there was, to my
22 knowledge, an environmental group. There were
23 some that danced around the action, but I
24 don't think that they were part -- they didn't
25 come in and try to organize.

1 MS. REIBOLDT: So that group of
2 people got together and decided they needed to
3 do something more.

4 MR. SCHMITT: The Philadelphia
5 lawyer walked down the street till he found
6 someone to sign up, and then there were a
7 bunch of others that jumped on the band wagon.
8 Some of those were renters. The folks that
9 were more the owners of the property in
10 Reveillettown, I guess that is best way to say
11 it, like the pastor and his parents didn't
12 want to participate in the system, and that is
13 the type of folks that we dealt with on a one-
14 on-one basis to make the arrangement to
15 relocate them.

16 MR. LLOYD: In some cases the
17 plaintiffs in the suit, many of them I talked
18 to, they were approached -- according to them,
19 they were approached by the attorneys. In
20 some cases there were plaintiffs that were in
21 the suit that didn't know they were plaintiffs
22 in the suit.

23 MR. KUTCHER: Is there something?

24 MS. ROBINSON: Just clarification
25 for the record. In terms of plants, you only

1 had one plant, and that is in Iberville in
2 Louisiana? Is that correct?

3 A. It is a complex of plants. There is
4 five or six different plants inside a
5 boundary.

6 Q. Could you also describe a little bit
7 about the demographics of that area because I
8 remember when I talked to you, there are some
9 other surrounding communities around there
10 other than Reveilletown. As I remember, there
11 was one white community and there were a
12 couple of black communities, and there was an
13 integrated community. Were any of those
14 communities bought out?

15 A. No, ma'am. If you refer to your map
16 in the back, what she is talking about is the
17 communities that Harry mentioned, which was
18 the trailer park, Sam Scavone & Sons. If you
19 look at the black in the middle, that is
20 facility. If you look due north or straight
21 up on the first circle, that is two miles,
22 that is Ella, that is the trailer park.

23 Then just on the other side of it is
24 an Ella Road community, some 20 houses. Ella,
25 is all black, to my knowledge. We have a

1 shift supervisor that works at the plant that
2 lives there. We have a couple of employees to
3 my knowledge that live in the trailer park,
4 and I think it's 50/50 as far as minority
5 integrated. If you look due south or below,
6 you see where the town of Reveilletown was,
7 Reveille. It's right there on the corner of
8 the property, and then you have Evergreen
9 Plantation, and there is like two families
10 there, and they are white, and then you have
11 St. Louis subdivision which is a pretty big
12 subdivision, and it's all white. And, I guess
13 what I am leading up to is, once we move
14 Reveilletown away from the plant, we are
15 essentially surrounded by white communities.
16 You have E. J. Day School which is across the
17 cane field from us, but you can say that once
18 Reveilletown was relocated, we essentially have
19 a two-mile diameter around the plant there,
20 one-mile radius, two-mile radius. Miss
21 McDade, you have a question.

22 BY MS. MCDADE:

23 Q. You indicated no outside organizers
24 coming in, but there was an outside attorney
25 coming in.

1 MR. SCHMITT: There was attempted
2 class action suit, I believe.

3 Q. But you indicated that this person
4 went around looking for plaintiffs?

5 A. Right, as I understand.

6 Q. Do you have any idea how much money
7 that particular attorney made off of this
8 situation?

9 A. There is probably somebody that
10 knows, but I don't know that.

11 MR. SCHMITT: I tell you, if the
12 information --

13 MR. KUTCHER: I have enough
14 attorney bitching. I have been nice to
15 chemical engineers. Anybody else have any
16 other questions?

17 BY MS. ADAMS:

18 Q. Yes. Mr. Schmitt, this morning we
19 heard from the chair of the Louisiana Sierra
20 Club, and he gave at least me a very strong
21 impression that organizations in the
22 petrochemical industry don't really care about
23 people, they don't care about destruction of
24 their lifestyles or the communities, about the
25 potential dangers to their health,

1 specifically he said something to the effect
2 that, yes, when questioned about regulations
3 and your compliance with the regulations, that
4 you furnish minimum requirements, and that
5 occasionally you are not even in compliance,
6 that you exert pressure on people concerning
7 those regulations, and you fight those
8 regulations when you are in fact caught. But,
9 what I have just heard you mention is that
10 specifically since 1987, you have been
11 systematically working to improve
12 environmental factors resulting from your
13 facility, and even by the end of 1992, did you
14 say, you would reduce these emissions by 94
15 percent?

16 A. I wouldn't tell you that unless I was
17 pretty sure that was going to happen.

18 Q. I guess I want to know, what is
19 motivating Georgia Gulf to do this, since
20 apparently there is this wide difference of
21 opinion about why you would do these things
22 which seem to be indirectly opposite from what
23 we have heard?

24 A. Well, you heard Mr. Borne talk about
25 the trust factor, and that fence that we have

1 around the plant to keep folks out kept a lot
2 of the information in. And like Dan said,
3 that we had this attitude, well, if we just
4 supply jobs in the community and pay our
5 taxes, everything else would pass us by, and
6 we would just do our job and make money, and I
7 think that sometime in 80's, it became
8 apparent that we had to start paying more
9 attention to what was going on outside the
10 community. The Responsible Care Program fits
11 that same pattern. Georgia Gulf, half of the
12 folks that I say live in Iberville Parish, I
13 am talking about near Iberville Parish. When
14 we talk to our employees, we are talking to
15 many of the citizens that live right there
16 near the plant. And, when we sample, we get a
17 pretty good feel from the employees, because
18 they are right there, and they know what they
19 are working on.

20 MR. LLOYD: Let me make one
21 comment about Miss Adams' little side light to
22 it, I guess, is whether or not we really care
23 about our very close neighbors. I cared a
24 whole lot about our very close neighbors for
25 more than 15 years because my wife and

1 children lived closer to that plant than
2 anyone else. I was the closest neighbor to
3 Georgia Gulf's plant for almost 15 years, so I
4 was pretty particular about what happened at
5 our plant.

6 MS. REIBOLDT: We have heard
7 testimony exactly opposite of that. And they
8 would say that the majority of the people
9 working there live outside of the parish that
10 you are located in.

11 MR. SCHMITT: Georgia Gulf?

12 MR. KUTCHER: Not outside the
13 parish. But I don't think it's fair to ask
14 one witness to comment on another witness's
15 testimony. That isn't what our job is. Does
16 anybody have any other questions for these
17 gentlemen regarding their presentation?

18 BY MR. JENKINS:

19 Q. One question. We have heard a
20 question asked about attorneys being involved
21 to litigate for on behalf of the plaintiffs,
22 and I imagine you have attorneys on staff or
23 you retain several law firms. Have you sought
24 to fight against certain government -- federal
25 or state or local -- regulations concerning

1 something that your company didn't agree?

2 A. With our attorneys.

3 Q. Your attorneys on your behalf of a
4 regulation that you all did not agree with,
5 some federal state or local regulation or some
6 decision that has been handed down?

7 MR. SCHMITT: We have two in our
8 corporation; that is all we have. One handles
9 primarily environmental affairs. Ms. Beverly
10 Gholson sitting behind me, and the other
11 handles workmen's compensation, labor issues.
12 When we need assistance, we usually use a law
13 firm that is local. We contract out the
14 service, retain them, whatever the terminology
15 is, and they work with the proper authorities
16 in the state to present our message. The LCA
17 does a good job of representing all the
18 chemical interests special in this area, so we
19 feel like we are represented well.

20 MR. JENKINS: Good because the
21 question is, the adversary groups use
22 attorneys, you use attorneys. This is a
23 litigating country that we are in.

24 MR. KUTCHER: Gentlemen, on that
25 note. Thank you very much. Our next

1 presenter is Dale Emanuel who is refinery
2 manager for Placid Refinery Company. Placid
3 is an independent, privately owned company
4 located in Port Allen, West Baton Rouge
5 Parish.

6 I don't know if you were here
7 earlier. I have asked the presenters, if you
8 have any written materials, please circulate a
9 copy to the court reporter, I would ask you,
10 after your presentation for which we have
11 allotted 30 minutes including questions and
12 answers. I would ask in response to the
13 questions asked, please be succinct, and once
14 again I will ask committee members to be
15 succinct in their questions. We welcome and
16 thank you.

17 MR. EMANUEL: Mr. Chairman,
18 ladies and gentlemen of the advisory
19 committee: Thank you for inviting me to speak
20 with you today. As I mentioned, my name is
21 Dale Emmanuel, and I am the refinery manager
22 for Placid Refinery Company in Port Allen,
23 Louisiana. Also with me today is Mr. Raphael
24 Bermudez of Bermudez and Associates.

25 I and others from our company were

1 pleased to have met earlier this month with
2 Miss Robinson. From that meeting we are able
3 to understand the concerns of your committee
4 and we are here today to address the issues
5 that are the subject of this hearing. I would
6 like to begin with an explanation of who we
7 are and what we do at Placid. From there we
8 will proceed to explain the issues of your
9 inquiry.

10 Placid Refining Company is a private
11 independent oil refining and marketing
12 company. Our only production facility is
13 located in Port Allen directly across the
14 Mississippi River from Baton Rouge. Our
15 company's administrative offices are also
16 located in Port Allen.

17 Our company takes crude oil and
18 natural resources produced in Louisiana and
19 converts it into gasoline, diesel and jet
20 fuel. Our products are utilized by consumers
21 in Louisiana and throughout the southeastern
22 United States in cars, trucks, buses, farm
23 equipment, things of that nature. Also some
24 of our jet fuel is sold to the United States
25 Navy and our military.

1 In 1991 we produced an average of
2 about 47,000 barrels of fuel per day.
3 Compared to many other oil refineries, we
4 would be classified as small in size. In
5 fact, we are the smallest integrated refinery
6 located along the Mississippi River in
7 Louisiana. The next smallest refinery on the
8 Mississippi produces more than twice our rate.
9 Our closest refinery neighbor produces almost
10 nine times what Placid produces.

11 As a small independent refinery, we
12 have to compete against major oil companies
13 which in fact are some of the largest
14 corporations in the world. Our production
15 represents .3 percent of the total U.S.
16 refinery production.

17 We are situated on a 55-acre tract
18 between Louisiana Highway 1 and the
19 Mississippi River about two miles north of
20 Interstate 10. With us today I have a
21 photograph that Raphael will show you. We
22 will try to give you an idea of how we are
23 situated. He may have to show this several
24 times. Bordering on our refinery to the south
25 is a large stretch of agricultural land. To

1 the west is Highway 1 and an large tank farm
2 owned by another company. When I say tank
3 farm, that is storage facility. The
4 Mississippi River is on the eastern side of
5 us. To our north is a small residential and
6 commercial area known as Sunrise. I believe
7 that has been you mentioned several times.

8 As you can see from this aerial
9 photograph, we are fairly isolated from
10 population areas with the exception of
11 Sunrise. As far as we can determine the
12 acreage that our refinery comprises has been
13 used for industrial purposes since 1930's.
14 For several decades prior to the construction
15 of the refinery, the area was used as a tank
16 farm, blending facility, transportation
17 terminal and for other industrial purposes.

18 Placid acquired the refinery in 1975
19 from a company named Toro Petroleum. The
20 refinery was already built and in operation
21 when it was acquired by Placid.

22 Today, Placid Refining Company
23 employs 206 company employees and contract
24 workers. Thirty percent of our employees live
25 in West Baton Rouge Parish, and the remainder

1 live in surrounding parishes, mostly in East
2 Baton Rouge Parish.

3 Seventeen percent of our employees
4 are minorities. Twenty-one percent of our
5 management positions are held by minorities,
6 and 24 percent of our top crafts positions are
7 held by minorities. In 1991, 28 percent of
8 the workers we hired were minorities.

9 According to government figures 24
10 percent of the work force in the Baton Rouge
11 area is comprised of minorities.

12 Also, as far as we could determine
13 from a search of our records, Placid has also
14 employed eight members of the Sunrise
15 community over the years.

16 Placid is one of the largest tax-
17 payers in West Baton Rouge Parish. In 1990,
18 we paid 1.4 million in local taxes and 2.1
19 million in state taxes. In 1990, we paid 7.7
20 million to our employees and contractors.

21 According to studies conducted at LSU, each
22 refinery job supports an additional eight jobs
23 in the area.

24 We try to contribute to the community
25 in more ways than paying taxes and providing

1 jobs. Much of our volunteer community
2 activities are focused on education. We have
3 adopted Port Allen Middle School and Port
4 Allen High School under the very successful
5 Adopt-a-School Program.

6 We award two college scholarships
7 each year - each worth 4,000 - to graduating
8 seniors at Port Allen High School. Our
9 science scholarship recipient last year was
10 the granddaughter of a resident of Sunrise and
11 also the daughter of a former Sunrise
12 resident.

13 Last year our employees contributed
14 \$24,000 to United Way. Placid made an
15 individual contribution of \$80,000 to help the
16 Sunrise Baptist Church construct a new worship
17 facility.

18 Placid also contributes financially
19 to the Associated Building Contractors
20 Training Center. This is a privately funded
21 school that trains young men and women in the
22 crafts that are needed by industry. These
23 include welders, electricians, instrumentation
24 techs, safety coordinators and other skilled
25 positions. Last year the program trained

1 2,200 people, of which 21 percent were
2 minority and six percent were female.

3 Placid participated in financing the
4 Community Alert Network in West Baton Rouge
5 Parish. This system provides rapid telephone
6 notification of any emergency situation to
7 residents throughout West Baton Rouge.

8 As I stated earlier, our nearest
9 neighbors live in Sunrise; an unincorporated
10 area north of the refinery that is occupied by
11 residential housing as well as ten businesses.

12 Our research indicates that a parcel
13 of land that included a good part of what is
14 now Sunrise was purchased from a white
15 landowner in 1874 by Alexander Banes, a former
16 slave. In 1904, Mr. Banes sold the property
17 to Benjamin Mayer, a white businessman from
18 Baton Rouge. Under the name of Sunrise Realty
19 sold the parcels to individuals. Many of the
20 earlier resident were railroad workers.

21 During the 1930s, when there was
22 already industrial activity on the site where
23 the refinery is now located, Sunrise was
24 inhabited by mostly white residents.

25 We have interviewed a number of

1 residents of the area and they indicated to us
2 that the section of Sunrise closest to the
3 refinery was always occupied by mostly white
4 residents. They indicated to us that the
5 residents of streets further away from the
6 refinery were black and white.

7 Voter registration information for
8 the area around Placid refinery indicates that
9 a mix of black and whites live in the area.

10 In 1971, Ward 4, Precinct 2 -- that
11 is where Sunrise is located -- included 709
12 voters of which 52 percent were white, 48
13 percent were black. In 1974, it was 49
14 percent white, 51 percent black. In 1979, it
15 was 44 percent white, 56 percent black. As of
16 January, 1992, the precinct had 451 voters of
17 which 43 percent were white and 57 percent
18 were black.

19 According toing the 1970 census data,
20 the area that Sunrise comprises was about 17
21 percent white and 83 percent black at that
22 time. As far as we could determine from the
23 census data, on the streets closest to the
24 refinery, 48 percent of the residents were
25 white and 56 percent were black.

1 In interviews with area residents
2 indicate to us that over the years, Sunrise
3 residents represented a wide socioeconomic
4 range and racial diversity. Residents have
5 included families of various public officials
6 also.

7 The point we are trying to make is
8 that Sunrise has been over the years a
9 racially mixed, middle and working class
10 neighborhood. We believe that Sunrise area
11 could not be historically classified as strictly
12 minority or disadvantaged.

13 Our research also shows that from the
14 early development stages of Sunrise, the
15 property that is now Placid refinery was used
16 for industrial purposes. To help demonstrate
17 this we have a few photographs that were taken
18 years ago.

19 The first one is from 1931. Just to
20 show you that there has been industrial
21 activity around the Sunrise area for many
22 many years. In this particular photo in
23 1930's, the area that is now known or is known
24 as Sunrise was predominantly white. Wells
25 have another photo I believe in the years

1 approximately 1967 that is just a little more
2 clear, easier to see. It does show that once
3 again, that before the refinery was built,
4 there was industrial activity in that area.

5 A few years after Placid acquired the
6 refinery, some residents of Sunrise,
7 especially those who lived close to the
8 refinery voiced a number of concerns about our
9 operations. According to news articles in
10 '79, the complaints focused on noise and heat
11 from our flare.

12 Placid did not ignore the complaint
13 of the neighbors. In 1975 the company
14 invested two hundred thousand dollars in
15 equipment to reduce noise levels. That same
16 year the company also initiated a program to
17 purchase property of any Sunrise resident that
18 wanted to leave the community.

19 Property during that program was
20 bought at fair market market value, however,
21 appraisers were instructed by Placid to
22 exclude any loss or potential loss of value
23 that may have occurred as a result of the
24 reare refinery's presence. In other words,
25 Placid tried to compensate property owners for

1 any devaluation as a result of having the
2 refinery locate near their home.

3 That program resulted in Placid
4 acquiring more than a hundred parcels of land
5 or about one-third of the properties in
6 Sunrise. By 1985 Placid had purchased
7 \$947,000 worth of properties in Sunrise. As
8 far as we could determine, the actions taken
9 by Placid have resolved the problems for our
10 neighbors.

11 A study of our records and state
12 agency records indicate that there were only
13 three complaints filed by neighbors between
14 that period and 1989. Two of these related to
15 odors and one concerned a black material on
16 top of a vehicle-- material which upon
17 inspection was determine to be mildew.

18 In April of 1990, a group of the
19 about 30 residents showed up at the refinery
20 caring various signs. I met with a
21 representative of that group and she made it
22 very clear to me that what they wanted was for
23 Placid to buy their property. I asked the
24 representative to provide me with a list of
25 homeowners who were interested in moving.

1 Within one or two weeks of that first meeting,
2 we were served with a lawsuit. We did not
3 have the opportunity to try to address the
4 concerns brought up by the resident. The suit
5 was file before we could respond.

6 The suit listed 241 individuals.
7 Many of them minors minorities. The
8 plaintiffs owned a total of 36 houses in
9 Sunrise. Among the 241 plaintiffs were 89
10 persons who were tenants, and we also
11 determined that of the 241 plaintiffs, about
12 25 percent had moved into the Sunrise after
13 the refinery was built. Of those 61 who moved
14 to Sunrise after the refinery was in
15 operation, 15 had returned after moving away.

16 The Sunrise Program, and it was
17 established in March of 1991, Placid initiated
18 what we referred to at that as the Sunrise
19 Program under which we offered to buy homes of
20 any nonplaintiff owners in Sunrise. Our offer
21 was to purchase homes at prices that would
22 allow owners to build a brand new home of
23 similar size and material as the ones they
24 owned in Sunrise. In addition to the purchase
25 price, we provided an assistance of five

1 thousand dollars per household.

2 As of today, the program has resulted
3 in Placid acquiring more than 90 percent of
4 the homes of eligible owners. I want to
5 emphasize this is a strictly voluntary
6 program, and we have not applied any pressure
7 on any of the people to move.

8 Plaintiffs in the lawsuit were not
9 eligible for Sunrise Program because their
10 attorney asked us not initiate any contact
11 whatsoever with his client.

12 Last fall Placid and the plaintiffs
13 reached a tentative out of court agreement
14 under which we would purchase all of the
15 property of the plaintiffs. Final details of
16 the agreement are being work out between the
17 plaintiffs and their attorneys.

18 The settlement of the lawsuit is an
19 ongoing process and the specifics are
20 confidential by court order. However, we can
21 tell you at this point approximately 80
22 percent of the plaintiffs have agreed to
23 settle and over 50 percent have already gone
24 through with closings and told their property
25 to Placid.

1 One more important aspect of the
2 lawsuit that I need to expound upon. Prior to
3 the settlement, the court ordered all of the
4 plaintiffs to state whether they had any
5 personal injury claims. None of the
6 plaintiffs responded that they had any
7 personal injury, disease or property damage
8 that was caused by Placid's operations, as
9 claimed in the lawsuit. As part of the
10 settlement plaintiffs are releasing all
11 claims, including personal injury, nuisance
12 and damage to property

13 I must add that some Sunrise
14 residents have explained to us they are
15 perfectly happy living where they are and they
16 do not plan to move. We have no problem with
17 their decision and continue to be good
18 neighbors.

19 None of the property Placid is buying
20 is needed by the company. We're removing the
21 buildings, we are cleaning the sites and
22 putting grass on the lots. We will maintain
23 the property in good condition.

24 I wish we could provide you with more
25 information regarding the decisions that were

1 made by other persons working for the company
2 that decided to construct the refinery. We
3 can only surmise why that particular location
4 was selected. Some of the reasons probably
5 include availability of land, access to the
6 Mississippi River, abundance of near crude and
7 natural gas, permissible zoning and available
8 large network of pipelines that carry product.

9 In your letter inviting us to address
10 your panel, you expressed a desire to
11 determine the effects of environmental waste
12 and contamination on minority communities. As
13 far as Placid is concerned, we do not store or
14 treat any hazardous waste at our plant site.
15 The refinery has implemented waste reduction
16 programs and has eliminated the need to
17 dispose of hazardous waste by landfill.

18 A concerted emissions reduction
19 program at the refinery has resulted in
20 substantial reductions of reportable
21 emissions. An example is a vapor recovery
22 system we recently installed at our marine
23 loading facility. This system will reduce
24 total hydrocarbon emissions by 37 percent from
25 the refinery and will all but eliminate

1 gasoline vapor that is formed as a result of
2 loading barges. The system will exceed
3 Louisiana Department of Environmental Quality
4 requirements for all vapor reductions.

5 By 1994, we will have reduced our
6 emissions that are reportable under the
7 Superfund Amendments and Reauthorization Act
8 by a total of 48 percent as compared from 1987
9 levels.

10 In summary I would like to leave you
11 with these points. Placid purchased the
12 refinery in 1975 when it was already in
13 operation. As far as we can determine, the
14 closest community at the time of the purchase
15 was Sunrise, a racially mixed neighborhood.
16 The neighbors who lived closest to the
17 refinery were equally balanced between white
18 and black. Since purchases the refinery
19 Placid has taken responsible steps to get
20 along with our neighbors. We installed all the
21 equipment we could to reduce the noise levels
22 causing the problem at the time. We have
23 reduced emissions and in the process of
24 implementing even further reductions.
25 Throughout most of the 17 years of ownership

1 of the refinery we have maintained a policy of
2 purchasing the property of neighbors who were
3 not happy living next to us. We have reached
4 an out-of-court settlement with those who
5 chose to file a lawsuit against us. Our
6 purchase programs have been open, fair and
7 volunteer.

8 I believe Placid Refining Company has
9 responded in a positive in a responsible
10 manner to the issues raised by our neighbors.
11 We would have preferred that there had never
12 been any problems with the residents of
13 Sunrise but unfortunately there were. We
14 dealt with those problems in the best way we
15 knew how. We do our best to operate a
16 refinery as the laws require and our society
17 demands. What society demanded in 1975 is
18 totally different than what society demands
19 today. Today some members of society perceive
20 industrial manufacturing facility as a threat
21 to their well-being. And we recognize this
22 and we are doing all we can to address those
23 concerns.

24 Again, I want to thank you for the
25 opportunity to come today and I will be happy

1 to respond to any questions.

2 MR. KUTCHER: Thank you, Mr.
3 Emanuel. Anybody have any questions?

4 BY MS. ROBINSON:

5 Q. I have a question for the record. In
6 terms of the location of your facility is
7 that -- are your facilities only located in
8 Port Allen? Is that the only facility that
9 you have?

10 A. Yes, Placid Refining Company, that is
11 only manufacturing facility we have in
12 Louisiana.

13 Q. In your statement, you stated that,
14 as far as we can determine, the closest
15 community at the time of the purchase was
16 Sunrise, a racially mixed neighborhood. At
17 the time of that the lawsuit was filed or the
18 buyout program began, was it a racially mixed
19 neighborhood at that time or predominantly
20 black?

21 A. At the time of the lawsuit,
22 predominantly black.

23 Q. Have there been any other communities
24 bought out by your company?

25 A. No, there have not.

1 MR. KUTCHER: Thank you,
2 gentlemen. We appreciate it. Thank you very
3 much.

4 MR. KUTCHER: Our next presenter
5 is Michael Lyons, vice-president of the
6 Louisiana Mid-Continent Oil and Gas
7 Association, which is a trade association
8 representing all segments of the oil and gas
9 industry.

10 Good afternoon, Mr. Lyons.

11 MR. LYONS: Thank you. As has
12 been indicated, I am a pinch hitter for Jim
13 porter. Mr. Porter was called out of town at
14 the last minute and couldn't be with you. So
15 I will present the association's remarks.

16 As has been indicated, I am Michael
17 Lyons. I am the executive vice-president of
18 the Louisiana Mid-Continent Oil and Gas
19 Association. Mid-Continent is a trade group
20 representing all facets of the oil and gas
21 industry in the state. It had done so for
22 about 80 years. We represent exploration
23 production, pipelines, refining and marketing,
24 all segments of the oil and gas industry.

25 Today, I want to discuss several

1 facets of the industry in areas of mutual
2 concern involving the possible environmental
3 impact of our industry on the people of this
4 state, and particularly on those individuals
5 living in the communities in which we operate.

6 There is no denying that oil and gas
7 activities have some environmental impact.

8 Every activity involving a mining or
9 processing center, such as oil and gas
10 exploration, production and refining has an
11 impact on the environment. In fact, as we all
12 know, most of man's activities impact the
13 environment.

14 Our goal and our commitment is to
15 minimize those environmental impacts and to
16 minimize the environmental risks associated
17 with what we do.

18 Refineries, as you have been told
19 previously, take crude oil and refine it into
20 gasoline and other products, such as diesel
21 fuel, jet fuel, home heating oil and feed-
22 stocks for chemical plants. These feedstocks
23 are then used to make the thousands of
24 consumer products which we take for granted.

25 Refineries have been part of

1 Louisiana since the early part of this century
2 when the company we know today as Exxon built
3 Louisiana's first refinery in Baton Rouge. In
4 fact it sits not too far from where we meet
5 today. One of the largest in the United
6 States.

7 Baton Rouge was chosen as the site
8 for this refinery because it was first
9 available high ground north of the Mississippi
10 River outlet to the Gulf of Mexico. On the
11 river and the large area of land which was
12 farm land was available.

13 Since that the time, the refinery has
14 grown and become a vital part of the Baton
15 Rouge community. Similar scenarios have
16 unfolded in different ways for many of the
17 refinery communities in this state.

18 Refineries located in Louisiana for
19 many reasons, and you have heard some of these
20 in reference to chemical plants. The primary
21 reasons are the availability of natural
22 resources, the availability of land, and very
23 important the availability of the state's vast
24 network of waterways.

25 I might note that refineries in

1 Louisiana are distribution refineries. They
2 make more product than can be consumed in
3 Louisiana. This value added product is
4 shipped to other parts of the country. In
5 some areas such as Wyoming and Montana, you
6 might see a refinery that is not near a major
7 waterway or river. These refineries serve
8 only the immediate area in which they are
9 located. They are therefore smaller and
10 employ far fewer people. The refinery
11 industry is somewhat different than the
12 chemical industry from which you have heard
13 earlier this morning.

14 This is primarily the reason for this
15 is that refineries were built in Louisiana
16 long ago in the early 1900's. In most cases
17 refineries were built in Louisiana before the
18 people moved in around them though there are
19 some exceptions. There have been no new
20 refineries built in Louisiana since the mid
21 70's. And based on current conditions in the
22 oil industry, it is unlikely that any new
23 refineries will be built in Louisiana, so a
24 little difference in that we aren't looking to
25 build new refineries in the state. We may

1 expand capacities but it doesn't look likely,
2 unfortunately, that there will be new
3 refineries built in this state.

4 Refineries historically have employed
5 large numbers of the people, and in many cases
6 these employees have chosen to live near their
7 place of employment. Over the years people
8 acquired greater mobility and started moving
9 to subdivisions in the suburbs. In turn, this
10 changed the population mix of the people
11 living around the refineries. This phenomenon
12 is not unique obviously to industrial areas.
13 It appears in urban areas, people begin to
14 move out out to suburbs.

15 Let us now talk about the specific
16 issue and focus today. People, our neighbors,
17 are vitally concerned about environmental and
18 health impacts and it is recognized that many
19 people believe there are widespread
20 environmental and widespread impacts
21 associated with industrial pollution. It has
22 been estimated by numerous respected national
23 and international scientific organizations
24 that two percent of cancer deaths may be
25 attributed to all forms of environmental

1 pollution. That is, all environmental
2 pollution includes plants, automobiles, any
3 type of pollution we know about. Another way
4 of saying it is that the 98 percent generally
5 attributed to other things such as smoking,
6 diet, and other factors. Two percent, is it
7 acceptable? No. As the chemical industry has
8 indicated to you, it is committed to efforts
9 that will reduce overall discharges and
10 emissionses of pollutant.

11 Other studies have linked our
12 lifestyle and not our environment to the vast
13 majority of health problems we experience
14 today.

15 It might also add that our expected
16 lifespan is much longer today than it was at
17 the turn of the century, so we are making
18 progress. Have we gotten where we need to be?
19 Absolutely, and that is our commitment.

20 Even though the evidence indicates
21 that the health risk is minimal associated
22 with environmental pollution, refineries are
23 constantly working to make things even better
24 for all people. We are substantially reducing
25 the pollutants we discharge and have been for

1 some time.

2 Some examples: A 1988 report issued
3 by the DEQ states and I quote, "Baton Rouge
4 industrial hydrocarbons emissions have
5 declined 82 percent from 186,000 tons per year
6 in 1972 to 34,000 tons per year in 1987." To
7 cite a refinery and again I quote: "Exxon
8 Refinery serves as an example of effective
9 controls with reductions of 83 percent from
10 52,000 tons per year in 1971 to 9,000 tons per
11 year in 1986." So, there is substantial
12 improvement being done in the area.

13 Another example. The discharge of
14 oxygen demanding pollutants from major
15 industrial discharges to the Mississippi River
16 in Louisiana has been reduced by more than 85
17 percent. This is water discharges. Discharges
18 to waterways in Louisiana. Ozone levels
19 around the state have been significantly
20 reduced. At one time in the 70's, ozone
21 levels in New Orleans, Shreveport, Lake
22 Charles, Lafayette and Baton Rouge exceeded
23 the federally established ozone standard.
24 Today, all but Baton Rouge and now Lake
25 Charles, which is borderline, exceeded the

1 federally established standards. And today
2 all these areas but Baton Rouge comply with
3 the standards about 99.9 percent of the time.
4 The industrial community, indicated earlier as
5 we speak, it is working with the Ozone Task
6 Force to achieve the hundred percent
7 compliance with the federal goal, and we will
8 meet that goal. Discharges of industrial
9 pollutants are being successfully and
10 significantly reduced today..

11 Our industry has also worked in other
12 areas to reduce environmental impact. You
13 heard yesterday the mention of NORM. Our
14 industry worked very closely with the
15 Department of Environmental Quality to come up
16 with workable and effective regulations. It
17 was our industry that brought that phenomenon
18 to the attention of the state when we
19 discovered it it. We are also constantly
20 working with the various regulatory agencies,
21 Louisiana legislature and citizens groups on
22 environmental issues such as this.

23 The fact of the matter is that
24 refineries have been working to reduce
25 emissions and discharges for more than 40

1 years. It's our commitment. It's our
2 obligation.

3 Again, however, even with the
4 reductions that have been made and they have
5 been substantial, refineries of this state are
6 constantly looking for ways to lessen any
7 environmental impacts they may be causing.

8 Refinery operations are covered by
9 stringent federal, state and local
10 regulations. These laws and regulations along
11 with voluntary efforts of industry have
12 resulted in the tremendous reductions I have
13 just mentioned.

14 I said just a moment ago that
15 refineries are constantly working to make
16 things better environmentally. This is true
17 in education and employment areas as well.
18 And much of this is is a reiteration of what
19 Mr. Borne mentioned. All of the refineries
20 support educational endeavors that are aimed
21 at training both the skilled worker and the
22 professional. Refineries support education,
23 partnership programs in the parishes they
24 operate. They support the states vocational-
25 technical education programs by providing

1 funds, materials and manpower to help train
2 our workforce. They also support our colleges
3 and universities.

4 Refinery workforce is approximately
5 19 percent black. The percentage will vary at
6 different refineries based on the makeup of
7 the local labor pool.

8 Refineries are constantly recruiting
9 minority employees and many have programs to
10 encourage the promotion of minority employees
11 to higher positions. All the refineries also
12 have an aggressive program to make purchases
13 from minority owned vendors. In many cases,
14 the refineries have community outreach and
15 safety programs that will provide residents
16 warning in the event of an accident and
17 provide a vehicle for residents to discuss
18 concerns and ask questions about the refinery
19 operations.

20 The refineries of Louisiana are good
21 corporate citizens. The refineries are
22 concerned about the environment and in
23 particularly in the areas in which they are
24 located. Refineries offer many high paying
25 jobs and excellent advancement opportunities.

1 The refineries are the best value added is
2 industry in the state. Refineries are a part
3 of the community and want the best for the
4 community in which they live. Again, can we
5 do better? Yes. Have we made improvements?
6 Yes. Will we do better? Yes.

7 Finally, if I may add, I would like
8 to touch briefly on the other areas of the
9 industry because we represent, again,
10 exploration, production, marketing, pipelines,
11 and it was our understanding that you had
12 asked us to address those areas as well.
13 Exploration and production activities, or the
14 oil and gas wells associated with the industry
15 have to follow one basic rule in determining
16 location. They have to be near or virtually
17 on top of the oil and gas reserves. You
18 seldom see wells in populated areas and
19 therefore the impact on citizens is
20 negligible.

21 Pipelines on the other hand have to
22 be near people. There is a maze of pipelines
23 running under this state, and I would venture
24 to say most states bringing oil refined
25 products and natural gas to and from a variety

1 of locations.

2 Pipelines do not impact people. They
3 are the unseen and unheard carriers of tons of
4 product each day and have an outstanding
5 safety record. The final segment of the oil
6 and gas industry involves marketing and that
7 is probably the aspect that is most familiar
8 to the consumer and to you. The corner
9 gasoline station must operate under a strict
10 set of local, state and federal guidelines.
11 These stations that provide the gasoline
12 allowing the people of today to enjoy their
13 increased mobility. This segment of the
14 industry has an outstanding safety record.

15 Overall the industry has work with
16 the state and federal government in the
17 development of fair, workable and equitable
18 laws and regulations. Tremendous progress has
19 been made and more progress will be made in
20 the future so all people can enjoy a better
21 environment. We are committed to that
22 progress.

23 For your record, I have given to the
24 chairman a few items that may help you
25 understand our industry better. I won't list

1 those items for you, but they are listed in my
2 testimony.

3 That will conclude my statement. I
4 will be happy to answer any questions that you
5 may have. I will indicate that I do represent
6 the refining industry as a whole. It's very
7 difficult for me to address specific questions
8 on specific refineries, but I will be happy to
9 entertain any questions that you may have for
10 me.

11 MR. KUTCHER: Thank you, Mr.
12 Lyons. Does anybody have any questions? Mr.
13 Baker. Go right the down the line.

14 BY MR. BAKER:

15 Q. Is it fair to say that the reason
16 refineries have located here is because of the
17 river?

18 A. Two reasons. One, the oil and gas is
19 here and the river. Those are the two major
20 reasons.

21 MR. BAKER: Thank you.

22 MR. KUTCHER: Dr. Hicks.

23 BY DR. HICKS:

24 Q. Are you aware of any barriers faced
25 by oil and gas industry in addressing

1 environmental issues?

2 A. I am not sure I understand the
3 question.

4 Q. Can you think of any difficulties
5 that you might -- that you can anticipate or
6 that you have experienced -- or that
7 companies, the industry has experienced in
8 trying to continue to address environmental
9 issues? You talked about your plan for doing
10 and continuing to do so. Can you foresee any?

11 A. Let me try and address that. If this
12 is not the point you are making, correct me.
13 One of the problems we have with environmental
14 regulation is that we have reduced our
15 discharges by 80, 90 percent, and as you lower
16 those discharges, the last ten, five percent
17 is always the most expensive to get. It's the
18 smaller amounts and it is extremely expensive,
19 for example, to get that last five percent.
20 The last 95 percent can be very expensive but
21 the last five percent extremely expensive.
22 See us at the legislature dealing with DEQ
23 attempting to make those regulations
24 reasonable and make them economically based,
25 if you will, and risk based. You hear the

1 term "risk-based" regulation. If there is a
2 risk, a true risk to the population, then that
3 is a valid reason for an environmental
4 regulation, but the answer is truly risk. Is
5 there indeed a risk or perceived risk, and
6 that is the issue that we try and raise today.
7 Because it is very, very expensive in some
8 cases prohibitively so to go for that last
9 five percent. There are some plants in this
10 state facing environmental regulations which
11 will threaten their future. I will not say
12 they will close but it will mean when
13 expansions take place, they will take place in
14 other states, other countries where they don't
15 face those environmental regulations.

16 So environmental regulation is indeed
17 a threat an economic threat to our
18 petrochemical industry and our oil and gas
19 industry, our manufacturing industry in this
20 country industry. Environmental regulations
21 do present an economic threat and is a
22 threshold which they cannot support the
23 economics. Where that line is of course is
24 something that government and industry and the
25 public has to determine, but economics is a

1 real -- it has to be factored in. You heard
2 from several people. I had the opportunity to
3 be at this hearing yesterday and sometime
4 today, that we always throw up jobs jobs jobs,
5 and sit valid. There is a point at which jobs
6 will be lost because of environmental
7 regulation. That is -- but where you draw
8 that line obviously is the key. We have done
9 a lot of work, made a lot of reductions, we
10 still have jobs. We haven't left the state,
11 but at some point the pinch will become such
12 that it will hurt jobs.

13 BY DR. HICKS:

14 Q. I was concerned about negative impact
15 on people.

16 A. Right. I think the thing I would say
17 there, and again, we are a little -- as I
18 noted, we are a little different than chemical
19 plant in that we are not looking to locate new
20 refineries here, not looking for new sites.
21 In many cases our population moved around us.
22 Our employees wanted to be next to the
23 refineries, so they built up. For example,
24 Exxon refinery here, we built a community
25 around the refinery, and those people were

1 working around the refinery. With time people
2 moved to the suburbs, moved out, and the
3 population changed there and is no longer
4 dominated by the people that work in the
5 refinery. We are very concerned. I think the
6 key is to work with those communities. In
7 some cases you heard one option, that is to
8 purchase those properties and leave a green
9 belt. That is not the best option. But it is
10 an option and something each plant would have
11 to look into. The key is are there
12 environmental impacts, health impacts. Is
13 there a true perception and true fear, and you
14 have to work with each community and try to
15 address those real concerns

16 BY MS. MADDEN:

17 Q. How would you describe your
18 relationship -- your association's
19 relationship with the environmental
20 leadership? Do you have dialogues? Is it
21 adversarial or --

22 A. It is improving. It has been
23 difficult. We are attempting to make an
24 outreach to those -- that community. They are
25 attempting to reach to us, we are attempting

1 to dialogue better than we have in the past,
2 but it is strained. I will admit that it has
3 been strained. You heard some national
4 leaders. We heard the question earlier: When
5 national groups come in, does it create a
6 problem; and I believe Mr. Borne said, yes, on
7 occasion. National organizations take stands
8 which are very aggressive, and that makes it
9 difficult. There is a lot of posturing that
10 goes on between the environmental community
11 and the industrial community which is
12 unfortunate, and we are trying to move in
13 toward the center to work out these
14 adversarial situations, and I think many of
15 the local environmental groups are doing the
16 same. I feel much more comfortable with the
17 environmental community. I have been doing
18 this 15 years which was basically back in the
19 beginning of Louisiana's rebirth, if you will,
20 in the environmental movement. Every
21 environmental law in this state has been
22 rewritten in the last 15 years. It's like
23 night and day, the differences today. There
24 is much more cooperation and much more
25 sharing. Things like the Ozone Task Force

1 would never have taken place 15 years ago.
2 That is a group of environmentalists and
3 industry trying to work together and put money
4 in these studies and find out the real
5 scientific answers to our ozone problems in
6 Baton Rouge. That wouldn't have happened 15
7 years ago. We are talking today. We can do
8 better. There is still some posturing that
9 goes on. You know there is going to be a
10 compromise and you stake out a position here
11 and here and know where you are going to be
12 here. That is unfortunate. But I am very
13 encouraged by the openness and sharing of
14 today. It's really a delight to see people
15 working together on both sides, the industrial
16 side and the environmental side.

17 MR. KUTCHER: Dr. Ford.

18 BY DR. FORD:

19 Q. Most of what we have heard so far has
20 been comments relative to the waste management
21 industry and the petroprocessing industry.
22 You represent somewhat of a different
23 industry. Is it true that most of the impact
24 that is associated with your industry is
25 ecological as opposed to citizen base?

1 A. I think that's correct, because
2 again, our industry, when you get away from
3 the refining aspect of it is basically rural.
4 It's in the wetlands. The vast majority of
5 Louisiana's reserves lie under the weather.
6 So our impact has been ecological. It has
7 been in areas where people do not reside or in
8 areas where we are not close to communities,
9 we are not in urban areas, so it is primarily
10 an environmental impact when you get away from
11 the refineries which are more urban based. We
12 would like to think there, as well, we have
13 made significant improvements. In fact, we
14 have. I did bring the statistics I didn't
15 bring the statistics today, but I can show you
16 in wetland areas where we have reduced impacts
17 by 50 percent over the last decade and
18 discharges to our coastal waters have been in
19 many cases eliminated and reduced
20 significantly over the same period of time.
21 There have been improvements made,
22 environmental improvements as well. But your
23 statement is absolutely correct. Other than
24 refineries, our impacts in the state are
25 environmental, not impacts to the citizen.

1 BY MS. ROBINSON:

2 Q. Which, you are getting ready to
3 address the question that I have asked just
4 for the record to clarify. I have a couple of
5 questions. In your presentation you talk
6 about refineries. When I talked to people
7 about some of the problems that they are faced
8 with in terms of oil and gas, they talk about
9 oil waste pits. What is the difference?

10 A. The pits that you are talking about
11 is what Dr. Ford mentioned. These are
12 associated with our exploration production
13 facilities. They are in rural areas.
14 Generally with an oil well, gas well, you will
15 have a surface impound or a pit. That is what
16 they are talking about. There are
17 impoundments that refineries and chemical
18 plants have, but they are different. I am
19 sure what you are mentioning there is in
20 relation to exploration and production. I
21 might add there that Louisiana has a set of
22 the most comprehensive regulations in document
23 in this country addressing those facilities.
24 Certainly of the most aggressive in the
25 country which the center is supporting, so,

1 again, there were problems in the past. I will
2 not deny that over the past hundred years we
3 have been developing the first oil and gas
4 produced in this state in the early 1900's
5 when there were no regulations for many years.
6 So, I am not going to tell you there have not
7 been problems, but again like with the
8 environmental regulations affecting
9 refineries, we are making progress in
10 addressing those problems. Do you track
11 racial demographic of the communities where
12 these facilities are or where these oil waste
13 pits are located?

14 A. No, I can't answer that. Other than
15 to say, again, to respond to Dr. Ford's
16 comment, most of these are in rural areas, and
17 the comparison like with the refinery, there
18 is no comparison. Generally the closest
19 residents would be probably miles away. We
20 are not talking about close proximity,
21 generally.

22 Q. Last night we heard on the news about
23 a community called Walker.

24 A. Yes.

25 Q. Wasn't that an oil waste pit that was

1 on fire, or am I wrong about that?

2 A. I am not sure. I didn't see the
3 news. That is certainly possible. I will not
4 deny. But generally those facilities are
5 located in very rural areas and not near
6 communities, although it is possible that a
7 location could be near a subdivision. I have
8 seen some very near subdivisions. But to
9 answer your question, I do not have the
10 statistics. One more question, and I will be
11 through.

12 Q. In terms of the IT decision that I am
13 sure you are familiar with that, do the
14 companies do environmental impact studies? Do
15 they consider alternative projects and
16 alternative technologies?

17 A. Yes. We are required to by law to
18 meet that standard. As I mentioned,
19 refineries, that is a siting law. When you
20 site a new facility, you have to consider
21 refineries. Our refineries are all
22 established. The likelihood of a new refinery
23 is extremely remote in this state. Thank you,
24 Mr. Lyons.

25 MR. KUTCHER: Our next presenter

1 is Charles McDermott. Mr. McDermott is the
2 director of government affairs for Waste
3 Management, Inc., the largest waste management
4 company in the United States. I know you have
5 been here for the past two days, so you know
6 what all the procedures are.

7 MR. MCDERMOTT: I brought with me
8 my counterpart in Louisiana, Judy Meyer
9 (phonetic), who runs our legislative program.
10 She is also here to field questions about some
11 of the specifics here in Louisiana that she
12 might be closer to than I.

13 MS. MEYER: My name is Judy Meyer.
14 I work for Chemical Waste Management which is
15 a commercial hazardous waste facility in
16 southwest Louisiana. Just some opening
17 comments.

18 The issue of environmental equity is
19 of interest here in Louisiana, as well as in
20 other parts of the country. Because Waste
21 Management has operations in all 50 states,
22 our government affairs office in Washington,
23 which Chuck is associated with, has examined
24 this issue of environmental equity very
25 carefully, therefore we felt it appropriate to

1 be represented today not only by myself but by
2 the person in that office who has primary
3 responsibility and who has done extensive
4 investigation into this issue. Chuck
5 McDermott is director of government affairs at
6 Waste Management, Incorporated. Previous to
7 coming to work for Waste Management he was
8 manager of project development for the
9 nonprofit Citizens Energy Corporation where he
10 established the country's first bulk electric
11 trading company to assist low income electric
12 utility companies.

13 More recently, Chuck served as chief
14 of staff to Congressman Joseph Kennedy of
15 Massachusetts. In that capacity, he helped
16 achieve passage of the Congressman's
17 legislation to discourage the discriminatory
18 practice of redlining by banks and exposing
19 patterns of discrimination in the granting of
20 home mortgage loans.

21 Upon joining Waste Management,
22 Incorporated two years ago, Mr. McDermott was
23 given the task of examining the impact of our
24 activities on minority communities.

25 MR. MCDERMOTT: Thank you, and

1 thank you all. By way of background on Waste
2 Management, we are the country's largest
3 environmental services company. We employ is
4 some 62,000 people in over nine hundred
5 operating units in all 50 states in 20
6 countries around the world. We are involved
7 in a range of services including waste
8 reduction, recycling, collection processing,
9 resource recovery and disposal of solid and
10 hazardous waste.

11 We have been operating in Louisiana
12 since the 1970's, and in addition to our waste
13 collection and hauling activity, the company
14 currently operates four facilities in the
15 state. Two of our facilities are owned and
16 sited by the host parish which we manage for
17 the municipality. One is a facility we
18 acquired from the original owner and the
19 fourth one is one that we ourselves ushered
20 through the siting process, and it is a solid
21 waste land that I will discuss in some detail
22 later. Though, we are not required by the IT
23 decision to incorporate the IT process in the
24 setting of siting of solid waste facilities,
25 we chose to do that in this case. Rather than

1 go into what I was going to do was to discuss
2 that process in detail, which you all are
3 familiar with the IT process, and will be a
4 part of my remarks for the record. We can
5 suffice to say, from our perspective, it's an
6 exhaustive process, can be expensive process
7 but probably provides fairly reasonable road
8 map to make sure there is some serious
9 consideration of siting and alternative sites
10 and the need for facilities, et cetera.

11 To go through our facilities one by
12 one: Our hazardous waste management
13 activities are performed through subsidiary
14 called Chemical Waste Management. Chemical
15 Waste is the owner/operator of a landfill in
16 Carlyss, Louisiana which is in the southwest
17 part of the state. Chemical Waste is not the
18 original owner or developer of the site. It
19 was initially developed by Sediment Removers,
20 Incorporated and purchased by Chemical Waste
21 in 1979. It serves some of the environmental
22 management needs of the industries in Lake
23 Charles area.

24 The commission asked us to describe
25 the demographics of the community in which we

1 operate. In order to accomplish this, we used
2 1980 census data for the five digit zip code
3 areas in which these facilities were located.
4 In the case of Chem Waste in Carlyss, four
5 percent of the population is African American,
6 94 percent is white and one percent is either
7 Asian American or Native American. According
8 to the same census, the demographic breakdown
9 for state of Louisiana is 69.2 white, 29.4
10 percent African American, .6 percent Asian and
11 less than eight percent Native American.

12 The three other disposal facilities
13 in the state are operated by Waste
14 Management's solid waste subsidiary. Kelven
15 landfill is located in Avondale, Louisiana and
16 operated by us but owned by Jefferson Parish.
17 The parish sited the facility in 1982, and we
18 began operations there at that time.

19 The racial diversity of community
20 around Kelven more closely resembles the
21 overall breakdown in the state. The black
22 population was 30 percent, the white
23 population is 64 percent and Hispanics make up
24 four percent, a two percent fall in other
25 racial groups.

1 In 1986, Waste Management opened the
2 Magnolia Sanitary Landfill in Monroe. That is
3 the one for which we followed IT process. The
4 landfill is located in a sparcely populated
5 area adjacent to Interstate 20, five miles out
6 of Monroe. There is no residential community
7 nearby affected in any way by the truck
8 traffic in Magnolia since it sits on the
9 impermeable dense clay soils in the area which
10 make it an ideal site geologically. The
11 racial makeup of this community again closely
12 resembles the statewide snapshot. The
13 community is 74 percent white, 25 percent
14 black, one percent Hispanic, and one percent
15 other racial groups.

16 The Woodside landfill in Walker,
17 Louisiana is owned by the Livingston Parish
18 Police Jury and has been operated by Waste
19 Management since it opened in 1987. The
20 facility is located on private forest lands
21 again remote from any population areas. And
22 like the Chem Waste facility in Carlyss, the
23 Woodside landfill is located in an area that
24 does not resemble the state averages. The
25 area around Woodside is 93 percent white and

1 one percent Hispanic.

2 We feel that these demographic
3 figures are revealing and run counter to
4 conventional wisdom. We feel that in the eyes
5 of the fair minded, that they can only cast a
6 harsh light on what we feel is an untrue and
7 unfair impression some have tried to create.
8 We do not seek out communities of color, not
9 in Louisiana, not in California, not the
10 Illinois, not in Texas, and not around the
11 country. In fact, looking at all the
12 facilities in Waste Management's disposal
13 network and some 145 of them, 73 percent are
14 located in communities that have a white
15 population equal to or greater than the host
16 state average. So, whatever the joys or
17 sorrows of hosting a waste facility may be, in
18 our case, they do not fall disproportionately
19 on the shoulders of people of color.

20 It is true that some of our
21 facilities that are located in predominantly
22 minority communities. A few of them in fact
23 are often held out as examples of
24 discriminatory siting, and I will discuss two
25 facilities that are outside of the State of

1 Louisiana because I think they are interesting
2 conversation we have heard over the last
3 couple of days. One is located in Sumter
4 County, Alabama. As in most of rural Alabama,
5 for generation the people of Sumter County
6 have been predominantly black and very poor.
7 For some those two factors alone are enough to
8 explain why the town of Emelle and Sumter
9 County is home to a disposal site for
10 hazardous wastes. We would ask to have a
11 chance to explain it a little more fully.

12 The story of Emelle starts in 1974
13 when the U.S. EPA conducted an audit of all
14 the counties in the U.S., looking for the most
15 ideal locations for hazardous waste disposal
16 facilities. The EPA's auditors examined every
17 county against a fixed set of criteria,
18 placing a premium on remote locations with
19 access to good transportation systems -- be
20 they rail, water or highway -- with geologic
21 conditions suitable for land disposal and with
22 climatic conditions that would naturally
23 inhibit the amount of precipitation that would
24 come in contact with the waste.

25 On the EPA's final list of the ten

1 most desirable counties, the only one east of
2 the Mississippi was Sumter County, Alabama.
3 It was sparsely populated and had good access
4 to transportation. It was relatively arid,
5 and, most importantly, it sat atop what is
6 called the "Selma chalk formation," several
7 hundred square miles of dense chalk seven
8 hundred feet deep. The EPA concluded that
9 this chalk formation provided an ideal deep
10 barrier between any disposal activity and
11 nearest aquifer feeding a drinking water
12 source. Another developer first obtained
13 permits for the site and this facility, and we
14 acquired it in 1977. Since that time, Chem
15 Waste has spent millions of dollars in
16 technological improvements there to make it
17 one of the safest hazardous waste disposal
18 sites in the world.

19 We know when we acquired this site,
20 Sumter County was struggling with illiteracy
21 and infant mortality rates amongst the highest
22 in the state. Over time, the landfill brought
23 revenue into the county and into the town of
24 Emelle which improved health care delivery and
25 affected the school systems. It of course

1 increased employment, built a fire station,
2 provided the fire truck and a number of other
3 things like that, and also reversed the
4 percentages on illiteracy and infant mortality
5 rates. In fact, revenues for the state
6 comprised over 70 percent of the annual
7 revenues for the Sumter County.

8 Infant mortality rates for instance.
9 A decade ago, the number of infant deaths for
10 1,000 live births was 22.2, which is twice the
11 national average. Ten years later in the
12 period from 1987 to 1989, which is ten years
13 after we took over operating the site, this
14 number of infant deaths per live births had
15 dropped in half from 10.1 percent. Our
16 landfills here in Louisiana likewise make many
17 contributions into the community in which they
18 operate. Combined, the four disposal
19 facilities pay over nine million
20 dollars in payroll, 52,000 in local property
21 taxes and over six million dollars in
22 corporate income taxes here in Louisiana each
23 year. And, if you include our collection and
24 hauling operation, we employ some over 1300
25 people, pay over \$30 million dollars

1 in payroll, \$250,000 in local property taxes
2 and over ten million dollars in state
3 corporate income taxes annually.

4 Now, these are improvements in the
5 quality of life which we all desire for the
6 least fortunate and for all the citizens of
7 Louisiana. But the value of reducing
8 illiteracy and improving health care delivery
9 would be lost if it were at the expense of
10 human health. We should acknowledge one of
11 the underlying assumptions of environmental
12 racism, and certainly as it applies in this
13 case to the siting waste facilities, is that
14 these activities threaten the health of the
15 neighboring community. This has been much
16 discussed by other presenters here today, and
17 we are not here to claim that they pose a real
18 risk. They don't. Nor does driving a car or
19 drinking water from the tap or too often
20 breathing the air around us, but we wanted to
21 make an important point here today if we can.
22 If we are to effectively improve the health
23 and well-being of the most disadvantaged, we
24 must understand those activities that pose the
25 greatest risk. It is not sufficient in our

1 opinion to act on our emotions. We have to
2 act on the best, most credible information
3 that we can find.

4 You might expect us to testify that
5 our facilities are relatively safe. So, you
6 won't have to take our word for it. We can
7 make much of this available to the record, but
8 there are some 30 independent risk assessment
9 studies that have been undertaken since the
10 mid 80's that show risk activities in their
11 scope. To generalize, virtually all of them
12 rank the relative risk posed by our types of
13 facilities towards the bottom of the list. A
14 recent example would be a study done in May of
15 '91 or release in the May of '91 by the EPA
16 Region V which looked at 26 environmental
17 problems, including ozone depletion and indoor
18 quality, and a number of common place
19 industrial processes, and permitted solid and
20 waste facilities and ranked those facilities
21 26th out of 26. And there is another example
22 I would like to make that is perhaps
23 illustrative.

24 We recently sought to build a
25 hazardous waste incinerator adjacent to a

1 landfill we operate in Kettleman City,
2 California in a portion of the San Joaquin
3 Valley which is predominantly Hispanic.
4 Though the landfill has been in operation for
5 many years, when we announced plans to
6 construct an incinerator, it resulted in a
7 lawsuit alleging that our selection of the
8 site was motivated by racism. The courts have
9 thus far rejected the allegation of racism,
10 but as a case it is still in some ways
11 interesting. Were we building something other
12 than a hazardous waste incinerator, we don't
13 feel racism would be an issue. Inherent in
14 this lawsuit is the notion that the
15 incinerator will have a negative impact.
16 Usually those impacts are described as
17 economic in terms of affecting median incomes
18 or property values.

19 There is a lot of data that has been
20 done on the impact of property values and
21 waste facilities. In fact, in the report that
22 you have, the United Church of Christ
23 Commission for Racial Justice, on the table on
24 page 41, you will see according to their
25 research, that both the average family median

1 income and the price of a single family home
2 in the communityies hosting hazardous waste
3 facilities were both slightly larger than the
4 national average.

5 So, a lot of the focus has been on
6 the health impact. The permitting process
7 there required that an independent group
8 assess the risk that the incinerator would
9 pose. They used a stastical model that looked
10 at the most "exposed individual." That would
11 be a person who over their lifespan would be
12 within ten miles of the facility 24 hours a
13 day for the entire useful life of the
14 incinerator, and the study concluded that the
15 additional cancer cases in the Kettleman City
16 area which could be attributed to the
17 incinerator would be three in 100 million.
18 Now, we have heard testimony here in the past
19 two days, Dr. Templet yesterday, for instance
20 talking about cancer rates of one in 1,000.
21 This is three in 100 million. And, in the
22 United States, roughly 25 percent of the
23 general populationings contracts some form of
24 cancer in their lifetime. That by way of a
25 yard stick, that would be 25 million in 100

1 million. So, we think it's fair to say that
2 the probable health impact on the 1500
3 residents of Kettleman City would be fairly
4 described as negligible. At the same time,
5 the many residents of Kettleman City who earn
6 their living as migrant farm workers or farm
7 workers are exposed to large doses of
8 pesticides and insecticides in their work.

9 It is sometimes often forgotten we
10 find, when we are into these discussions, that
11 we do not create waste. We dispose of waste.
12 And, in America, we generate a ton of
13 hazardous waste for every man, woman and child
14 in the country every year. And the figures
15 for solid waste are only a little bit lower.
16 In the State of Louisiana, Waste Management's
17 disposal capacity has safely managed 878,000
18 tons of hazardous waste, 1.6 million tons of
19 municipal solid waste in the last two years
20 alone. Now, that is potentially dangerous
21 material that did not end up beside the road
22 or in the creek or in yesterday's primitive
23 town dump.

24 Which brings us to some of the key
25 issues here. We have attempted to answer the

1 question: Do communities of color bear a
2 disproportionate share of the waste facilities
3 in Louisiana and, also tried to address,
4 around the country. We can only speak to the
5 location of our facilities and we have said
6 that the answer is no. But there is another
7 question that goes to the heart of what we
8 have been talking about and, that is, "Do the
9 poor and people of color bear a
10 disproportionate share of the burden
11 associated with pollution in our country?"

12 From our perspective and involved in the
13 pollution control and pollution control
14 business, our observation is, yes, they do.

15 For instance, a lot is known about
16 lead, and the impact on the poor and on
17 minorities is staggering. For families
18 earning under six thousand dollars a year, 68
19 percent of black children suffer from lead
20 poisoning; 36 percent are white. The impact
21 between black and white is two to one, but
22 both those numbers are too high and, for black
23 children, they are especially staggeringly so.
24 When you go to families earning over \$15,000 a
25 year, the overall numbers drop but the spread

1 is between black and white goes to three to
2 one: 38 percent of black children suffer from
3 high levels versus 12 percent of whites.

4 We also know that exposure to
5 excessive doses of carbon monoxide is a
6 well-known pulmonary irritant. Now, 30
7 percent of whites are exposed to excessive
8 levels, whereas 57 percent of Hispanic and 46
9 percent of blacks are exposed. In other
10 words, there is strong evidence that the poor
11 and people of color get less than their share
12 of the environmental assets and more than
13 their share of the environmental liabilities
14 that our modern society has to offer.

15 Therefore, in our opinion, there is a
16 common enemy here that we all must take on for
17 trying to pursue greater degree of
18 environmental equity, and that is pollution.
19 And in some ways we have made some progress in
20 our national efforts. They have made progress
21 here in Louisiana and in some ways globally we
22 have made progress to make ours a cleaner
23 world. Everybody has played their part.
24 Environmental advocates have stimulated
25 companies like ours to do a better job. I

1 think it's probably fair to say they have
2 stimulated industry in Louisiana and industry
3 to do a better job. Government in many cases
4 have done their share and far-sighted
5 industries have done their cases as well.
6 But, whatever those efforts have been, they
7 have probably not been enough to really
8 protect the most disadvantaged and protect
9 those who have the least ability to make a
10 choice; a choice about where they live or work
11 or play. And, it is our hope that by all of
12 us sitting down together that we can get a
13 better understanding of the cumulative effects
14 of the practices in this country, that on the
15 one hand, make our standard of living the envy
16 of the world and, on the other hand, stretch
17 the environment's capacity to cleanse and
18 regenerate itself can be examined.

19 It's been interesting for me to see
20 the wide variance in opinion in testimony that
21 you all have heard over the past two days, and
22 I think that some of that is because we don't
23 have a particularly good feel for the
24 cumulative impacts of our environmental
25 practices. I think that regulatory agencies

1 certainly on the federal level have done a
2 pretty good job of understanding what is
3 happening to air. They have done a pretty
4 good job of what is happening to water
5 contamination, but is not often the case that
6 data gets overlaid. We don't need a lot, but
7 the cumulative loadings in particular
8 geographic areas over time and the health
9 impacts of those things. From our point of
10 view, our suggestion would be that might be
11 one area for you all to focus on. I know that
12 the commission for racial justice, the United
13 Church of Christ is trying to the craft
14 legislation at the federal level in that area,
15 the EPA started to talk about that started, to
16 change some of their risk assessment models
17 away from most exposed individual to most
18 exposed community which incorporate some of
19 that concept and that that is a public policy
20 initiative, but we will certainly endorse.

21 Finally, we would just like to offer
22 to you, the commission and this advisory
23 committee and to any others who have been a
24 part of this, we will be happy to share
25 whatever experiences we have, and we would

1 like to be part of the process as people
2 struggle with these issues. We know a fair
3 amount about going before those governmental
4 bodies that make community decisions. And it
5 is a frustrating experience for us sometimes,
6 but one with which we have a lot of
7 experience, and we would like to share that
8 with anyone that is interested. And we also
9 know a fair amount about pollution. We have a
10 pretty good idea where it is and comes from,
11 and what the mediation techniques are
12 affected, and how much it costs to clean it
13 up, and we would be happy to talk about those
14 things as well.

15 And finally, thank you for inviting
16 us. We are glad we have been here. We will
17 answer any questions you have.

18 MR. KUTCHER: Thank you. You
19 think you have heard a lot of information in
20 two days, imagine how we feel Mr. Baker.

21 BY MR. BAKER:

22 Q. Mr. McDermott, your background
23 brought you from one segment of the
24 environmental movement, one that was concerned
25 with low income persons, and you go into a

1 company that is subjected to allegations that
2 your company is engaged in targetting on the
3 basis of race and/or income and you have laid
4 out statistics that unless challenged
5 completely refute that. Why do you think that
6 such charges continue to be made in the face
7 of facts?

8 A. Well, I think that emotion plays a
9 big part of it. And I think that waste
10 facilities and the idea of landfills and dumps
11 and incinerators strike fear into the hearts
12 of people. Some of that is incumbent upon our
13 company and our competitors, and the other
14 members of our industry to do a better job
15 communicating to people about the relative
16 risk. Industry has evolved a lot over the
17 last 30 years. Disposal facilities bear about
18 as much resemblance to disposal facilities 30
19 years ago as your home electronics do to home
20 electronics 30 years ago, somewhere like that.
21 I think that is a big part of that. And I
22 think that, again, there has been a lot of
23 suspicion across the board.

24 Also, I don't think that waste
25 facilities were as safe at one point in time

1 as they are now. Our mistakes -- and our
2 company has made mistakes over time, and other
3 waste companies have made mistakes over
4 time -- are very visible.

5 Q. That would explain the general public
6 attitude, but in dealing with
7 environmentalists, they tend to be very well
8 educated, lawyers, and yet you face that
9 continued argument from those who have at
10 least access to the facts?

11 A. Well, we don't see the environmental
12 world as a monolithic group. We have very
13 good relationships with certain environmental
14 groups. We work commonly on federal
15 legislation action and at the state level on
16 legislation action. For example, one of the
17 people I work with in Washington was control
18 contact, where simply it says, you cannot
19 export waste from this country, to any nation
20 that will handle it less rigorously, have less
21 rigorous standards than we do. We have worked
22 very closely with Defense Fund and NRC and
23 others with a piece of legislation. We
24 haven't been successful in turning it into
25 law, but worked side by side on that. There

1 are some other groups like Green Peace who for
2 their own purposes will never support what we
3 do. Green Peace feels that companies like
4 ours make disposal capacities too affordable
5 and too easy and too cheap for industry.

6 By closing us down and our
7 competitors down, they will create a crisis in
8 the waste world that will force society to
9 reexamine how much waste it creates. Well,
10 that is one approach. I don't tend to
11 think -- for me, that is not the most
12 responsible approach. But, I think in many
13 ways, Green Peace makes its own contribution.
14 I think sometimes people perhaps ignore the
15 facts, other times people don't have the
16 facts, and our relationships with the
17 environmental world vary depending on which
18 group it is you are talking about.

19 MS. ROBINSON: I just have one
20 question. Maybe your counterpart there may be
21 able to answer it.

22 Q. In terms of your relationship with
23 DEQ, which I assume is the state government
24 agency that regulates you?

25 A. That's correct.

1 Q. Have there been any penalties or
2 fines imposed against any of your companies
3 here?

4 A. I can only speak for the Chem Waste
5 site cause that is the site I am familiar
6 with, but Chemical Waste Management who has
7 been in operation for ten years now in this
8 state and is inspected at least twice a year
9 by the DEQ, we have had penalties for mainly
10 paper work violations where we may have had
11 differences between federal reporting and
12 state reporting. Of those that were not paper
13 work violations, there was never any
14 assessment that there was harm to the
15 environment. I will say that, at that site,
16 we have been monitoring groundwater which
17 is -- of course groundwater contamination
18 would be the biggest concern when you are
19 burying waste, and we have been monitoring
20 groundwater for ten years. Four times a year
21 we sample 76 monitoring wells. We have never
22 had any groundwater contamination. The
23 penalties that have been assessed, which is
24 different than penalties that have been paid,
25 the penalties that have been paid were

1 primarily for paper work problems that because
2 of -- and without trying to make excuses, as
3 Chuck said, the regulations are coming down so
4 quickly at both levels, the state and federal
5 levels. We must comply; we are regulated by
6 both.

7 In terms of those not paper work-
8 related, we were finally relieved of those
9 penalties. Where they are still pending, none
10 of them are charging harm to the environment
11 or our employees or those living around our
12 facility.

13 BY DR. FORD:

14 Q. Mr. McDermott, the facilities that
15 you mentioned, Magnolia, and later you talked
16 about lead.

17 A. Right.

18 Q. Would you care to comment on whether
19 or not you think there is any danger to
20 citizens of Ouachita Parish as this
21 controversy in North Louisiana unfolds?

22 A. Right. I am really glad you
23 mentioned that. I don't come from a technical
24 background but from what I understand, those
25 lead contaminated soils have been

1 characterized as nonhazardous by the
2 Department of Environmental Quality, by
3 namely, U.S. EPA, by our chemists at the site,
4 et cetera. It is within our permit there to
5 accept nonhazardous industrial waste, so
6 adding those elements together, I have some
7 degree of assurance that they can safely be
8 managed at that landfill. What I think is
9 interesting is that those soils are coming off
10 a playground in a black neighborhood in
11 Dallas.

12 Now, where should that lead be? In a
13 safely permitted landfill? Or in the
14 bloodstream of those kids who have no place
15 else to play? I think that is an
16 environmental racism issue, and I think that
17 is the system working correctly, and I am
18 curious to see some of the political
19 leadership in Louisiana and the town of Monroe
20 to speak up for that.

21 Q. But they are more likely to say it
22 should be in some safe landfill in Texas?

23 A. Well. That is fair. We can call it
24 interstate issue. From what I see, there are
25 some subtitle B landfills in the State of

1 Texas who also have in their permit that they
2 can accept nonhazardous industrial. EPA put
3 that contract out to bid. We bid it, some
4 Texas people bid and some Oklahoma companies
5 bid. We have people low bid. That is
6 commerce at work.

7 MR. BAKER: Constitutionally you
8 can't stop it.

9 DR. FORD: You are the lawyer.

10 MR. KUTCHER: All right. Go
11 ahead.

12 MS. MEYER: Whether it's lead or
13 what, that facility has been operating for a
14 number of years to accept nonhazardous waste,
15 and been operating well. It has received
16 probably similar waste in its life and with no
17 threat to the residents that live near there.
18 This is really more of an emotional issue for
19 those individuals because it's a large volume,
20 and feel it's wrong that it's coming from
21 Texas. It's the State of Texas, why don't
22 they take care of their own waste. That
23 happens in every state of the union. I am
24 sure Chuck can respond to that but, because we
25 operate in all 50 states, there is always a

1 tendency, it doesn't matter what state you go
2 to, to want to put up barriers around your
3 state. The importation of waste is always
4 controversial issue, whereas the exportation
5 of waste is never discussed.

6 MR. MCDERMOTT: Right. I am sure
7 we take large volumes of Louisiana's hazardous
8 waste that can only be treated by incinerator
9 to Port Arthur, Texas.

10 MS. MEYER: That facility is
11 permitted to burn PCB waste of which we have
12 no facility in Louisiana to handle PCB waste,
13 too.

14 DR. FORD: We appreciate that,
15 too.

16 MR. MCDERMOTT: That is where
17 leadership comes in.

18 MR. KUTCHER: The next speaker is
19 Robert S. Miller. Mr. Miller represents
20 Rollins Environmental Service which operates a
21 waste management facility in North Baton
22 Rouge.

23 DR. MILLER: I am Robert S.
24 Miller, president of Market Research and
25 Issues Management, a waste management facility

1 located in Baton Rouge, which is a consulting
2 firm for Rollins, and I prepared the response
3 to the IT questions for Rollins, and I have
4 participated in five hearings in Louisiana of
5 the clients associated with these issues, and
6 I have an ongoing relationship with Rollins
7 Environmental Services with regard to its
8 community response program, so they deemed me
9 as the most appropriate person.

10 Unlike the previous speaker -- I just
11 left his colleagues in Washington. I was at
12 the hearings regarding the radiation issue for
13 Congressman George Miller of the House
14 Interior Committee -- I have not had a chance
15 to be with you the last two days. I am sorry
16 I did not. I think the balance of the issues
17 discussed here are significantly more
18 important than the ones discussed here in
19 Washington. Why does 'nt it surprise me?

20 MR. KUTCHER: The Peter Principle
21 at work.

22 DR. MILLER: I have distributed --
23 I promise you I will not read -- 20 pages of
24 the statement. Dr. Ford has heard me speak
25 before and his eyes went wide like this at my

1 ability to believe rattle on. As I was
2 saying, I would like to very briefly go over
3 the materials that we provided.

4 Rollins operates three principal
5 facilities in the United States: One is in a
6 township in New Jersey and another in Deer
7 Park, Texas outside of Houston, and one in
8 Baton Rouge, Louisiana. The facilities in New
9 Jersey and Texas are in almost exclusively
10 white neighborhoods. The facilities in Baton
11 Rouge imported by predominantly black
12 neighborhood; and I have the specific
13 information I will discuss regarding that in
14 terms of very detailed demographic analysis we
15 have done up there in community patterns over
16 the years.

17 But I just want to reenforce probably
18 what you heard the last two days. I had the
19 privilege of working with the Louisiana
20 Chemical Association in preparing their
21 statement and we went over in some detail the
22 siting criteria that companies use in making
23 determinations, and those same criteria that
24 you have heard many times during the last two
25 days of testimony applied to us, as well as

1 well as sound business practices which are
2 totally color blind and not driven at all by
3 any kind of racial agenda, and I certainly
4 find that approach to be repugnant.

5 I wanted to give you two pieces of
6 information before I talk about others thing.
7 One is an association with the North Baton
8 Rouge Emergency Response Task Force we are
9 involved with. What we are going to be doing,
10 a consortium of 14 companies, developed an
11 emergency response capability in the northern
12 portion of East Baton Rouge. Twenty sirens
13 will be installed throughout North Baton
14 Rouge. Each siren will cover a two-mile
15 radius and will automatically warn citizens in
16 the event of an emergency. Two or three
17 sirens will be (unintelligible) adjacent to
18 the Rollins Plant.

19 Secondly, a new computer based
20 automatic dialing phone system will be
21 installed to cover the same industrial area.
22 In the event of emergency, residents would be
23 phoned immediately with emergency
24 instructions. The calls or special message.
25 Then we are also working in conjunction with

1 these 14 other companies in terms of education
2 program.

3 I am going through this because as
4 Rollins is basically the size, to put into
5 perspective, it will fit in the parking lot of
6 most of the major chemical, industrial
7 refineries in Louisiana. It's a very small
8 operation. The Alsen Center, Lincoln Heights
9 areas that it borders that it's close to is
10 surrounded by 14 industrial -- major
11 industrial plants. It's bordered by the large
12 municipal landfill swamp, a Superfund site,
13 Petro Processors, a paper mill and whatever it
14 is the residents of Alsen will discuss. They
15 live in a highly industrialized area and
16 Rollins committed to be a full partner
17 participating in the development of credible
18 programs that will assist those neighborhoods.

19 As part of doing that, we have made a
20 very very strong commitment over the last
21 three years since I have been working there to
22 interact with people of Alsen community. We
23 provide funds for food bank for senior
24 citizens, ongoing funding for the community
25 action, for environmental organization which

1 is a local board of community citizens that
2 meet, just not on environmental issues, but a
3 whole range of social and quality of life
4 issues affecting these three small
5 communities. We contribute funding and
6 resources supporting job fairs that are held
7 in conjunction with KQXL, a local radio
8 station. Also contribute fund and resources
9 for health fares, health screening and
10 monitoring.

11 In addition we donate food to provide
12 Thanksgiving and Christmas parties for senior
13 citizens, and we have a very strong and a very
14 special relationship with the Alsen Headstart
15 Program. We are constantly doing things. We
16 strive to involve our staff with children
17 there. Including black history workbooks to
18 area schools. We make improvements to parking
19 lots at the Alsen churches. During a recent
20 cold snap, we donated 20 space heaters to
21 classrooms in the Alsen Headstart Center. We
22 are constantly funding programs in the
23 neighborhood schools.

24 We don't really talk about this very
25 much, but when Mrs. Robinson interviewed me,

1 she was particularly interested in these kinds
2 of activities. We think these are thing right
3 things to do. We do this because we want to
4 be a responsible citizen. We don't think that
5 we need to do kind things for others, we don't
6 feel any kind of responsibility on us to act
7 according to these regulationses and these
8 laws. We think these are the right things to
9 do and want to be a very active participant in
10 the Alsen communities.

11 In addition to these direct person to
12 person programs that we have been operating,
13 we also have some broader programs which are
14 targeted primarily towards children and
15 primarily towards more disadvantaged children.
16 The first of these is Operation Red which is a
17 program at local elementary schools that
18 teaches children about recycling and drug
19 abuse. What we do is in conjunction with BFI
20 and ALCOA, we set up collection centers at
21 thes schools and the kids bring cans to the
22 schools and BFI hauls them to ALCOA and ALCOA
23 recycles the cans, and there is money. We
24 provide the underwriting funding for all of
25 this. Twenty-seven thousand children that

1 participated in that program for last year.

2 This year we started a program, and
3 we are a cosponsor of the program which allows
4 14,000 fourth and fifth grade students go to
5 the symphony and participate in the arts and
6 those kinds of things. The program I am most
7 proud of is the Blues in Schools Program.

8 Where we are very fortunate in Baton Rouge to
9 have one of the (inaudible) nation's Blues
10 Festivals. What we do is, when we look at the
11 demographics of this, it really does not go
12 out the community. What we have done
13 essentially instead of an outreach program, we
14 are bringing blues artists to schools,
15 primarily minority neighborhoods, primarily
16 the areas around Rollins where kids would have
17 a chance to interact with those artists and
18 perform at the Blues Festival.

19 In addition to this, Rollins adopted
20 a high school, and we have approximately one
21 to one learning staff to participate in
22 activities, and this year we have started with
23 Channel 9, a CBS affiliate in Baton Rouge, a
24 major sponsor of family works television
25 series, a series of vignettes and be specials

1 promoting family values and the like.

2 Further plans are underway at Rollins
3 to develop a travel environmental classroom
4 which would be an 18-wheeler rig housing the
5 theatre for a class of 36 students. We will
6 have a movie that teaches about our
7 environment, recycling, explanations of where
8 this waste comes from, technology disposals.
9 Hands on exhibits, displays that teach about
10 the environment. This program will travel to
11 the schools, environmennal expos, libraries,
12 visitor center, the Rollins Plant. And so we
13 are making a very strong effort to communicate
14 to be available and participate and have one
15 of the most open facilities in the country, in
16 terms of trying to give people a tour when you
17 want to go out there.

18 I wanted to put those things in the
19 record in terms of we are making a very strong
20 commitment. We don't talk about a lot of
21 these things a lot but we have been asked
22 specifically to comment on these things.

23 Let me talk a little bit about
24 permitting. Rollins has gone -- is in the
25 process of a six year going on seven-year

1 exercise in receiving a final operating
2 permit. For the first three years of that
3 exercise, the professional staff of the
4 Department of Environmental Quality reviewed
5 every aspect of Rollins operation. Its
6 compliances, the geology, its technology, what
7 we propose to do, what it is doing, in some
8 detail. The result of that three-year
9 investigative -- and I would not characterize
10 it as adversarial. I would certainly
11 characterize it as rigorous analysis what we
12 wanted to do resulted in the issuance of a
13 draft permit by the DEQ staff. There was then
14 two years of -- I will characterize --
15 adversarial adjudicatory hearing that
16 followed. That where every semicolon, every
17 aspect of that draft plan developed by the
18 DEQ's own staff was subjected to the most
19 rigorous challenges.

20 After two years of that evaluation,
21 the hearing officer selected independent of
22 Rollins selected by Dr. Templet ruled
23 basically -- and as a matter of fact, provided
24 everything that was in the DEQ's staff's plan.
25 Following that for 18 months, the DEQ, Dr.

1 Templet had the recommended permit by the
2 hearing officer under review which resulted in
3 a final draft plan being issued, I think it's
4 in the first quarter of 1991. That plan
5 itself is new now being looked at in terms of
6 clarification of technical operations and
7 typographical errors and the like. I go
8 through that by way of saying and probably in
9 my experience, in 20 years I have been
10 involved with these kinds of companies,
11 Rollins has been subjected to probably the
12 most intense scrutiny and evaluation of its
13 operations of any corporation I have been
14 associated with and I have been associated
15 with most of the corporations that I have been
16 involved with Louisiana Chemical Association
17 here and in other states.

18 One of things I feel very comfortable
19 about is we were subjected to tremendous
20 scrutiny regarding the IT issues, and we spent
21 a great deal of time. Much of the materials I
22 am presenting to you today are materials that
23 we generated, specifically for those IT
24 hearings and they were accepted by and
25 approved by the hearing officer in the

1 district court and prepared by people who have
2 been accepted as experts in adjudicatory
3 hearings and in federal district courts as
4 experts in these matters. The importance of
5 this is that we have I think the most
6 stringent standards in terms of the net effect
7 and net contribution we have to our local
8 regional and state economies, environmental
9 orientation and programs. And we also fill a
10 very, very important role. As part of the
11 Superfund Bill, there is a provision called
12 capacity assurance which is detailed right
13 along quite a bit in that report. It's very
14 important. It is the intent of Congress that
15 states permit waste disposal facilities that
16 will take care of the waste generated in their
17 states so that new Superfund sites do not
18 develop. Rollins is the state's -- is the
19 central part of the state's capacity assurance
20 plan. Without that assurance, the state is
21 unable to -- or would be unable to receive
22 Superfund dollars to other sites. So it is
23 very important that we have this, and it is
24 recognized by Congress and it is recognized by
25 state government and the like that Rollins

1 plays a critical role, not only in the state's
2 manufacturing complex, but also in terms of
3 remediating existent problems. Looking at our
4 economic contributions, we took every company
5 in Louisiana that is our customer and we found
6 it by their zip code and then we looked them
7 up and demographically found the employees
8 thgat work for them. We found that 60,000
9 people are employed by companies in Louisiana
10 that use Rollins services. If there wasn't a
11 demand for our services here we simply would
12 not be here. It is very important that there
13 is a credible, safe reliable procedure to
14 dispose wastes here and that is our role.

15 I have detailed information about our
16 payroll, our net contributions. I will be
17 glad to go through those things if you would
18 like. The other thing I wanted to emphasize
19 size also, is we hired R and W Russ and
20 Aassociates, one of the state's and nation's
21 most distinguished real estate appraisal land
22 and economics consulting firms to look at a
23 differential effect of Rollins operation on
24 housing values proximate to the site.

25 On page 18 of your report, there is a

1 rather detailed description of how this was
2 done. Basically looking at sales, since these
3 sites since these subdivisions were created.
4 What happened since Rollins was there since
5 1969. And they took similarly situated
6 controlled subdivisions that are similar in
7 every aspect except they are not proximate to
8 a hazardous waste site. And look at what
9 happened at housing values. Again in your
10 comment on page 18. The conclusion of Russ
11 and his associates was there was no indication
12 based on the above research there has been a
13 diminishing of property values within a one
14 mile radius of Rollins Environmental Services
15 that could be attributed to the proximity of
16 the plant. In fact, new houses are still being
17 constructed in the area. 75 percent of the
18 people that live proximate within two miles of
19 our facility have moved there since the plant
20 opened its doors in 1969.

21 Our payroll is six million dollars a
22 year. Our employment practices. There is a
23 whole section here that deals with all of our
24 economic impact, input, output and our rules
25 models. I could talk about that. I am sure

1 you have heard a lot of that today. I will be
2 glad to answer any questions.

3 MR. KUTCHER: Thank you.

4 DR. HICKS: I have lots of
5 questions but I am going to confine it to one.

6 Q. In the statement, there is a comment
7 here about the human cry of the residents in
8 that area because of illegal dumping of
9 radioactive materials. I would like to hear
10 your comment about that, but I want to also
11 let you know that I know about Rollins very
12 well because I work at Southern University, I
13 know that area where Rollins is located. I
14 have seen it expand, and I could describe a
15 bunch of other things that may be a problem,
16 but I could. I know that elementary school
17 that is there. I know the people who live all
18 around in that area. I have some sense of the
19 income of those people within that area. I
20 know something about their criticisms. I know
21 we have them often on the campus and can
22 hardly stay there. But my concern is about
23 that particular situation, if you can help me.

24 A. Certainly. Since 1981, 14 Department
25 of Energy facilities around the country have

1 shipped hazardous materials from their weapons
2 nuclear sites to 11 companies around the
3 country. Rollins is one of those companies.
4 The way the system is organized is that the
5 Department of Energy contracts with certain
6 companies to operate weapons plant or the
7 Savannah River, Oak Ridge, laboratory,
8 whatever it might be. Those contractors work
9 under the supervision of NEPA, the Department
10 of Energy and their rules and regulations.
11 Rollins entered into a contract in 1981 with
12 Department of Energy and various entities. It
13 was very clear in that contract that we are
14 not permitted to take radioactive waste.
15 There is some naturally occurring radiation in
16 materials, and there are certain exemptions
17 from that rule, but basically -- Brazilian
18 nuts, for example, have a lot of radiation.
19 And we have been very clear from 1981 until
20 1987, constantly advised the amendments to the
21 contracts that we were not permitted to accept
22 radioactive waste.

23 In 1987, the Y 12 Plant in Oak Ridge
24 started shipping Rollins materials that were
25 slightly -- with diminuous amounts, very, very

1 small amounts of special nuclear materials,
2 enriched uranium 235. There is no cutoff on
3 that waste. In other words, there are various
4 cutoffs that Martin Marietta used. They cut
5 off of 32 peak off curry (phonetic) which is
6 ten percent of the 38 percent of the limit
7 that the Department of -- NCRC establishes.
8 The issue is not that we took waste that is
9 radioactive. The issue for us is that we took
10 special nuclear materials. How did that
11 happen? I have just -- this morning I heard
12 the president of Martin Marietta publicly
13 apologize, and Martin Marietta Systems,
14 publicly apologize and take full
15 responsibility in the hearing before
16 Congressman Miller.

17 So, what my best understanding, I
18 have that testimony with me. I have our
19 testimony, testimony of representatives of
20 Chemical Waste Management that received some
21 of the waste from Carlyss facility. I don't
22 know if you were there, but some other
23 companies. And I have their testimony.
24 Basically what happened is Martin Marietta was
25 so concerned about the 32 peak off curry

1 cutoff, which is the radiation level cutoff,
2 that they really didn't take the time to
3 understand or just did not know that they
4 could not -- even if the most diminuous
5 amounts, one atom of U 235 -- that is what
6 they shipped.

7 To further compound the problem, on
8 their own -- their interpretation of the
9 Federal Atomic Energy Act of 1954, they
10 deleted information for technical analysis
11 sheets submitted to Rollins as part of the
12 waste data sheet, that would include the
13 information that U 235 was in the waste. The
14 reason why that information is deleted is part
15 of national security.

16 If you know what is in the waste, you
17 can reverse engineer to find out what the
18 process is and to what degree the material is
19 enriched on and on and on and on. That was
20 the reason. I was explained, and I
21 understand, is that the security side at
22 Martin Marietta knew that things were being
23 whited out, but the environmental control
24 side, the people responsible for waste
25 disposal did not know.

1 So, Rollins receives approximately
2 5,000 tons of waste. We don't know how much
3 of that was contaminated with U 235. To put
4 it in perspective, we took 5,000 tons of waste
5 over an 11-year period. Last year alone in
6 our three facilities nationwide, we took
7 200,000 tons of waste from all sources, so you
8 can see 5,000 tons, over one percent less than
9 one percent of our total what we are doing.
10 What the Department of Energy did is they
11 said, okay, let's assume that all 5,000 tons
12 of waste that Rollins received was
13 contaminated to the maximum point we found in
14 any of the waste. We don't know if some of
15 the waste came from nonradioactive control
16 areas. They don't have information on it.
17 Let's make the assumption that if all of that
18 5,000 tons of waste received by the Rollins
19 plant in three sites, not just in Baton Rouge,
20 was contaminated amount. What was the net
21 effect? We assume that it's destroyed,
22 incinerated all at the same time. What
23 happens with waste is it's blended with other
24 things for technical reasons in terms of burn
25 rates or whatever. It would be highly

1 unlikely all of that waste would be destroyed
2 all at the same time.

3 In other words, it would be diluted
4 in other waste. The computer modeling and
5 they hired LSU to do the same thing. Every
6 university professor in Louisiana is making a
7 lot of money studying this right now. But
8 they looked at that and have done two studies
9 that have been completed, and basically they
10 found that the maximum exposure to a worker
11 would be one tenth of one percent of one
12 milligram which is -- I flew from Washington
13 to Baton Rouge, I think that they calculated
14 that I was exposed to 40 milligrams of
15 radiation. You now have as much information
16 as I have.

17 When Rollins found out that we had
18 received some waste U 235, what happened is a
19 couple of these sheets, thousands of pieces of
20 paper were not whited out. They had that
21 information on it. We immediately suspended
22 receiving waste from any DOE site, even though
23 only one site was implicated in providing the
24 U 235, the enriched waste. Subsequently the
25 Department of Energy put a moratorium on waste

1 from radioactive controlled materials. Does
2 that answer your question?

3 DR. HICKS: Thanks. You dumped
4 it, though?

5 DR. MILLER: I am sorry?

6 MR. KUTCHER: It was received?

7 DR. MILLER: I think I explained
8 that.

9 MS. ROBINSON: I just have one
10 question to follow up on that.

11 Q. Were any special procedures put in
12 place to insure that that does not occur
13 again?

14 A. Yes. As part of this rather
15 elaborate permitting process that Rollins has
16 gone through, we had on our own volition,
17 there is quite a bit of controversy, quite a
18 bit of concern in Louisiana concerning
19 radioactive waste, primarily the refining
20 aspect of it, refining process aspect of it,
21 but we had been in discussions with the DEQ in
22 terms of establishing regulations right at the
23 time all of this happened. And we established
24 procedures and increased monitoring and more
25 communication with waste generators, not just

1 for all DOE but all waste coming into
2 Louisiana to make sure this doesn't happen.

3 The important thing and I want to
4 stress this. The thing we have been concerned
5 with from day one is, is there any risk to
6 anybody's health on the basis of what has
7 happened. The independent experts deal with
8 the contract itself and others have concluded
9 there is absolutely no risk. Does that
10 assuage people's concerns? We talked a little
11 bit about fear and why? I don't know. I
12 think that is one of the reasons why we have
13 been so open about talking about this and
14 taking leadership position in trying to find
15 solutions to these problems and working with
16 DOE, is that we know the only way that we can
17 deal with that fear is to be open and honest
18 and very aggressive in solving this problem.

19 MR. KUTCHER: Thank you, Dr.
20 Miller.

21 Our last speaker is Lionel Bailey
22 Mr. Bailey is the manager of environmental
23 affairs and safety for the St. John Project
24 for Formosa Chemicals. For those of you that
25 have been here for the last couple of days, we

1 have heard a lot of people speak about the
2 Formosa project in St. John the Baptist
3 Parish, and we welcome Mr. Bailey's comments.

4 MR. BAILEY: Before we begin, I
5 would like to express my appreciation to the
6 commission for allowing me to speak on such
7 short notice. Thank you.

8 My name is Lionel Bailey, and I am
9 employed by Formosa Chemical and Fiber
10 Corporation as the environmental manager for
11 the Formosa Wallace site. Some times it's
12 hard for me to separate myself as an employee
13 from the community of Wallace, for I am also a
14 resident of that community. In fact, my dad
15 purchased the Wallace post office and I have
16 lived there at that location all my life. My
17 present home is exactly 1.1 mile from the
18 proposed Formosa site. When I mentioned my
19 dad purchased the post office in '68, that in
20 itself tells me of a dying community from two
21 post offices to one. From two districts with
22 representation on the parish council to one.
23 Now, there is not enough voters on the west
24 bank to have one district. But by the next
25 election, our council would have to seek votes

1 on the east bank to help make up his district.
2 In my lifetime, I can reflect on, once a
3 thriving west bank, now to a dying west bank
4 with any industry locating there.

5 Within this presentation, I will try
6 to speciate the two -- Formosa and the
7 community. I am the first and the only
8 employee to date for this project. I have
9 been an employee for approximately 18 months.
10 Previous to that I worked for consulting
11 firms, DEQ, and industry with 17 years of
12 environmental experience.

13 Prior to Formosa locating in Wallace
14 and Point Coupee Parish, the local politicians
15 that represent these areas, not all white, I
16 am sure, went to Taiwan to visit similar
17 facilities. Their responses were
18 overwhelming -- We want Formosa.

19 In addition I visited Taiwan and
20 spent one month and two days there. As an
21 environmentalist visiting over five facilities
22 in Taiwan and the communities that surround
23 this facility, I can say with no reservation,
24 if Formosa spends half the amount of dollars
25 in the community of Wallace, we will have

1 reality.

2 Issues mentioned yesterday regarding:
3 dioxin and chloroform, no local jobs,
4 advertising across the nation for this rayon
5 plant, and preservation heritage. Need to be
6 brought up again; however, with facts given.
7 Often people get perception and reality
8 confused. Often what is real is not real --
9 only what one perceives to be real.

10 Here are the facts. Hiring local
11 minority -- If there is no commitment by
12 Formosa to hire the local minorities, then
13 excuse me for being white. The reality is
14 Formosa at this location intends to have 1,000
15 employees. Unlike what I have seen in my
16 previous work experience, certain criteria
17 will have to be met. Most of the in plant
18 jobs would require an individual to be tested
19 and score a 10th grade level reading and math
20 skills -- unlike what I have seen in the past.
21 There is a remediation program established
22 with the local school system, JTPA and the
23 local parish governing body that will aid
24 individuals to get to that level. With a
25 similar program in Pointe Coupee, Formosa has

1 hired 155 local people, only one outside the
2 parish line because of needing instrumentation
3 skills.

4 Pollution and information of dioxin
5 and chloroform: Yesterday Mr. Fontenot
6 indicated public pressure forced the evolution
7 of an Environmental Impact Statement, and this
8 is a first for Louisiana. Briefly, the
9 Environmental Impact Statement is a third-
10 party document required and directed by EPA
11 when a project of such a magnitude has a
12 significant impact on land use.

13 The purpose of an EIS is to provide
14 full disclosure of the proposed action and its
15 associated impacts. The EIS is a tool for
16 public input into the decision making process
17 of a permit issued.

18 Based on available information to EPA
19 regarding Formosa's plans a joint decision was
20 made with Formosa to assist in the development
21 of this EIS document.

22 The EIS evaluates alternative
23 technologies, environmental impacts, reviews
24 existing environment, reviews air quality,
25 reviews land use/productivity, reviews

1 cultural resources, evaluates social
2 economics, reviews global issues, and reviews
3 cumulative impacts.

4 Once the documents are completed
5 after the public input, EPA makes a decision
6 to either issue, deny or issue a permit with
7 various constraints and conditions.

8 This EIS process is part of the
9 National Environmental Policy Act, (NEPA),
10 which is more than a procedural policy. It's
11 a federally enforceable document.

12 Prior to obtaining any permits,
13 Formosa is required to do a comprehensive
14 assessment of compliance with federal
15 regulations. This assessment requires a
16 complete analysis of our proposed facility
17 against numerous environmental statutes and
18 regulations.

19 It would be ludicrous for Formosa or
20 any industry to spend the millions of dollars
21 necessary to do this assessment without
22 intending or complying with federal and state
23 standards.

24 Unlike what Mr. Kip Holden mentioned
25 yesterday -- being able to close facilities.

1 My previous experience with DEQ has allowed me
2 to see this happen for noncompliance
3 industries. There are various options that
4 can be exercised by either the stating
5 agencies, EPA, or local citizens.

6 Formosa's air emissions are going
7 through what is called a PSD review --
8 Prevention and Significant Deterioration. In
9 this review, an industry's potential
10 pollutants are reviewed against federal and
11 state standards based on percentage production
12 tonnage. Not only that planned facility is
13 evaluated, the surrounding existing facilities
14 as well. Should the planned facility cause an
15 exceedance of a potential pollutant when
16 compared to the nearby industry, a permit
17 won't be granted.

18 Yesterday Miss McDade -- or actually
19 this morning -- asked a question about injury
20 involving a policing type atmosphere if where
21 Formosa is going to locate in the Wallace
22 area. There is something called River Parish
23 Environmental association. It's made up of
24 about 20 industries. This is where you are
25 compared with other industries for some of the

1 same type of pollutants, and we spent over
2 \$28,000 to join that organization.

3 The existence of chloroform and
4 dioxin, this is another untrue statement and
5 if anybody wants to review the data that
6 proves this, you can contact us. If there are
7 any scientists in the house, you know in a
8 rayon facility, chloroform and dioxin are
9 formed when elemental chlorine is used for
10 bleaching process. Formosa has spent over a
11 million dollars on what they think is the best
12 available control technology. Analytical work
13 done on this demonstrated technology indicated
14 there won't be any chloroform or dioxin
15 generated. The dioxin and chloroform levels
16 have been determined to be below the detection
17 limit as reviewed by some of the best U.S.
18 laboratories.

19 Advertisement for jobs around the
20 nation for this rayon plant -- another untrue
21 statement. Formosa advertises for jobs where
22 plants are located to fulfill that particular
23 facility's needs. We have plants in several
24 states. No advertisement has been done for
25 this rayon plant cause we don't have permits.

1 Preservation of the heritage. This
2 is where my heritage is as well. Let's talk
3 about heritage. Here in Wallace you won't see
4 a typical rural area. This area is poor and
5 underdeveloped -- no ambulance service. You
6 can't afford to get sick after eight o'clock
7 at night. No sewerage system, a poor school
8 system, one grocery store and poor drinking
9 water quality. This area once seen, one will
10 say, yes, this is the way it was a hundred
11 years ago and by God, nothing has changed.

12 Prior to purchasing river front and
13 right of ways up river from the actual Wallace
14 plant site done merely to access deep water,
15 we conducted a survey in community of Wallace.

16 Again, we had a concern. The
17 concern was based on perception. What will be
18 perceived by the media. Formosa is building
19 and surround. After seeing how other
20 companies were being scorned for the buyout of
21 communities, we initially thought buying the
22 community was not a good idea.

23 To better understand what the
24 community was thinking, we initiated this
25 survey. We explained the idea to the

1 community and our plant coexistencing and how
2 there is a perception to preserve your
3 heritage. Ironally the response given by 99
4 percent of the small community -- 18 houses,
5 ten mobile homes, one small church and what we
6 used to call a society hall, the response was
7 "I want to get out of here, sell and move to a
8 better community."

9 The news media, the outsiders and the
10 one percent of the local population has given
11 an erroneous message. The facts are just the
12 opposite. The people in living in Wallace and
13 the entire west bank of St. John want and
14 welcome Formosa only to have a more realistic
15 community and not to think of reality only
16 when you cross the river.

17 Formosa has made a commitment to
18 environment in Baton Rouge. Let the record
19 show Baton Rouge has an excellent
20 environmental history, and the Delaware plant
21 is now used as a model plant in that state.
22 The Baton Rouge plant also has been involved
23 in voluntary actions to assist the city and
24 DEQ on high ozone problem days.

25 Formosa has shown this kind of

1 commitment to spend dollars up front for this
2 proposed Wallace facility to make sure we
3 install pollution control devices so as to
4 have the advantage over competitors. For we
5 know noncompliance penalties aims at
6 eliminating the incentive to pollute. You pay
7 to solve the problem and you pay for causing
8 the problem.

9 We at Formosa realize that pollution
10 is not an expected by-product of production
11 and with the use of the Best Available Control
12 Technology, this would clearly be demonstrated
13 in Wallace.

14 In closing -- but I have a few other
15 things. In closing I want to say again, let's
16 make certain particularly in the Wallace case
17 that perception is not viewed as reality. As
18 an environmentalist, it concerns me that each
19 emotionalism and subjective statements carry
20 more weight than thorough objective and
21 critical scientific analysis. If this
22 continues, we won't ever attain common goal of
23 bettering health for our citizens. I am of
24 the opinion, that if reasonable and
25 scientifically sound procedures are employed

1 in quantifying the risk of the environmental
2 hazards, Louisiana will continue to enjoy the
3 benefits of histories and communities
4 coexisting.

5 I have a crude videotape that was
6 prepared just yesterday afternoon by my wife.
7 I say crude because we are not a Dow Chemical.
8 I would like to have this played so I can give
9 you a pretty good understanding of what the
10 community of Wallace looks like. This is the
11 batture or the front of Formosa's site. This
12 is Formosa's own land used primarily for sugar
13 cane. In the background, you see a fence, and
14 that fence surrounds 40 acres of the actual
15 plantation site. Because on the NEPA Section
16 106, we have to somehow preserve or mitigate
17 destruction of that particular site.

18 DR. FORD: Is that still Wallace?

19 MR. BAILEY: That is all of
20 Formosa's property and the River Road right
21 there. Most of that land still farmed is
22 sugar cane.

23 MS. ROBINSON: Do you show where
24 the plant is going to be built?

25 MR. BAILEY: That is exactly where

1 it will be built. Beyond the fenceline toward
2 the railroad tracks.

3 MS. ROBINSON: But across the
4 street from homes?

5 MR. BAILEY: You will see a few
6 homes are upriver from the site. What you see
7 there is the plantation site itself, the
8 caretaker's home and the old company store.
9 Based on the NEPA process, we can't go in and
10 tear this place down. What she really gave me
11 was a good showing of that plantation site.
12 For security reasons we had to put in that
13 fence. A lot of historians were going to the
14 property once it was sold, and it didn't have
15 a good security system. And we are moving
16 some of the historical pieces of property.

17 MS. ROBINSON: Obviously there is
18 a split in the community on this. Some for,
19 some against?

20 MR. BAILEY: 99 percent for and one
21 percent against. Unfortunately the one
22 percent against Formosa is merely because of
23 negotiations for the buyout of their property.
24 We had planned on purchasing 1800 acres of
25 land. We had purchased everything except 37

1 acres.

2 MR. KUTCHER: While we are looking
3 at this, how do you respond to what was talked
4 about earlier this morning about offering the
5 front end and the back end and making
6 everybody keep the middle?

7 MR. BAILEY: What I would like to do
8 is get into it a little bit later.

9 DR. FORD: Only one land owner
10 holding out?

11 MR. BAILEY: Three. You will see
12 the building Mr. Greene alluded to this
13 morning as being the first black school in St.
14 John Parish. I am 40 years old and, as long
15 as I have been living, it's been called the
16 Society Hall. It may have been a building
17 where blacks were taught, but I don't know.

18 MS. ROBINSON: How many residents?

19 MR. BAILEY: In that particular
20 area surrounding we have 18 homes, ten mobile
21 homes, one church and one society hall.

22 MS. ROBINSON: And all of the people
23 agree with the exception of three people that
24 are holding out?

25 MR. BAILEY: And only holding out,

1 as I mentioned, because of the purchase price
2 of land. This is River Road, pretty much
3 traveled every day. That is substandard.

4 DR. FORD: Highway 17

5 MR. BAILEY: No, LA 18. That
6 street is right adjacent to our property. You
7 just passed Mr. Greene's house. That is right
8 adjacent to Mr. Greene and a few other
9 people's home -- the wooded area, the wetland
10 area. This is our bridge to nowhere. As a
11 matter of fact the contract is going to be let
12 out next month to buy the land on the west
13 bank for the down ramp. The east bank is
14 completed.

15 MS. ROBINSON: Is the total
16 community moving to one specific location or
17 people just going different directions?

18 MR. BAILEY: Just going in
19 different directions. That is the school, the
20 old abandoned school we purchased as well.

21 MR. KUTCHER: Anything else on
22 here different than what what we have seen?

23 MR. BAILEY: No. You can stop it.

24 BY MS. ROBINSON:

25 Q. There has been initial support for

1 the plant being there, initial support by the
2 community?

3 A. Yes. Let me explain something in
4 that video you saw. The Whitney Plantation
5 and upriver you saw the community of Wallace.
6 Initially when Formosa purchased the Whitney
7 property, they had to seek property upriver
8 for deep water. And in purchasing this
9 property, Mr. Greene talked about the zoning
10 this morning. In purchasing this property, we
11 purchased it with the plantation site, and we
12 purchased batture river front and right of way
13 out back upriver to a street called Seventh
14 Street so we can have access to deep water.
15 And I explained to Mr. Andre when I first got
16 hired in Formosa. In a public hearing, I can
17 defend the restoration of the Whitney
18 plantation site because is part of the
19 Environmental Policy Act and federal law, but
20 I could not defend buying property on both
21 sides of the community of Wallace without even
22 offering or giving these people the option to
23 sell because it will be perceived as
24 surrounding a poor black community. After
25 some talking, I convinced them to let me do

1 this survey, and I went in and did the survey,
2 and 99 percent of the people of the community
3 want to sell, want to get out.

4 Q. Can we get the result of the survey
5 you conducted?

6 A. Yes.

7 Q. How long have you been employed by
8 the company?

9 A. 18 months.

10 Q. Okay.

11 A. The question you asked earlier about
12 the land sale, we had three different
13 scenarios. When we purchased the plantation
14 site, we paid six thousand dollars an acre,
15 and that is because the owners of the
16 plantation site gave us a hundred and 30 acres
17 of the batture. Upstream there was one price.
18 If your land does not come to the River Road,
19 we paid five thousand dollars an acre. If it
20 comes to the River Road, it was \$5500 an acre.
21 All of the landowners insisted that we pay for
22 the river frontage by the linear foot. And
23 for deep water we paid \$275 for it and, if you
24 had shallow water, we paid a hundred a foot.

25 The other part I want to mention is

1 this morning you heard about the tax
2 exemption. Yes, the School Board gave an
3 inducement or encouragement to Formosa to
4 locate in the parish of St. John but no
5 different package. But it wasn't to the point
6 where we weren't going to pay any taxes at
7 all. It was a tax break where we would pay
8 only one percent of the total amount of money
9 used during the construction phase and, after
10 construction, we pay a full two percent. So,
11 we had to turn it over to the School Board
12 members, and they didn't understand the
13 process so they just reneged on the tax
14 credit. After a week or so, they decided they
15 would give it back to us after they got the
16 process explained to them.

17 The other thing I want to mention, is
18 there was a question asked about environmental
19 activists this morning having meetings in the
20 community and not inviting the company. Yes,
21 there has been environmental activism in the
22 community at Wallace. That is why the
23 community is sort of split as well, and they
24 have held meetings and not invited Formosa.
25 As a matter of fact I went to one meeting

1 where they had a press conference, and I
2 wasn't allowed to speak. They were addressing
3 the preliminary draft and impact statement
4 submitted to EPA. The draft and impact
5 statement is preliminary and incomplete. And
6 I went to the meeting to shed some light and
7 facts on what they were actually saying, but I
8 wasn't allowed to speak.

9 MS. ROBINSON: By the group?

10 MR. BAILEY: Advocates.

11 BY MR. BAKER:

12 Q. Could I ask you a question on that?

13 A. Sure.

14 Q. In the statement and testimony of
15 Miss Walker yesterday she has two basic
16 points. One was that Formosa's manufacturing
17 process, as it has been described thus far in
18 an exhibit which she has -- I don't know
19 whether you have seen it -- will involve the
20 discharge of dioxin and chloroform into the
21 Mississippi River. Is she correct?

22 A. That is very untrue statement. Our
23 chairman got this perception. Formosa is
24 small when it comes to upper line management.
25 My boss Mr. Andre works for the chairman. And

1 his thinking is that there is a technology out
2 there that would solve some of our problems if
3 we spend the money and buy it. We spent over
4 a million dollars in Lindsey, Australia.
5 Whenever you apply for NPDS permit, or state
6 water permit you have to do some analytical
7 work on your proposed discharge. We had
8 samples from Lindsey, Australia that we had
9 analyzed here in the states for those various
10 compounds, and they were nondetected.

11 Q. Have you supplied this information to
12 Miss Walker?

13 A. That is a good question. The facts
14 are here. We have them at Formosa. Neither
15 one of the environmentalist activist groups
16 have approached us to do the data as it is.

17 Q. Have you been sued yet by them?

18 A. Not yet.

19 Q. The second statement is that Formosa
20 has had a bad compliance record, and you seem
21 to have contradicted that before. It says,
22 formosa's chemical plant in Point Comfort,
23 Texas was recently assessed one of the
24 stiffest fines in the industry of the EPA:
25 \$3.5 five million for violations of waste laws

1 under the Clean Water Act. Its Baton Rouge,
2 Louisiana chemical facility likewise has an
3 extensive history of violating its permits
4 through toxic releases, and was in direct
5 contradiction to what you said earlier. Would
6 you like to comment on that.

7 A. We have had problems at the Texas
8 facility. Formosa has purchased some old
9 facilities, and rather than shut the
10 facilities down, we have operated and tried to
11 solve the problems. She also mentioned
12 shutting down the Delaware plant. It was shut
13 down by the government. We went in and did
14 what was necessary to correct the problems,
15 reopened, and now its considered a model
16 plant. You mentioned Baton Rouge has had
17 excessive environmental problems. That is a
18 very untrue statement.

19 Q. Could you elaborate on it? You don't
20 have to do it here, if you could supplement,
21 where we could get point and counterpoint. It
22 helps our factfinding.

23 A. Okay.

24 MR. KUTCHER: Okay. Let's see if
25 anybody else has any questions. Anybody else

1 have any questions?

2 BY MS. ROBINSON:

3 Q. What is your position there at
4 Formosa, what is your job title?

5 A. Environmental and safety manager for
6 the proposed Wallace site.

7 Q. For the Wallace site?

8 A. For the Wallace site. In my
9 interview process with Formosa, I was
10 interviewed for the Baton Rouge plant, the
11 Texas plant and New Jersey; and I expressed to
12 Mr. Andre I didn't want to leave St. John
13 Parish and I would rather live still in
14 Louisiana. He says, which would you rather?
15 I said, I would rather Baton Rouge plant. I
16 would take like that job, and hope to move to
17 St. John. Ironically through our negotiations
18 over a period of time, things got moving with
19 the St. John project and DIS got moving.

20 So, when I got hired, the day I
21 started working, he said, looks like things
22 are moving with St. John, we need your
23 assistance with the St. John project. So I am
24 involved in.

25 MR. KUTCHER: I think it was very

1 generous of Formosa to build a plant where you
2 weren't going to stay.

3 MR. BAILEY: I think so, too.

4 MR. KUTCHER: I know you are glad
5 to have made this presentation. I assume
6 there are no individuals who wish to make any
7 further statements for the record.

8 MS. ROBINSON: No.

9 MR. KUTCHER: So, what we will do
10 is we will conclude the presentation of the
11 live statements. As I indicated when we
12 started this process yesterday morning, we
13 would keep the record open for the submission
14 of written information until March the 16th.
15 Following receipt of all that information,
16 this committee will make a recommendation to
17 the United States Commission on Civil Rights,
18 will act on that recommendation, and we will
19 tell you what further action will be taken in
20 regard to this.

21 I want to thank all the participants
22 on the record for their participation, for
23 information they furnished, for educating all
24 of us on this process.

25 I want to thank the court reporter

1 who has demonstrated a great deal of stamina
2 in the last two days, the staff for the
3 commission: JoAnn Daniels, Faye Robinson,
4 Melvin Jenkins; and the members of the
5 committee for participating as well.

6 With that we will adjourn.

7 MS. ROBINSON: And thank the
8 videotape person.

9 MR. KUTCHER: Thank you all.

10 -0-

11 I, SYLVIA C. PASTRANO, a Certified
12 Court Reporter for the State of Louisiana, do
13 hereby certify that the foregoing transcript
14 is true and correct, as reported by me and
15 reduced to typewriting under my personal
16 supervision.

17

Sylvia C. Pastano

SYLVIA C. PASTRANO

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