

1 of SOCM, the original SOCM people, and have been
2 upheld by SOCM people. And my -- my hat is off to
3 SOCM, to you old-timers here and everybody else
4 that -- that helped make this. I -- I wasn't
5 there at the time. But this is why the laws were
6 made because the waters were dirtied and poisoned
7 and foul and the water sources were destroyed.
8 Now the Office of Surface Mining is proposing to
9 change these laws really at the behest of the coal
10 companies which will help the coal companies to
11 operate more cheaply and to make more profit.
12 This is done by every industry year after year to
13 -- to try to cut down the law so they can make
14 their own lives easier, to hell with the
15 environment. And the way they do it is minimize
16 the law, make the language cloudy, and then you go
17 ahead and do what you want and you've got your --
18 your corporate law firm to come in and -- and be
19 arguing for you while you're out there doing what
20 you want profit first and devil take the hind
21 most. I object to this and all other weakening of
22 environmental laws because I would say if our laws
23 are actually today allowing mountaintop removal
24 coal mining, they ain't working, our laws have
25 failed, and I'm afraid we have failed. So I

1 oppose industries and OSM's proposed changes to
2 clean water regulations on the whole across the
3 board. We need stronger environmental
4 regulations, not weaker ones. Thank you.

5 MR. COKER: After Mr. Wunderlich, the
6 next speaker will be LeeAnne Russell. I hope I
7 said that right, the first name?

8 MS. RUSSELL: Yes.

9 MR. WUNDERLICH: My name is Walter
10 Wunderlich. I come down from the mountain and
11 looked out over the Cumberlands and despite the
12 tremendous destruction that has occurred in these
13 mountains, they are still very beautiful. I was
14 also in West Virginia and I saw a place, a gap,
15 where a cemetery is located which was a low point
16 where the road went over the mountain. Today this
17 point is the high point because all the mountains
18 surrounding this cemetery have been removed. Now,
19 if you have not seen this, you cannot imagine what
20 that means. Several hundred feet of mountain have
21 been blown away and valleys have been filled in
22 maybe 300 feet deep, so these valleys are no
23 longer there, it's just a plain. Now, when we
24 hear about this rule, 30 meters or a 100 feet is
25 not a very large distance. This is a minimal,

1 minimal of distance from a stream. Now, to
2 eliminate this rule is almost like a joke because
3 you cannot dump debris right at the edge of the
4 stream without impacting the stream. So, what
5 this means, given all the double-talk of this
6 administration is does it mean that we have to
7 increase the spoil because we don't know anymore
8 where to put it, or does it mean to fill in the
9 valleys so that means we have to make room for
10 mountaintop removal? I think from all that I have
11 heard from this administration this is probably
12 about what it's headed for. This means
13 introducing mountaintop removal into the
14 Cumberland Mountains and this would be extremely,
15 extremely destructive change of the landscape,
16 despite of all the other impacts that it may have
17 on water and the spoils and everything. The
18 landscape per se would be destroyed, and this must
19 not happen. I think it is a frightening
20 situation. Because we need trainloads of coal
21 every day, and these companies are private
22 companies, they want to make a profit, and they
23 want to rip out the coal as cheaply as they can.
24 The government has the task to control this
25 operation, the means to put constraints on these

1 companies to make sure that they do not cause
2 excessive external costs by the operation. Now,
3 if we see a government making -- in cahoots or
4 being in cahoots with the coal companies, then
5 we're in big trouble. And this is I think what is
6 the very dangerous situation because there is no
7 balance. There is the profit on the one side, and
8 on the other hand it's practically a government
9 that supports this entire thing. It's out of
10 balance. So, therefore, I think no rule change
11 should be allowed because the rule right now is
12 bad enough.

13 MR. COKER: After Ms. Russell, the next
14 speaker will be Elizabeth Dixon.

15 MS. RUSSELL: My name is LeeAnne Russell
16 and I'm a retired geneticist from Oak Ridge
17 National Laboratory. I was one of the founders in
18 1966, which is almost 40 years ago, of Tennessee
19 Citizens for Wilderness Planning, TCWP, and our
20 mission statement, the very first sentence, says
21 TCWP is dedicated to achieving and perpetuating
22 protection of natural land and water. It became
23 very soon very obvious to us that there was no way
24 to protect, leave alone perpetuate protection,
25 achieve -- I mean no way to achieve, leave alone

1 perpetuate protection, of our Tennessee natural
2 lands and waters without addressing the question
3 of strip mining which back in the '60s was totally
4 destroying our lands. And we very soon became
5 involved in trying to get State legislation
6 passed. Tennessee at that time did not have even
7 a State law. In '68 there was a weak one. In
8 1972 a stronger State strip mine law was passed.
9 Even back then stream buffer zones were an
10 important consideration. And then we worked very
11 hard on passage of the Federal law in 1977. I was
12 privileged to be invited to the Rose Garden for
13 the signing of that law. We had great hopes for
14 that. And although it achieved a lot, it is far
15 from perfect. And any responsible administration
16 would strengthen the rules that were proposed
17 under that '77 law, at the very least enforce
18 them. It is unthinkable that they should seek to
19 weaken them. The Cumberland Plateau, the whole
20 Cumberland area where our coal is, has just
21 recently been declared one of only 12 echo regions
22 for the whole Americas, North and South America.
23 It is such an ecology superb and significant area.
24 That's the region that strip mining is destroying.
25 Water is our greatest resource and one that's

1 becoming ever more precious. You only need to
2 look at how Georgia is trying to get some
3 Tennessee water or how Crossville is frantically
4 looking at their future water supply. We're going
5 to have less and less water available as time goes
6 by. I think that I'm going to send more extensive
7 written comments. I did not have much time to
8 prepare any oral comments. I'm captivated by the
9 phrase that the rule seeks to minimize destruction
10 of fish and wildlife to the extent possible.

11 This, to me, epitomizes this rule change. I think
12 the rule change and the implied mountaintop
13 removal is an abomination by which OSM and the
14 whole administration will be tainted. Thank you.

15 MR. COKER: As Ms. Dixon comes up, the
16 next speaker will be Ellen Smith.

17 MS. DIXON: I'm Elizabeth Dixon. I'm
18 chairperson of the Tennessee chapter of the Sierra
19 Club. The Sierra Club represents over 7000
20 families in Tennessee. I'd like to thank the OSM
21 for conducting this hearing and allowing us a
22 large portion of the time to speak. I know many
23 of you probably have been to some other hearings
24 where they take two-and-a-half hours with the
25 explanation and leave almost no time for the

1 public. It's what this is about. This is the
2 public's chance to make their opinions known.
3 This proposed rule is a bad idea. It would make
4 mountaintop removal easier and take us back to the
5 days before there was a law regulating strip
6 mining. The proposed rule change would allow
7 companies to mine up to or even through streams
8 and dump mine waste into streams. This rule
9 change will have a huge impact on streams and
10 communities in the state. It will mean more
11 mountaintop removal and will make it easier to do
12 large strip mining projects on the Cumberland
13 Plateau. Instead of stream buffer zone rules, the
14 Bush administration seeks to turn these into
15 stream destruction rules. Under current law
16 mining is prohibited within 100 feet of a stream.
17 This important rule helps protect streams from the
18 worst effects of erosion caused by mining. The
19 Bush administration has proposed a change in
20 stream buffer zone rules. Under the new rule
21 coal companies will be given free reign to destroy
22 streams and fill valleys with hundreds of millions
23 of tons of mine waste. The rule change takes us
24 backwards and threatens our water. For more than
25 25 years the 100 foot stream buffer zone has

1 helped private property owners protect their land
2 from being impacted by strip mining. It has given
3 the public a tool to protect small streams for
4 everyone who lives downstream. Changing the
5 stream buffer zone rule takes us back to the days
6 before there was a Federal strip mining law. The
7 stream that would be destroyed by this rule are
8 where rivers and lakes begin. The rule change is
9 taking us backwards instead of forwards. And
10 stream buffer zone rules are important in mining
11 as well as in clear-cutting. If you've ever seen
12 a clear-cut from the air, you'll see that the land
13 surrounding the streams is a thin vein of life
14 supporting -- just a thin line in a huge landscape
15 of destruction. These thin lines provide
16 corridors for wildlife as more and more land and
17 habitat of wildlife is being destroyed and split
18 up and turned into tiny pockets that are no longer
19 sufficient to support the wildlife. Although it
20 baffles us why a regulating body would want to
21 roll back these rules, it's just a part of a
22 larger picture. The Bush administration has
23 consistently sought to weaken the Clean Water Act,
24 the Clean Air Act, forest protection, wilderness
25 areas, wilderness protection, and -- and to -- to

1 loosen the laws on toxic waste disposal. So it's
2 part of the -- the larger picture and there is
3 one source of it, the Bush administration. Thank
4 you.

5 MR. COKER: Okay. Ms. Smith will be our
6 last speaker before our break.

7 MS. SMITH: Hi. I'm Ellen Smith. I live
8 in Anderson County in Oak Ridge. I have come to
9 this proposal in part from almost 25 years of
10 experience in environmental sciences, much of that
11 focused on water. I have a Master's degree in a
12 water resources management. I focused in
13 reviewing the Federal Register notice particularly
14 on the stream buffer zone portion of this proposed
15 rule. And having studied the proposal, I must
16 express my deepest sympathy to the Office of
17 Surface Mining technical staff. I find this
18 proposal to be an insult to your professional
19 expertise and integrity. The preamble to the
20 proposed rule does include some technical
21 information and reference citations, but it's
22 abundantly clear that the proposal is purely
23 political and it's appalling to contemplate what's
24 gone on here. Charles Comiskey described the
25 proposal quite well earlier. The net effect to

1 the proposed rule would be to say that there is an
2 absolute right to mine coal and obliterate any
3 streams that get in the way of that coal. Reading
4 the proposal, I got the distinct impression that
5 the Office of Surface Mining and the current
6 administration that's obviously calling the shots
7 here thinks that Appalachia has too much water and
8 too many streams. They -- they're proposing to
9 help get rid of some of those streams and to sully
10 a lot of that water by declaring that there's no
11 legal protection at all for streams that are
12 within minable areas or that drain watersheds of
13 less than one square mile. One square mile is a
14 pretty large watershed here in Appalachia, a lot
15 more than a zero order stream, pretty far
16 downstream. The rule would say that outside the
17 mined area mine operators would only have to use
18 the best technology currently available to protect
19 those streams. What that means is that there is
20 an absolute right to mine every ton of coal in the
21 ground as long as the mine operator lays down some
22 straw bales and silt fences to protect -- as a
23 gesture to protect streams farther down the
24 mountain from the area where they're extracting
25 coal. The distortions of the Federal Register

1 notice were almost funny if it weren't a serious
2 matter. The preamble in the notice provides some
3 justification including the point that when the
4 current rule was enacted it was acknowledged that
5 mining would have an adverse effect on streams and
6 that that was not necessarily preventable. That's
7 true. No matter what you do, it's not possible to
8 completely protect the streams from the sediment
9 that's generated in mines and construction sites.
10 I think our experience with best technology over
11 the decades since we've been trying hard is that
12 we -- even when we do our best, streams are
13 damaged. That's reality. The 100 foot buffer
14 zone was intended to help reduce the effects on
15 streams, not to completely prevent them. It never
16 completely eliminated impact. But the Federal
17 Register notice would twist this reality and say
18 that well since it's not possible to protect
19 streams perfectly, therefore, logically, we might
20 as well just let the mine operators destroy them
21 completely. We should be aiming to do better at
22 protecting our resources, not inviting mine
23 operators to run amuck with our resources. Again,
24 I'm deeply sorry for the OSM staff who were
25 induced to create this travesty and support it. I

1 urge you to reclaim your professional integrity,
2 stand and tell the truth, this proposal has no
3 merit and should be trashed. If the coal can't be
4 mined without damaging the stream, tell the mine
5 operators they can't mine that coal. Thanks.

6 MR. COKER: We still have about -- excuse
7 me -- about a dozen more speakers so far
8 registered, so let's try to keep this to a quick
9 10 minute break if we could. The restrooms are
10 down the hall on your right. The next speaker
11 when we come back will be Barbara Levi.

12 (A break was taken)

13 MR. COKER: Barbara Levi, are you ready
14 to speak? After Ms. Levi, Todd Shelton will be
15 the next speaker. Everybody, please take a seat.
16 Mr. Shelton, come on down and be ready to go as
17 the next speaker. Go ahead, Ms. Levi.

18 MS. LEVI: I'm Barbara Levi. I'm a past
19 president of SOCM and a member of SOCM for about
20 30 years now. And it's really hard for me to
21 believe that we're going backwards. All the years
22 we fought to get some of these things accomplished
23 and now we're going backwards. Forty years ago
24 when I was in college I had some biology
25 professors, I'm a biology major by the way, and

1 they were telling about how that some day when the
2 population doubled, which it was doing then about
3 every 25 years, and I think the population was
4 about two billion at that time, now it's about
5 seven billion, how that the Appalachian Mountains
6 were going to be a wealth of the United States
7 because that's where the water is, and that all
8 the large cities were going to be built around the
9 Appalachian Mountains because that's the only
10 place there would be enough water for all these
11 people, and I can't believe that we're going to
12 give it up so easily for coal which is the
13 dirtiest energy we can create and has the most
14 environmental problems that you can have of any
15 source of energy, that we're going to give up our
16 most valuable resource, water, for coal. It
17 just doesn't make sense. I lived in an area on
18 Walden's Ridge in Hamilton County that was mined
19 when there was no laws and all the silt was pushed
20 down into the creek off the top of the mountain
21 and today Soddy Lake is full of silt and about two
22 feet deep in the -- when in it's in the -- of the
23 highest water of the year and it used to be when I
24 was a child it was about 30 foot deep. So I
25 haven't seen us be able to clean up that mess, so

1 why would we want to create even a worse mess than
2 that? I just hope that the people of Tennessee
3 will not stand for this and that we'll make it
4 clear to the Governor that he's got to do
5 something in Tennessee about this and then we will
6 see that something is done in our nation about it.
7 We've got to stop this sort of thing.

8 MR. COKER: Mr. Shelton, as he's coming
9 forward, the next speaker will be Bill Troy.

10 MR. SHELTON: I'm Todd Shelton and I'm
11 from Knox County and I was born and raised in
12 Tennessee. And I got here pretty much close to
13 six but I missed maybe your introduction so I was
14 trying to understand who is OSM membership here.
15 Can -- can -- is it these two people here?

16 MS. HATMAKER: I am.

17 MR. SHELTON: You are? And this is the
18 Knoxville office?

19 MS. HATMAKER: Yes, sir.

20 MR. SHELTON: And you are also. Okay.
21 So do you get a vote like besides just tabulating
22 and -- and sitting through this, do you all send
23 any sort of recommendation to --

24 MR. COKER: We're not here to engage you
25 in conversation. You have an opportunity to speak

1 on the record as to what you want to -- to say,
2 but we can't engage you --

3 MR. SHELTON: Okay. You might think
4 about making a comment like that before this is
5 over just so people understand the process.

6 MR. COKER: I did, sir.

7 MR. SHELTON: Well, I know, but I was
8 here right at six. I was just asking for you to
9 make a little part of it again.

10 MR. COKER: We're just here to --

11 MR. SHELTON: All right. Gotcha.

12 MR. COKER: That's all we're here to do.

13 MR. SHELTON: I am a member of Save Our
14 Cumberland Mountains also. And as other people
15 have said, there are around 2,500 members actually
16 both republicans and democrats. And I say that
17 because I guess where I live is probably most
18 everybody around me probably voted republican in
19 my neighborhood. But, yet, people who are
20 learning about this rule change are just
21 scratching their head one more time about what is
22 going on. There have been so many good arguments
23 made here today so that you folks that do carry
24 this message back to your bureaucracy, I know you
25 all have bosses, I know that can be tough at

1 times, but there have been good arguments made
2 today that -- that equal and -- and -- and
3 override the arguments that are in your
4 literature. Everybody here, I mean, it's obvious
5 that this just makes no sense to diminish this
6 buffer, in fact. So I'm opposed to this buffer
7 rule. I did submit a paper in the box. And I'm
8 also in favor of you folks speaking up for an
9 increase in the regulation of the current buffer
10 zone. And one idea would be, and I think the tax
11 payers of this state and I think of Pennsylvania,
12 West Virginia, and Kentucky would all support it,
13 and that is trying -- if you all would ask for
14 more help, more inspectors, so I'm recommending
15 that you all do that, that you take that -- so
16 that the guidelines that are in place right now
17 have a chance to be enforced so that we are -- we
18 lose fewer strengths. So I would ask you please
19 to increase the buffer zone, enforce the one we
20 have. Please take our word back. This is a
21 democracy. The people really have spoken. We
22 need you all to be our messengers. I know it's
23 tough sometimes, but I can't believe that
24 everybody in your office agrees with this. I hope
25 somebody will speak up for us. Thank you.

1 MR. COKER: Mr. Troy is the speaker. If
2 Ms. Candace Boyd will work her way down front
3 here, please.

4 MR. TROY: My name is Bill Troy. I'm a
5 member of Save Our Cumberland Mountains. I live
6 in Knoxville. I grew up in these mountains in
7 Virginia and Tennessee and -- for 30 years. I've
8 worked with church and community groups all over
9 the Appalachian region. I am 100 percent opposed
10 to the rule change and 100 percent certain that
11 you should maintain the buffer zone and expand it.
12 And if you'll just allow me a personal
13 observation, one of the gentleman who testified
14 first said that he had read the proposed rule
15 change and it sounded good but he had grown
16 cynical over the years. It seems to me that it's
17 the proposed rule change itself which is cynical.
18 I could be wrong, but it appears to me and from
19 all the testimony that I've heard that it simply
20 implies that if the rule stands in the way, change
21 the rule. And so I would just say to you -- I
22 would just say to you at OSM that not only is it
23 in your hands to protect our streams and to put a
24 stop to this insanity of mountaintop removal, but
25 it's also in your hands to do something to restore

1 people's faith that you represent the people as
2 well as the companies in this matter. Thank you.

3 MR. COKER: After Ms. Boyd, the next
4 speaker will be Gerald Bone. Please come on down
5 here, please.

6 MS. BOYD: I'm Candace Boyd and I'm also
7 a SOCM member and I am opposed to the rule change.
8 In fact, I think that calling it a rule change is
9 Bush double-speak. It's not a rule change. It's
10 abolishing a rule. I think the buffer zone -- I
11 think the buffer zone should be strictly enforced
12 and I would really like to see it expanded. Thank
13 you.

14 MR. COKER: After Mr. Bone, the next
15 speaker will be Brian Paddock (phonetic).

16 MR. BONE: Hi. My name is Jerry Bone.
17 That's what I like to be called, but... I was
18 just talking to a friend just before I came up
19 here and -- and he said this rule change really
20 should be called leave no stream behind. I'll
21 tell her that you appreciated that. Anyway, yeah,
22 we -- we -- we heard a lot from speakers tonight.
23 I'm a SOCM member. I live in Knoxville. I
24 recently retired from the Commission on Religion
25 in Appalachia where I did a lot of traveling all

1 over Appalachia. A lot of things I heard tonight,
2 you know, kind of reminded me of things that went
3 on in the past. We hear about these weasel words
4 like to the extent possible and something like
5 that. Those of us who remember the civil rights
6 movement remember that segregation was going to be
7 ended -- what was the phrase now -- with all
8 deliberate speed. So this is the way we're used
9 to the government talking to us. But we're going
10 to have to get unused to that and -- and get them
11 to talk straight to us and to do the right thing.
12 When I was with CORA I did a lot of work with
13 religious organizations and I -- I was invited to
14 -- to do a program at the United Methodist
15 Appalachian Assembly one year and one of the most
16 profoundly moving things that happened to me was a
17 flyover over the West Virginia coal fields. I
18 grew up in the -- in the -- in the Catskill
19 Mountains in New York. I've lived here for 10
20 years now. I go hiking in the -- in the Smokys
21 when I can. I love the Cumberlands. But, I got
22 to tell you, when we left Charleston in this
23 flyover and headed over those -- those mountains
24 in West Virginia, they were the most beautiful
25 that I've seen. And I think it may just be

1 because what I saw next was such a stark contrast
2 to that -- to that beautiful greenery, those
3 lovely mountains, and the thought that down there
4 was, you know, this teeming life, because I saw in
5 the distance a strip of brown. As the hills
6 rolled before us, the brown became wider and wider
7 and extended farther and farther to the right and
8 to the left. And we looked and there was nothing,
9 nothing but brown. It was like a moonscape. You
10 could see where they were drilling the holes to
11 blast away another side of the mountain. You
12 could see the little trucks down there which
13 hailed away the coal and dumped the overburden
14 into the -- into the streams and destroyed the
15 streams. So I saw all this and, as I said, it was
16 just a shock to see that after -- after seeing the
17 beautiful mountains. To the -- to the right as we
18 went over this -- this -- this vast moonscape we
19 could see -- off in the distance we could see
20 explosions going off and we could see these plumbs
21 of brown smoke or dust drifting over communities
22 and rivers and -- and streams and trees and
23 people. And I -- and I -- and I thought of, you
24 know, the people must be suffering with this down
25 here. And I could see the brown haze all over

1 everything where -- where, you know, it was -- it
2 was hanging there for hours. It was a beautiful
3 September day. And the devastation was enough to
4 make you cry. Aside from the pale grass that they
5 spray there, you know, basically I suppose to
6 restore the land, I mean, I can't imagine that
7 this -- or these tiny foreign trees they put there
8 that -- that look like they're struggling to stay
9 there themselves, this is what they call
10 reclamation apparently on the -- on this part of
11 the thing. At any rate, I -- I looked down there
12 and I saw this -- this moonscape. There was no
13 place for birds, there were no place for animals
14 of any kind or any size, no place for children to
15 play, and no place for dreamers like me to dream,
16 which is why I hike. Now, no one is asking for
17 anything radical here. We're just asking --

18 UNIDENTIFIED SPEAKER: I am.

19 MR. BONE: Okay. With one or two
20 exceptions. We're just asking OSM and our elected
21 representatives to continue to enforce the stream
22 buffer zone. We are scientists, we're educators,
23 we're people who struggle daily with the
24 relentless assault upon our homes, our
25 sensibilities, and our lives, and we are city

1 dwellers, like me, who don't want our way of
2 living brought by -- purchased by inflicting
3 misery and death on other beings. We want you to
4 preserve the sacred trust of these beautiful
5 Tennessee mountains for our children and our
6 children's children.

7 MR. COKER: After Mr. Paddock, the next
8 speaker will be Mary Maston.

9 MR. PADDOCK: I'm Brian Paddock. I'm an
10 attorney. I live in Jackson County. I've had the
11 privilege of representing the Sierra Club in
12 matters affecting water quality on the Cumberland
13 Plateau, most notably the proposal that the City
14 of Spencer dump its treated waste water and sewage
15 into a pristine stream and into a world-class
16 cave, put a stop to that. I've also represented
17 other organizations in front of the Tennessee
18 Water Quality Board. I've flown over the plateau
19 several times looking at both mining and forestry
20 impacts and I've flown over East Tennessee looking
21 at the same things, including the Zeb Mountain
22 mine. And when I compare those flights and what I
23 see below to the fact that the National Resources
24 Defence Council recently designated the plateau as
25 a world-class global biogem, an area of incredible

1 biological wealth, diversity, species known no
2 where else on the face of the earth. And it's not
3 just the plateau as we think of it perhaps
4 narrowly, it includes the highland rim to the west
5 and it goes clear to the Tennessee border on the
6 east and goes on up both north and south of
7 Tennessee. And it is an incredibly rich area.
8 What we have to lose here is -- is something that
9 will hurt the entire human race as it is lost.
10 And the National Resources Defence Council says
11 that our biogem is one of the most threatened on
12 the face of the earth and it's threatened by three
13 things, all of them come from those of us -- it
14 comes from sprawl and urbanization, it comes from
15 massive clear-cutting, mostly to drive the pulp
16 and paper industry, and it comes from strip mining
17 and the fact that strip mining has the lowest rate
18 of recovery of its impacts on the earth's surface
19 and on the waters. I had an interesting
20 experience about a week ago Tuesday I was over in
21 legislative plaza. In the morning at eight-thirty
22 when I'm still rubbing the sleep out of my eyes
23 Dr. Dan Simberloft (phonetic) who holds the Nancy
24 Gore Hunger Chair of Environmental Studies at the
25 University of Tennessee made a presentation to the

1 entire environment subcommittee of the House
2 Conservation Committee. All nine members were
3 there. They all sat in wrapped attention as he
4 explained the unique biological characteristics
5 and the unique wealth that we have in Tennessee.
6 We have a more important biological and fresh
7 water and wetland dwelling kind of biology than
8 any inland state in the entire United States.
9 There is no place else like what we have here, the
10 area that is targeted for this strip mining and
11 for the elimination of the buffer zone, the
12 dumping of spoil and the changing of streams and
13 even allowing really unregulated impacts outside
14 of permit areas. The last time I looked you were
15 supposed to not try to have any impacts outside of
16 permit areas. That's the whole point of having a
17 permit area. What you do inside that we contain,
18 and then outside you don't do anything. That
19 afternoon Dr. Allen Herscowitz (phonetic) and Dr.
20 James Strayhold (phonetic) came in. Dr.
21 Herscowitz is a senior scientist at NRDC and he
22 came down from New York. James Strayhold came
23 from the Conservation Biology Institute in Oregon.
24 And the entire conservation committee sat wrapped
25 for an hour as they showed the incredible

1 biological wealth that Tennessee has in this
2 biogem. And I'll be submitting copies of the
3 remarks of Dr. Simberloft, Dr. Herscowitz and Dr.
4 Strayhold to the -- for the record in this matter.
5 The core of that biological wealth is water and
6 clean water and the fact that so many of our
7 wonderful and unique species known only to this
8 area have survived all the mining and all of the
9 clear-cutting is a tribute to them, not to us.
10 But it's really time to draw the line and it's
11 time to say that 100 foot buffer zones are not
12 enough. These creatures are God's creatures, they
13 will never come back if we destroy them, and,
14 therefore, unless we wish to be blasphemous, we
15 should stop now and expand those buffer zones,
16 expand those protections and make sure that these
17 creatures have habitat. One of the things as a
18 lawyer that I see when I look at this rule is it
19 essentially is waivers and loose language, and
20 you've heard a lot of that this evening. And we
21 have a saying that we're taught in law school, the
22 exception eats the rule. When you punch too many
23 holes in it, there's no rule left, and that's
24 exactly what you have here. This business about
25 current technology, and as one speaker described

1 it basically hay bales and -- and hardwood stakes,
2 is -- is current technology. That's ridiculous.
3 So I will leave also for the record the rules we
4 have on protecting streams, if we do forestry and
5 clear-cutting, they're not well-enforced, just
6 like the buffer zone rule, but we protect by our
7 aspirations, at least in Tennessee, even our
8 femoral streams as well as our perennial and
9 intermittent streams, and if we're not going to
10 let loggers wreck them, we're not going to let
11 miners wreck them either. This area is East
12 Tennessee. It's affected mainly. There are East
13 Tennessee republicans and we really respectfully
14 suggest that the President and his Secretary of
15 the Interior that oversees OSM remember who got
16 him where he is. Thank you.

17 MR. COKER: After Ms. Maston, the next
18 speaker will be Carol Judy.

19 MS. MASTON: Good evening. Thank you for
20 the opportunity to make comments here. I'm Mary
21 Maston. I submitted a written comment, a letter,
22 in my position as conservation chair of the upper
23 Cumberland group of the Sierra Club. I am a
24 lawyer and I represent the Sierra Club in the case
25 Save Our Cumberland Mountains v. Norton in the

1 Eastern District of Tennessee. This is a
2 challenge to OSM's NEPA, compliance with the
3 National Environmental Policy Act. I am very
4 familiar with the situation at Zeb Mountain and
5 the permit that was issued to the Robert Clear
6 Coal Corporation and I want to speak very strongly
7 in opposition to this buffer zone rule change and
8 I want to speak specifically to the language that
9 would allow a waiver of the buffer zone upon a
10 finding that mining activities will prevent to the
11 extent possible using best technology currently
12 available additional contributions of suspended
13 solids to the streams. The history of what has
14 happened at Zeb Mountain documents destruction of
15 a clear stream that was running in good condition
16 that was fully supporting aquatic life, including
17 the Federally threatened fish species right half a
18 mile down the stream from Dan Branch, the black
19 sidedace (phonetic) that's Federally threatened
20 has been located. The MPDS permit suspended solid
21 limits have been exceeded month after month after
22 month by the coal corporation. They started out
23 with a certain number of sediment basins in this
24 first watershed. They're still allowed to mine
25 in this one watershed of Dan Branch. Now, TDEC

1 did step in and issue an order and assessment and
2 advised the -- the coal company -- prohibited them
3 from going into further watersheds and gave them
4 five months to clear up the condition of -- of Dan
5 Branch. But both TDEC and OSM have continued to
6 allow the coal corporation to mine in Dan Branch
7 during this five month period. So we have a
8 situation of continued perpetual exceedances of
9 the suspended solid limit from the MPDS permit.
10 We have had at least two, if not three, additional
11 sediment basins have had to be built in this one
12 watershed, one illegal pond built by the coal
13 operation outside the permit limit without the
14 knowledge of the regulating agencies. They have
15 been fined for that or given a notice of
16 violation. There is a planned rock buttress
17 to support or stabilize a slide coming off the
18 Hall Road. There are possibly two more sediment
19 basins in the plans to be built in this one
20 watershed alone. The answer is that this industry
21 does not have the technology to do this kind of
22 mining without severe impacts to our water. This
23 language using best technology available means
24 there is no rule. The language to the extent
25 possible means there is no rule. We need for the

1 Office of Surface Mining to keep the Clean Water
2 Act protections in the stream buffer zone rule.
3 Our welfare of this human community, of the
4 species who are dependent on the clean water there
5 and dependent on us and our children and
6 grandchildren need for us to keep this rule, if
7 not expand it. I want to change my hat and say
8 yes I am a member of Save Our Cumberland
9 Mountains. I grew up on probably the most
10 southern of the Cumberland Mountains. I grew up
11 on Lookout Mountain. I live in Jackson County. I
12 travel over the Cumberland Plateau back and forth
13 visiting my family. I've practiced law in I think
14 40 counties in East Tennessee, from Chattanooga in
15 the Sequatchie Valley and Cookeville and
16 Morristown and Johnson City. Appalachian -- the
17 Cumberland Mountains are a wonderful place. They
18 are a biogem on the planet and we need not to have
19 our mountains flattened and our waters destroyed.
20 Thank you.

21 MR. COKER: After Ms. Judy, the next
22 speaker will be Jack Corn.

23 MS. JUDY: Good evening. When I rode
24 down here tonight I really didn't plan on getting
25 up here and talking, but then when I heard what

1 other folks had to say, I figured I'd put my two
2 cents in too. I am Carol Judy. I do live in
3 Rose's Creek, Tennessee. This is part of the
4 Clear Fork Valley. Geographically, we are a
5 valley. We have family up and down these hollows
6 and along Highway 90 which turns into 74.
7 Politically, we're four counties in two states,
8 the backside of all and they'd like to think we're
9 not there. Ninety percent of our land and the
10 resources over it and under it are owned by
11 multi-national corporations. We've had 40 years
12 of trying to figure out how to recreate
13 sustainability and community. We've looked at
14 values. We've tried to understand what's happened
15 to us, why we lost -- went from 12,000 to 1,200
16 people, what did we lose during this, what is it
17 we want to learn more of, what is it that we have
18 learned? That the United States needs to sustain
19 itself beyond another generation. I propose that
20 people that live in rural areas understand life
21 beyond a 75 year human life cycle, that we
22 understand it because we're generationally linked
23 just to the very landscape itself. We understand
24 it as our grandfathers and our grandmothers did.
25 Somehow we understand life beyond the human life

1 cycle which lets us live in vision in a different
2 way. What I'd like to understand is why we're not
3 regarded as experts and why stereotypes are
4 created about us as ignorant hillbillies. I think
5 that if people would hear SOCM -- I wear a button
6 that says ask me about SOCM. Well, I'll tell you
7 what SOCM is to me, it's not a reactionary group,
8 it's a group about promoting democracy and
9 participation, about allowing people to find a way
10 to speak and voice their concerns. That's
11 supposed to be the very root of democracy. As
12 human beings, we all live among contradictions.
13 One of the contradictions in my community is when
14 we take students, college students, out to view
15 the mines, the deep mines and the other mines and
16 the mining operators speak to the earth as
17 overburden, we removed the overburden. To me,
18 that's earth. Our mountain forests are a living
19 thing. We understand it is the world's greatest
20 hydrology system. We understand diversity instead
21 of monoculture. I think that monoculture or
22 single-lens vision is probably the greatest curse
23 that the United States has invented because it
24 creates tunnel vision and vertical inspirations
25 versus lateral and horizontal understandings. I

1 ask you to think about how when SOCM helped people
2 understand that we needed to think beyond five
3 years and 10 years, beyond the cash cycle and
4 understand some of the impacts of what cash
5 transfers into, how you take a piece of earth out
6 and then supposedly put it back. But can you take
7 and pop an ice cube out of an ice tray, smack it
8 with a spoon? I'm sure you've all done it to
9 fracture it. Can you put that ice cube fractured
10 back into that ice tray? That is what we're
11 asking environmental laws to do. And I don't
12 think it's possible. I think that water is a
13 vital and precious resource. It astounds me that
14 in the time I've lived here how when Champion
15 wanted to buy land in our community, our law
16 makers could not take a lesson from what had
17 happened elsewhere in just the United States. And
18 we're willing to let things continue to happen. I
19 wonder, what is their life culture that they can't
20 hear us? And I'm thinking the same thing today
21 about water. We've already heard from people who
22 are not just community of place, but people who
23 are -- have taken that and become experts in
24 another kind of way, understand the laws and how
25 they can relate. The water wars that go on in

1 California for a 100 years. Government is
2 supposed to be about governess of the people. But
3 if a majority of the population has no connection,
4 that has been disconnected from rural cycles and
5 rural ecologies for over 50 years, how can they be
6 experts? I drive down the hollow from the top of
7 the mountain and as I'm going down I'm looking at
8 this mountain. We have a 150 acre mountaintop
9 which we're attempting to turn into an outside
10 door classroom, an environmental interactive
11 laboratory. Who knows the possibilities? And
12 right next to this mountaintop I am seeing this
13 other mountain being sliced away, and two weeks
14 ago it was not being sliced away. And it scares
15 me that we will not take the time to stop and
16 understand where we are in this ecological life
17 cycle, because -- don't excuse -- humans are part
18 of it, whether you think we are or are not. We
19 are daily part of it. But how do we understand
20 we're part of it? How do we understand the
21 choices that we're being given? Thank you.

22 MR. COKER: After Mr. Corn, the next
23 speaker would be Melissa Weaver.

24 MR. CORN: I don't think I'm a member of
25 SOCM but I'm in complete sympathy with you. I

1 think my wife may have joined. J.W. probably
2 talked her into it. I was a photographer for The
3 Tennessean for 23 years. It was back when it was
4 a real newspaper that really took issue with
5 things. There are not many of those left now.
6 And I spent a great deal of my time flying over
7 the Cumberland Mountains photographing strip mines
8 and did a lot of stories on it. In -- in 1972 or
9 '74 a legislative committee came up to Morgan
10 County and was up on Big Brushy to look at the
11 strip mining that the Walls, this company, was
12 doing, and I don't know which company of his it
13 was, but it was one of his companies in the Walls
14 family, and he was talking about -- Jack and J.W.
15 were standing in the back of the pick-up truck
16 debating this thing and Jack Walls said there's
17 going to be houses built where we've flattened
18 this land out. We've taken the top of this
19 mountain and we're going to build houses here. Of
20 course, if you go up there today it looks exactly
21 like it did that day. It's a desolate landscape.
22 It's absolutely stupid to do that. I agree with
23 most of what you said tonight. I think though the
24 young lady that talked about the Tennessee
25 constitution has the right answer. For the first

1 time in a long time you have a governor that's
2 intelligent. And that's a big step up, believe
3 me. But he may not be -- he may not be too much
4 in favor of what you're doing, but he is
5 intelligent and he will understand. The Tennessee
6 legislature is a different cup of tea. They're
7 not the brightest light on the block. They're
8 interested in whether you ride a dog around in the
9 back of your pick-up truck or whether you have an
10 abortion. I can't have an abortion so I'm not too
11 interested in that. But they will listen. I
12 remember taking LeeAnne -- Dr. Russell and her
13 late husband in to see the Speaker of the House
14 who was my personal representative and he really
15 laughed at them, poked fun at them, these two
16 eminent scientists that I admired so much. He
17 just said what do I care about what two people in
18 Oak Ridge think? Remember, all politics is local.
19 You're trying to work in the Cumberland County --
20 in the mountains, East Tennessee. You need to
21 work in West Tennessee and Middle Tennessee. You
22 need to approach every legislator with people from
23 their home district. That's the only thing they
24 understand. They don't care what you think. They
25 don't care about the streams. They don't care

1 about the mountains. They care about people in
2 their -- they backed down on the dog thing real
3 quick because all the dog owners wanted to ride
4 dogs. And I drive dogs in the back of my pick-up
5 truck and I wasn't about to quit. And regardless
6 of what -- the legislature is the people that
7 named a double wide a modular home. Can you
8 imagine a country song writer writing a song about
9 a modular home? He's going to call it a double
10 wide. So you've got to approach the legislature
11 and the governor. And, if it were me, I would
12 approach the governor's wife, she doesn't go by
13 his name, Andrea. She's a powerful woman, and
14 that pillow talk counts, believe me. I'm talking
15 practical politics. Because these people --
16 you're coming down here. The people that have
17 written this legislation are coming from up here.
18 They're coming from up here. You're coming from
19 down here. And I can just guarantee you that if
20 they -- if Bush decides this is okay, it's a done
21 deal, regardless of what any of you say. I'm
22 sorry, but that's the practical realities of it.
23 I do not believe that he will change his mind
24 about the environmental, but I do believe the
25 Tennessee legislature, the Tennessee courts, and

1 the Tennessee governor will, and I think that that
2 is the answer. The Sierra Club should get every
3 member all over the state to go to their personal
4 representative, and you've got to confront them.
5 And you can't do it once. You've got to do it
6 three, four, five, six times and you've got to
7 call them again in about a week, do you remember
8 what I said last week, Representative Jones, I'm
9 really against this taking off the tops of our
10 mountains. I'm very cynical, and I'm sorry, but I
11 stood in the legislature one time and made a
12 picture of a representative taking a thousand
13 dollars, he counted it, a hundred -- ten one
14 hundred dollar bills from a lobbyist. And so I'm
15 telling you, get to practical politics, go to the
16 representatives, but don't just go to the ones in
17 your area, you've got to go to the ones elsewhere
18 so you've got to get other people to help you.
19 And most Tennesseans will be completely
20 sympathetic with you. They really will. Most of
21 them love nature, they just don't think about
22 this, this is not real to them. They don't think
23 about your streams being polluted. And so I urge
24 you to get a wider voice by going to -- all over
25 the state. I can't tell you exactly how to do

1 that, but -- but I know that it can be done.
2 E-mail is a marvelous thing and -- if you use it
3 correct. I correspond with people all over the
4 world, all over the United States all the time.
5 It's amazing. And so I think what SOCM has to do
6 and Sierra Club is to approach the Tennessee
7 legislature, but you've got to approach them with
8 the only thing they understand, not money, not
9 money, but power. Power is what they understand.
10 And I agree with everything all the rest of you
11 said. Thank you.

12 MR. COKER: After Ms. Weaver, the next
13 speaker will be Renae Hoyos (phonetic).

14 MS. WEAVER: My name is Melissa Weaver.
15 I am not a politician, I am not a lawyer, but I
16 believe that knowledge is power, and I am a
17 scientist. I have a doctorate in limnology and
18 oceanography from the University of Wisconsin.
19 But I am a child of Tennessee. I was born and
20 raised in Oak Ridge. As a child we hiked in the
21 mining areas of the Cumberlands and I saw the
22 beauty there and I saw the destruction there,
23 especially along Walden Ridge. Those streams that
24 were there when I was a child are not there today.
25 As an ecologist, aquatic ecologist, limnos is a

1 Greek word for pond and so I am one who studies
2 inland waters. I've studied lakes and estuaries
3 and I've also studied the Appalachian streams.
4 The headwaters of Appalachian streams are the part
5 of the stream ecosystem which is most closely
6 linked with the terrestrial environment and this
7 is where you find mining. When you open up the
8 bedrock, you release minerals in an acid
9 environment. When you change the Ph of a stream,
10 you have profound alterations occurring in the
11 biota throughout the stream. There is a strong
12 linkage between the habitats between the
13 terrestrial and the aquatic environments. You
14 cannot alter one without affecting the other. It
15 goes both ways. The upland part of streams are
16 what we call alockthriness (phonetic). Energy
17 comes from the terrestrial environment into the
18 streams. The further you go down it becomes what
19 we call otocphanous (phonetic), self-generating
20 energy, because there you have a phytoplankton
21 that can photosynthesize and add energy to the
22 ecosystem. But upstream in the headlands you
23 do not have the phytoplankton. You have shaded
24 areas. The algae cannot grow. The system is
25 driven by the terrestrial environment. If you

1 alter the physical, chemical or biological
2 environment of the land around the headwaters, you
3 affect the stream. There are aquatic organisms
4 which have within their life cycle a terrestrial
5 stage and an aquatic stage, mayflies, domeflies.
6 They are larvae within the aquatic environment but
7 they are flying organisms outside of that. They
8 connect the two. They also connect the upland
9 area with the downland further down because they
10 drift through the stream. That is
11 well-documented. And then when they metamorphose
12 from larvae to adult, they fly back up to the
13 headwaters. There is a biological linkage between
14 headwaters and downstream areas. Also, there is a
15 chemical linkage. There is something called
16 nutrient cycling that goes on down the stream.
17 The linkage is especially important if you
18 change the Ph because the species of a chemical
19 such as nitrogen is altered to another species
20 when you alter the Ph. An organism such as the
21 algae can only take up nitrogen when it is in a
22 certain form. That form changes when you change
23 the Ph. You cannot alter the chemistry of a
24 stream without affecting it further downstream.
25 There is nutrient cycling going on down the

1 stream. There are also new studies which show
2 using stable isotopes a strong linkage between the
3 nitrogen and the terrestrial environment and in
4 the water of a stream. There is flowing going on
5 back and forth. Springs don't just add water to a
6 stream. Streams give water back into the
7 groundwater and it comes back in further
8 downstream. It has been followed. We know this
9 quite well. So if you alter the hydrology, if you
10 alter the chemistry, if you alter the biota in the
11 terrestrial environment, then you have profound
12 effects on the aquatic environment. Also, there
13 is no mention in this of landscape ecology
14 watersheds. We know that you must consider the
15 whole area, and ecology now is branching out where
16 you have to look at the whole area. You cannot
17 simply look in that pristine stream and say it's
18 there, it's separate, it's on its own. There is a
19 strong linkage here. Thank you.

20 MR. COKER: After Ms. Hoyos, the next
21 speaker will be Chris Irwin.

22 MS. HOYOS: My name is Renae Hoyos. I'm
23 the executive director of the Tennessee Clean
24 Water Network. The Tennessee Clean Water Network
25 works to restore, enhance and protect the waters

1 of Tennessee and the communities that depend on
2 them. On behalf of the 200 statewide members,
3 we'd like to oppose this present rule for all the
4 reasons that we've heard tonight, for the
5 protection of water quality, for the protection of
6 community, for the protection of -- of the
7 livelihood of so many people that depend on this
8 -- on this great resource. I also want to say
9 that I think it's a little ludicrous that we've
10 all gathered here tonight to talk about how
11 cutting off a mountain is also environmental
12 degradation, that we have to spend our time
13 explaining that seems odd to me. But I certainly
14 don't want to damn the staff of the Office of
15 Surface Mining but certainly to let you know that
16 I spend too much of my time coming to these kind
17 of things because this current administration is
18 rolling back environmental protections as fast as
19 they possibly can. This is just another example
20 of this sort of behavior that really needs to be
21 stopped. So I'm hoping that the comments will be
22 heard by the people that are making the decisions
23 and that they will be -- they will be heeded.
24 Because if this administration allows this kind of
25 devastation to rain down on you fine folks and the

1 rest of us downstream, all I do is say woe on this
2 administration. Thank you.

3 MR. COKER: After Mr. Irwin, the next
4 speaker is Debbie Shumate.

5 MR. IRWIN: Hey, you all. My name is
6 Chris Irwin and I'm from Knoxville, so if I start
7 gasping for breath, you'll understand. We're
8 number one in asthma right now. I'd like to thank
9 TVA for that and these greedy coal and energy
10 companies who seem to feel that it's all right.
11 And just as a side line, I'd like to mention that
12 the American Lung Association estimates the number
13 three thing putting our children in the hospital
14 is respiratory problems. I think it's number one
15 for adults. We can thank TVA and the coal
16 companies, the greedy coal companies, for that.
17 First of all, I'd like to make a friendly
18 amendment to your all's proposal. If you do this,
19 you really should change your name to the office
20 of stealing mountains and wreck and creation.
21 Let's just be honest about what you all are doing
22 now. My family came here six generations ago from
23 Scotland. Aside from running from the British,
24 can anybody guess why they came to this region,
25 they came to Knoxville? The mountains. These

1 hills reminded them of home. That's why so many
2 of us have ended up here. And these people are
3 trying to steal our homes, these greedy coal
4 companies. And, you know, they just can't get
5 enough. You know, currently, the rules aren't
6 good enough. You know, they're blowing the tops
7 off our mountains. Oh, that's not good enough,
8 you know, from the energy and coal companies.
9 Knoxville is number one in asthma. If you want to
10 bring -- like if you want your child to have
11 asthma, bring them to Knoxville, you know, that's
12 the best place. For the coal and energy companies
13 and their greed, that's not good enough. They've
14 already destroyed thousands of miles of stream.
15 That's not good enough. Ten thousand years from
16 now when the cockroach scientists are looking at
17 the blowed off plateaus resulting from this,
18 they're going to think we're idiots. But for the
19 coal and energy companies, that's not good enough.
20 They're blowing the tops off our mountains,
21 they're destroying our lung capacity, they're
22 wrecking our watersheds, they're polluting our
23 air, and eventually effectively they are killing
24 our children, these greedy coal companies and
25 energy companies. And I have a message for the

1 OSM. In terms of your report card and the work
2 that you're doing from protecting us from these
3 corporations, that's not good enough. You're not
4 doing your job and it's not good enough when
5 they're getting away with stealing our mountains
6 from us and doing this amazing amount of damage.
7 I'm a firm believer of democracy. Who here wants
8 to stop all mountaintop removal in Tennessee in
9 the Southern Appalachias? Wow, that seems like
10 democracy to me. But what's happening right now
11 -- this isn't just about our mountains. This is
12 about our democracy. More than planes were
13 hijacked on September 11th. Apparently, our very
14 government was hijacked by the energy and coal
15 companies because they're getting to do almost
16 anything they want right now. But the reality
17 of it is -- I want to make a differentiation
18 between what is the law and what is right and
19 wrong, because at one time slavery was perfectly
20 legal. Hiding slaves was illegal, wrong, you
21 know. The lunch counter sit-ins -- you know,
22 segregation was legal. The lunch counter sit-ins
23 was illegal. That's got nothing to do with right
24 and wrong. Right or wrong is what we determine as
25 a people in this room right now what is right and

1 wrong and what we want from our government. What
2 we need is another Boston Tea Party, except
3 perhaps we should take coal and dump into the
4 rivers and take our government back from these
5 coal companies, take our government back from
6 these energy companies because we are being
7 robbed. We're being robbed in the same way if
8 somebody came into your trailer and was stealing
9 your television. We're being robbed as if they
10 came in -- and not only are they taking your
11 television, the thieves are saying this is for
12 your own good, you know, we've got to -- we don't
13 need you to tell us this is for your own good.
14 You know, oh, they're driving off your car.
15 You're going to need this, you know, it will be
16 better for the environment as we are doing it.
17 The only problem with this kind of robbery is it's
18 not as apparent as somebody breaking into our
19 house. We have to fight back. Otherwise, we need
20 another -- we're going to lose not only our
21 mountains and our air quality and our water,
22 because they'll steal all of that, we're going
23 to lose our very government and democracy if these
24 thieves are continued to allow to rip us off. For
25 me, myself, my background is -- aside from being

1 from Knoxville, I used to work for Fish and Game
2 in Northern California doing chinook and salmon
3 habitat restoration. I also worked for the World
4 Bank in Western Africa trying to teach people, beg
5 them not to do exactly what we see happening here
6 in my own home. The American government spending
7 millions to tell people don't wreck your
8 watersheds, it's insane, and then I come home and
9 find that it's being facilitated by my own
10 government which gave me millions to try to stop
11 this in the Third World. If it's not appropriate
12 in the Third World, by God it's not appropriate in
13 the Southern Appalachians. They're trying to turn
14 us into the fourth world. And I don't know what
15 they are thinking if we're some beverly
16 hillbillies or whatever. But what they're going
17 to find out is we're going to fight back. And by
18 the time we're done, you're going to be calling us
19 beverly hellbillies. My other sideline that I
20 want to say is in my spare time I'm a
21 granola-munching, tree-hugging, dirt-worshipping
22 earth firster. And you know what happened, what
23 broke segregation. It was people taking direct
24 action, fighting back. Do you know what started
25 the Boston -- what did the Boston Tea Party start?

1 People taking back and forming their governments.
2 We are going to fight you. We'll fight you
3 legally. We will put our bodies in front of your
4 equipment. We've already blockaded Zeb Mountain
5 once. You boys better get ready because we're
6 coming back. We will fight you every step of the
7 way. And I believe in the civil rights movement
8 they had something called the -- what was it --
9 the civil rights summer. We need a Southern
10 Appalachian summer. We need to have a summer of
11 direct action to fight these people and say
12 absolutely not, you do not get to have our
13 mountains, you do not get to have are democracy,
14 you do not get to have our children's lung
15 capacity, you don't get to have our clean air,
16 absolutely not, and we will fight back. And if
17 you want to help us, you can contact that
18 granola-munching tree hugger and get him
19 information and I as well. But we will fight you
20 every step of the way for our mountains, for our
21 hills, and we're fighting for our very history
22 right now, and our democracy. This is more about
23 -- than about mountains, it's about fighting for
24 our government and taking back what's supposed to
25 belong to we the people. I saw all your hands.

1 One more time, who here wants to end mountaintop
2 removal now? Well, we took it to a vote. It
3 seems like the people spoke. So if you all could
4 report back to your people in DC, perhaps they'll
5 tell their corporate masters. Thank you very
6 much.

7 MR. COKER: After Ms. Shumate, our next
8 speaker will be Tommy Vinsco (phonetic).

9 MS. SHUMATE: What he said. That's very
10 hard to follow. I'm Debbie Shumate. I happened
11 to be the next one that walked in the door and
12 signed up. I also live in Knoxville and I really
13 am out of breath right now, so... I just wanted
14 to say that taking away the 100 foot stream buffer
15 zone rule is simply for the sake of convenience
16 and profit. It's an attempt to eliminate any
17 limitations on what can be destroyed and killed in
18 the process of extracting coal. As a result of
19 abolishing this world, filling streams with mining
20 waste quickly severs the natural flow of the
21 earth's water veins. Mountaintop removal is
22 directly and rapidly killing wildlife, trees,
23 watersheds, air quality and people. Taking out
24 this rule on top of mountaintop removal is like
25 saying we're not destroying and killing fast

1 enough. This high sulfur coal belongs inside the
2 mountains to keep them standing strong like
3 mountains should, not emitting in the air and
4 clogging streams. This is a mass slaughtering of
5 the mountains and the world and the quality of
6 life. Mountains are being bombed to pieces for
7 coal and they cannot defend themselves. But as I
8 hiked through the mountains, I co-existed
9 peacefully with them and made a promise that I
10 would fight for the mountains until my bitter end.
11 And I'm asking OSM not to lower your standards to
12 nothing by allowing this stream buffer zone rule
13 to cease and mountaintop removal to continue.

14 MR. COKER: The last speaker we have
15 signed up right now is Tommy Vinsco.

16 MR. VINSKO: Hi, my name is Tommy. I
17 live in Knoxville and go to the university there.
18 I'm affiliated with Earth First. And I wasn't
19 going to say anything, but I was just so moved by
20 your testimonies that I scribbled a few things
21 down. I'm just 23-years-old and rather new to the
22 travesty of mountaintop removal. But it doesn't
23 take an old-timer to recognize what my and your
24 future looks like with government-condoned
25 anti-environmental activities like these popping

1 up everywhere. And it's only going to get worse.
2 The fewer the resources, the more aggressive the
3 practices of these industries will become. As
4 long as we buy their energy, they're going to sell
5 us our own mountains. The only way to kill a
6 corporation is to strangle it by not buying from
7 them. This means pushing for clean energy
8 locally or, at worst, going solar yourselves.
9 Now, this is just a small taste of a world-wide
10 problem, or for corporations, a massive
11 opportunity. The major global corporations have
12 recognized water as a multi-billion dollar
13 industry. It's no wonder why. With companies
14 like these of big coal adding insult to injury by
15 going and whining to the government asking them to
16 take away what little they set aside for you and
17 me. The coal companies say it's necessary to do
18 mountaintop removal to compete with the northwest
19 production in Montana, it's their job to make
20 money. Well, unfortunately, that accumulation of
21 money doesn't peacefully co-exist with a healthy
22 environmental of -- of the -- of the environment
23 and the people. How much is a mountain worth?
24 How much is a person worth? The coal companies
25 will push a profit as far as we'll let them. If

1 we left the environment -- if we left the
2 environment to the good conscious of big coal,
3 they'd blow the heads off Mount Rushmore if they
4 thought coal was inside. We're in the 21st
5 century now and for some reason coal is still
6 prancing around like it's still the king of
7 energy. Well, it's up to us to show them that
8 they are not the king of energy, not the king of
9 our mountains, not the king of our water, not the
10 king of our land. Thank you.

11 MR. COKER: That was the last of our
12 registered speakers. Is there anybody in the
13 audience that came in late or has changed their
14 mind and decided that they do want to speak now?
15 And if you're here, would you please raise your
16 hand? Okay. There is one gentleman back there.
17 When you come up, please state your name and, if
18 you'd like to, where you're from.

19 MR. ANDERSON: My name is Dan Anderson
20 and I work with Earth First in Knoxville. And I
21 just want to say a few words. I want to say that
22 I do oppose the evolution of the 100 foot stream
23 buffer. I want to say that I met a lot of the
24 people that are from the area of Zeb Mountain in
25 Campbell County. There's a lot of people there

1 that have lived there for a long time and their
2 mountain is getting blown up. I was one of the
3 people that in August of last year blockaded Zeb
4 Mountain and prevented them from working there for
5 four hours. I felt that four hours wasn't really
6 long enough. But just for those four hours, just
7 those four hours they could not get to the --
8 destroying those mountains and I felt that was --
9 that was worth a lot. I feel like all these
10 people here tonight have said a lot to help
11 prevent further mountaintop removal. That's it.
12 Thank you.

13 MR. BRADLEY: I'm J.W. Bradley and I
14 think this is a silly little meeting. I've been
15 to these water quality meetings and I've even been
16 assaulted at these water quality meetings and
17 nothing has ever come out of them. I don't know
18 where they find people that's thick-skinned enough
19 to sit through what they sit through without
20 getting up and saying okay, you all win, you've
21 convinced me that we've made the wrong decision.
22 Anybody with any common sense knows that you can't
23 pollute the streams the way that they are
24 polluting them and get away with it. If they find
25 water on Mars, it's going to take them a long time

1 to get it back down here to us. So let's see what
2 we can do about taking the government over, not
3 jump on these people, but go to OSM with a group
4 of people and say look we've had enough.

5 MR. COKER: Is there anybody else?

6 MR. JOHNSON: Can I add a few things to
7 my comments?

8 MR. COKER: Is there anybody else that
9 hasn't spoken that would like to speak?

10 UNIDENTIFIED SPEAKER: I know we're not
11 supposed to ask questions about the rules or
12 anything, but have you presided over many of these
13 meetings so far?

14 MR. COKER: This is the first meeting on
15 this -- on this rule, this is the first meeting.
16 We're having five meetings tonight at different
17 places around the country.

18 UNIDENTIFIED SPEAKER: Oh, okay. Thanks.

19 MR. JOHNSON: Okay. John Johnson,
20 Sequatchie County, adding to my earlier comments.
21 Just because I want it on the public record,
22 because apparently with the government it does not
23 seem self-evident, but the destroying caused by
24 mountaintop removal and surface mining should be
25 self-evident and all it really takes is people to

1 go out and look at it. We don't really need a
2 technical analysis of it. The destruction is
3 self-evident. And, again, to also reinforce what
4 other people have said, and I want this on the
5 record, that no one has a right to destroy
6 mountains, waters and forests for any reason at
7 all. There's just -- you don't have a right to do
8 that. And you all who work for OSM do not have a
9 right to facilitate that kind of thing. And the
10 fact that you are facilitating the destruction of
11 our life support system says to me that you are
12 not worthy of being a public servant and I think
13 that you, and this is not just you individuals in
14 the room, but the whole agency should resign in
15 mass because you are not doing your job. I think
16 that -- also I want it on the public record that I
17 demand that OSM before they're even issued deny
18 the Tennessee Valley Authority any and all
19 permits, leases, et cetera to open up its coal
20 reserve on Braden Mountain because they're going
21 to use mountaintop removal and we want to stop it.
22 And again I want to call for the abolition of
23 mountaintop removal. I want that on the public
24 record. I also want it publicly stated that OSM
25 should revoke permanently irrevocably Robert Clear

1 Coal's permit to mine on Zeb Mountain. We've
2 heard plenty of evidence here tonight and that is
3 also being submitted to the OSM and in the courts
4 that they are blatantly and on purpose violating
5 their permit. They are not acting in good faith.
6 They do not deserve a permit to operate. I also
7 want it stated for the public record since earlier
8 -- in my earlier comments I condemned the use of
9 microwave ovens and cheap hair dryers, that I do
10 not purchase electricity from the Tennessee Valley
11 Authority. I do not use electricity except when
12 I'm in this room here or at other meetings and
13 come to the cities. I live on solar power. Solar
14 power is possible. And the money that is wasted
15 on your studies justifying mountain removal, the
16 money that is wasted on nuclear power plants, on
17 more coal plants, on stupid bureaucratic salaries,
18 all that money could buy everybody in this room
19 and then some solar panels to put on their roof
20 and it would not diminish their quality of life in
21 any way. And now to the audience, I want to
22 mention to notice that there are no mining people
23 here, that we were totally speaking to the choir.
24 I do not see anybody who looked like they were
25 with the mining industry. Anybody with the mining

1 industry?

2 UNIDENTIFIED SPEAKER: They're waiting
3 outside with guns.

4 MR. JOHNSON: One. We've got one -- one
5 guy from the mining industry is here.

6 UNIDENTIFIED SPEAKER: No, I'm not.

7 MR. JOHNSON: No. No. This other guy
8 raised his hand. But you all know as well as I do
9 from going to these hearings that when the mining
10 -- when the industries, whether it's forestry,
11 mining, et cetera, when they're threatened, they
12 pay their people to show up. So it should be
13 self-evident that this rule is not a threat to the
14 mining industry which means it's a done deal and
15 that this hearing process is a sham. And I'm glad
16 you all are getting paid to listen to us, but it's
17 a sham just like everything else that this
18 government does when it comes to protecting the
19 environment. It's a total sham. And that means
20 that we've got to do more than just put pressure
21 on the governor. We've got to do more than put
22 pressure on our senators. And we've got to do
23 more than put pressure on that fool in the White
24 House. Okay? We've got to turn off the lights,
25 because that's what encourages them. Our

1 consumption of electricity encourages the
2 destruction of our life support system. Get solar
3 panels. Take the money back. That eighty-seven
4 billion dollars that's spent in Iraq, how many
5 solar panels could that buy? Okay? And for those
6 of you who are retired, and I don't know how
7 closely many of you look into this, but I've been
8 doing some research on the internet and you can
9 see -- you can -- you can go to Yahoo and put in
10 Massey Coal or Arch Coal or whoever, if they're a
11 publicly-traded company, you can actually see what
12 pension funds and what retirement funds, 401ks,
13 TEI crap and all that other kind of thing, and I
14 don't really know the details of it because I
15 don't own stock, but you can look and you can see
16 where your money is and you can pull it out. And
17 I would encourage everybody to pull your money out
18 of the coal industry. Make sure your pension
19 funds, retirement funds, et cetera are not in
20 coal. And then to reiterate what my fellow
21 tree-hugging granola muncher said, let's take to
22 the streets, and not for just for Tennessee, let's
23 not just rely on the governor to stop it here in
24 Tennessee, but for our friends and comrades in
25 Kentucky and West Virginia and Southwestern

1 Virginia and Alabama and everywhere else where
2 they are wrecking everything for profit. We've
3 got to stop it everywhere, not just here in our
4 backyard. Thank you.

5 UNIDENTIFIED SPEAKER: May I speak?

6 MR. COKER: Okay.

7 UNIDENTIFIED SPEAKER: Before they get
8 the wrong idea. I am a retired coal miner from
9 Eastern Kentucky and I'm here to stop it, if at
10 all possible. I've seen what hilltop removal does
11 because I was involved in it.

12 MR. COKER: If you would, please, state
13 your name and where you're from, please.

14 MR. COCHRAN: My name is Thurman Cochran
15 and I live in Fairfield Glade. I moved here about
16 five years ago. I was a coal miner from Eastern
17 Kentucky and I've seen what it done, hilltop
18 removal. I have a brother involved right now in
19 Barton, West Virginia. That was our way of life.
20 We didn't know what we was doing. That's how we
21 made our living, let's just mine coal, and we
22 didn't know. But now we do. We've got creeks
23 that run with mud. We had a devastating accident
24 back probably 10 year ago, maybe not that long,
25 maybe five, we had a silt dam that broke and shot

1 out two portals and run through the -- and I
2 worked on that job. They couldn't control it.
3 That's just what I'm saying, no matter what you do
4 with your reclamation, you're still not going to
5 be able to control the acts of God. That's all
6 I've got to say. Thank you.

7 MR. COKER: Folks, we have -- it's about
8 10 minutes till nine I'm told and -- and we were
9 scheduled for six to nine, so if anybody else
10 wants to say anything, you've got about 10 more
11 minutes to say your peace.

12 UNIDENTIFIED SPEAKER: I've already
13 talked once. I just want to say this scene is
14 playing out all over across America. You've got a
15 hundred or two hundred people in a room and none
16 of them going hey move the hell out of the water
17 (inaudible). So we're going to see democracy in
18 action because I got a feeling the fix is in. If
19 it goes the other way, I'll be amazed. But this
20 is what true democracy is all about. If you all
21 don't go back and tell your bosses this is what
22 the people want, there is something wrong.

23 MR. COKER: Anybody else?

24 UNIDENTIFIED SPEAKER: And when you leave
25 here go shop and so the terrorists don't win.

1 MR. COKER: Does anybody else want to say
2 anything on the record?

3 MS. JUDY: I would just like to
4 reiterate.

5 MR. COKER: Your name, please?

6 MS. JUDY: I'm Carol Judy and I'm from
7 Rose's Creek and I'd just like to encourage
8 everybody to think of themselves as the experts.
9 Whether we live in the -- on the ridges or in the
10 hollows, whether we live in incorporated
11 communities or the unincorporated communities,
12 whether they think of it as county or city, we
13 live here, we understand how human life is part of
14 the mountain forest life. Please learn to think
15 of yourselves as the experts. Encourage your
16 young people to understand that they are also the
17 experts. We are a minority in the United States
18 but we are the experts because we know it in a
19 generational way. We need to share that
20 knowledge.

21 MR. COKER: Anybody else want to say
22 anything before the hearing closes? Okay. Since
23 everybody has said what they came to say, I want
24 to thank you all for coming this evening. At this
25 time we'll end the hearing. Thank you.

(Whereupon the meeting was adjourned.)

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C E R T I F I C A T E

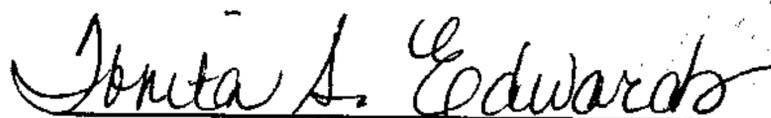
STATE OF TENNESSEE:

COUNTY OF KNOX:

I, Tonita S. Edwards, Court Reporter and Notary Public at Large, do hereby certify that I reported in machine shorthand the above proceedings, and that the foregoing pages, numbered 1 through 112, were typed under my personal supervision and constitutes a true and accurate record of the proceedings.

I further certify that I am not an attorney or counsel for any of the parties, nor a relative or employee of any attorney or counsel, nor financially interested in the action.

Witness my hand and official seal this the 23rd day of April, 2004.



TONITA S. EDWARDS
Notary Public at Large
My Commission Expires: 03-28-07