

1 MS. BRAVERMAN: I'm not that tall.

2 My name is Beverly Braverman, I live in
3 the Indian Creek Watershed, which is a sub
4 basin of the Youghiogheny River Watershed.
5 My home stands in the midst of small unnamed
6 tributaries to Champion Creek, a major trib
7 to Indians Creek. I am the executive
8 director of the Mountain Watershed
9 Association a grass roots community based
10 group restoring, preserving and protecting
11 the Indian Creek Watershed and surrounding
12 areas. We are an advocacy group that deals
13 with national issues that have local impact.
14 I am also the newly appointed Youghiogheny
15 Riverkeeper. MWA, Mountain Water
16 Association, is the host of the Youghiogheny
17 Riverkeeper.

18 The Indian Creek Watershed is an 80,000
19 acre area located in Westmoreland and Fayette
20 Counties in Southwestern Pennsylvania. In
21 this watershed are more than 130 discharges
22 from abandoned and active mining sites.
23 Stream death is a reality for certain
24 sections of the basin. In the midst of this
25 destruction, however, exists some of the most

1 magnificent vistas and stream reaches in the
2 state. Indian Creek and the inhabitants
3 living there struggle to survive in the face
4 of yet additional strip mines permitted in
5 the surviving healthy areas of the watershed.
6 One of the few rules that has provided our
7 stream regions with some protection is the
8 very rule you are now proposing to
9 eviscerate.

10 Before I proceed any further, let me
11 say that not many of us believe this rule
12 change is anything more or less than another
13 attempt to support the practice of mountain
14 top removal, and another attempt to
15 circumvent the numerous comments made in
16 response to the public comment period for the
17 environmental impact statement that concerned
18 itself with mountain top removal and valley
19 fills. I therefore incorporate fully herein
20 by reference the over 70,000 comments
21 opposing mountain top removal, valley fills
22 and environmental destruction caused by these
23 activities submitted during the public
24 comment period relevant to the environmental
25 impact statement. The current

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1 administration's own studies show that this
2 type of mining, that's mountain top removal
3 and valley fills, has already destroyed more
4 than 1200 miles of streams, and 380,000 acres
5 of Appalachian mountains and forest. A
6 February 2004 memorandum prepared by the
7 Luntz Research Companies, which is the
8 leading Republican polling company, concluded
9 that undermining clean water safeguards is
10 politically dangerous, but more specifically
11 to this hearing, it goes against the
12 overwhelming sentiment of the American
13 public, stating that, quote, "Young and old,
14 Democrat and Republican, the demand for clean
15 water is universal."

16 I incorporate herein by reference this
17 memorandum supporting the importance of clean
18 water safeguards, and assert that this rule
19 change goes against the will of the many
20 citizens who want clean water. Stream
21 destruction does not support this mandate.

22 The current rule helps protect
23 important headwater streams. Our nation's
24 network of rivers, lakes and streams
25 originates from a myriad of small streams.

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1 Headwater streams play an important part in
2 the health of rivers and larger streams.
3 Small streams help clean water in ways that
4 maintain downstream water quality. You can
5 read this more in depth in my written
6 testimony.

7 A stream cannot be healthy if it is a
8 trickle of water surrounded by mining waste.
9 Every year healthy creeks are diminished and
10 destroyed because mining and mining
11 activities come too close and destroy the
12 riparian zones around streams that nurture
13 life. The rule will facilitate the
14 destruction of streams, which will in turn
15 destroy ground water. Why is ground water
16 important? Because it's the major source of
17 our drinking water. The water that filters
18 through the soil and is not taken in by
19 plants becomes ground water. It does not
20 remain in the ground, however; sooner or
21 later it surfaces at an area of discharge, a
22 stream perhaps, and eventually evaporates
23 into the atmosphere. The water that
24 evaporates into the atmosphere from the
25 streams goes back into the atmosphere where

1 it condenses and falls to earth. The basic
2 hydrologic cycle.

3 Streams are a source of drinking water
4 and ground water. Ground water is the source
5 of streams and drinking water. You cannot
6 continue to allow the destruction of our
7 drinking water resources which this rule
8 would do.

9 The current rule protects the critical
10 zones around streams from mining. We have
11 been able to use this rule, which restricts
12 mining within a hundred feet of a stream, to
13 require a stripped analysis of possible
14 stream damage from proposed strip mining in
15 our community.

16 The coal industry officials assert that
17 if the current rule was stringently enforced,
18 most large scale strip mining in Appalachia
19 could be halted; hence, so would most of the
20 large scale destruction of Appalachia and its
21 communities. The return to more careful,
22 circumspect mining would provide many
23 additional jobs that has been lost through
24 mountain top removal mining and long wall
25 mining. The buffer zone rule created in 1977

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1 and revised in 1983 says that "No land within
2 a hundred feet of an intermittent or
3 perennial stream shall be disturbed by
4 surface coal mining and reclamation
5 operations without government authorization.
6 Such authorization can be granted only if the
7 operations are shown to be environmentally
8 acceptable." They are not acceptable to the
9 billions of us who drink water and want a
10 healthy environment.

11 The thousands of mine remediation
12 projects currently being undertaken by groups
13 like ours serve to reinforce Mountain
14 Watershed Association's position that you do
15 not experiment with or risk our water
16 resources. These thousands of remediation
17 projects are necessary because of
18 uncontrolled mining, irresponsible mining
19 methods and poorly thought out agency
20 policies. In my opinion, none of which has
21 gone on before holds a candle to what is now
22 contemplated and what will result from this
23 ill advised proposal. One thing we have
24 learned in the ten years of mountain
25 watershed trying to repair and correct the

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1 mining sins of the past, is that once the
2 hydrologic balance and integrity are
3 compromised, it is not a simple matter, or
4 even a possible matter for all the king's
5 children and all the king's men to
6 successfully put it back together again.

7 I will conclude by stating,
8 unequivocally, you cannot drink coal, and
9 water is not negotiable.

10 Thank you.

11 MR. HARTOS: Joyce Sabl, please. And
12 Anna Filippelli will be on deck.

13 MS. SABL: Hi there, Joy Sabl, I guess
14 concerned citizen.

15 I would like to take my time to point
16 out a few of the unexamined assumptions that
17 went into both the document and your
18 otherwise very nice introduction, that I
19 think we should look at a little more fully.
20 The first of these assumptions is that no
21 clarification of the laws could be made
22 without removing the rule for a stream
23 buffer. It seems to me that any
24 clarifications could certainly be made
25 incorporating that rule.

1 My second point is that you feel that
2 the number of claims and the amount of
3 legislation that you waste your time on is
4 just that, a waste of time. I mean, in a
5 sense, I feel for you guys, because it's
6 probably boring to have to go through the
7 same thing over and over again, but for those
8 of us who don't necessarily agree with the
9 coal mining operations, that's very valuable.
10 In each case, we have an opportunity to
11 contact our elected representatives, to
12 contact you, to organize, should there be
13 organized opposition, or to do nothing at
14 all, so it's a useful bedding process for
15 which projects are good and which projects
16 are abominable, so, much as I'd like to
17 streamline your job, that's why you're paid,
18 it's your job.

19 Next unexamined assumption is that any
20 minable bit of coal should be mined, if it is
21 economically feasible. I'll deal with
22 "economically feasible" separately, but the
23 first point, I mean, if we had coal under the
24 US Capitol, we wouldn't mine it; if we had
25 coal under the Washington Monument, we

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1 wouldn't mine it. There are plenty of
2 situations where we look around and say "No,
3 really, that would be inappropriate."

4 Now, you know, just as every climber
5 all they need to see is a vertical surface to
6 start wanting to pick a route up it. If your
7 job is coal mining, you look at a landscape,
8 and see the possibilities for coal, and
9 that's good, because that means we actually
10 have some functional coal mines, and the
11 world probably wouldn't be better if all coal
12 disappeared tomorrow, so I'm glad there are
13 competent people looking at every pocket, and
14 that they've got that coal gleam in their
15 eye. But that fact remains, that somebody
16 else has to sit there and say to the climber
17 "You know, you can't actually climb the
18 Empire State Building," and we have to also
19 look at the coal copies and say "We see why
20 you want to do it, but that's not okay."

21 The last unexamined assumption I want
22 to deal with is the economic one. We take it
23 as a given that certain things are
24 economically feasible or not economically
25 feasible, and that if we wait and do things

1 out of sequence, we're making them
2 economically less appealing, but frankly,
3 that's not a given. Something is
4 economically unfeasible relative to other
5 energy sources, and every time that oil wants
6 to be deregulated, they point at coal. Every
7 time coal wants to be deregulated, they point
8 at oil. You get what I'm saying. So long as
9 we have these dirty energy sources trying to
10 lowball each other, we have no place to go
11 but down.

12 I pay, frankly not all that much extra
13 to Green Mountain Energy for clean energy,
14 small hydroelectric, solar wind power. You
15 can get it in this state, it's not that
16 expensive, it's hundred percent renewable. I
17 asked them whether the coal companies had
18 ever approached them about offering a clean
19 coal product at a higher cost, call it
20 heritage coal, call it something appealing,
21 and actually mine it cleanly, you know, use
22 actual miners, or do the super deep wall
23 mine -- long wall mining that they do in
24 Europe that doesn't cause the subsidence, and
25 doesn't cause streams to disappear. Yes,

1 it's more expensive; yes, the European
2 companies who do it in Europe come over here
3 and use a cheaper method and do it because
4 they can get away with it. That's not right.

5 If they look to sell their products as
6 a clean product, clean in the mining, clean
7 in the processing, clean in the burning, they
8 would have a much more valuable product, and
9 people pay for it. It is their choice to
10 lowball, and I don't see that we have to
11 subsidize them to do that.

12 And there's actually yet one more
13 assumption. Nobody wants to see jobs go
14 away. Okay. That's fine. But, you know
15 what, stores go under every few weeks in my
16 neighborhood, and then somebody else opens up
17 in the same place, or it sits vacant for a
18 while, and somebody opens up someplace else.
19 Apparently some sites are just not viable,
20 they've been closed more than open, people
21 keep trying, and it doesn't work, and the
22 answer is "That's not a good site. Turn it
23 into a park." We don't have any call to
24 subsidize the coal industry as opposed to any
25 other industry that employs American workers,

1 especially in this case, so many people at
2 the top are actually shipping their profits
3 straight out of the country.

4 So this is my list of unexamined
5 assumptions. Thank you for letting me
6 comment on them.

7 I just wanted to say that what really
8 got me motivated to come down here was also
9 the Hays hilltop mining, because that is one
10 of those cases, to you it may just be a chunk
11 of empty land on a hill near a big river near
12 Pittsburgh, but to me it's as ridiculous to
13 have a strip mine inside the Pittsburgh city
14 limits, as it would be to shallow long wall
15 mine the White House. Okay. It's a bad,
16 bad, stupid idea, and it's in our back yard,
17 and we resent it.

18 Thank you.

19 MR. HARTOS: Thank you.

20 Anna Filippelli, please, and Bill
21 McCabe will be on deck.

22 MS. FILIPPELLI: My name is Anna
23 Filippelli, I live in the Mingo Creek
24 Watershed, Washington County, Pennsylvania.
25 The water resources in this watershed have

1 been devastated by long wall mining. The
2 small stream that runs through my property
3 have suffered the effects of long wall
4 mining. Many of my neighbors now get their
5 water supplies from the plastic tanks and use
6 water buffalos. Coal mining is leaving a
7 legacy of destruction.

8 I am here today to oppose changes to
9 stream buffer zone rule. We cannot continue
10 to allow this destruction of our water
11 resources. Water is not negotiable. The
12 stream buffer rule is one of the few rules
13 that protects our water resources from
14 mountain top removal, and from smaller strip
15 mining operations. I believe that this rule
16 change is an attempt to make an unlawful
17 activity lawful. This is disturbing that
18 this rule change process is occurring now,
19 when the majority of the public opinion on
20 the draft EIS for mountain top removal
21 opposed attempts to weaken the buffer zone
22 rule; therefore, I incorporate fully herein
23 by reference the over 70,000 comments
24 opposing mountain top removal, valley fills
25 and the environmental destruction caused by

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1 these activities submitted during the public
2 comment period relevant to the draft EIS.

3 The current rule protects the critical
4 zones around streams from mining. A stream
5 can be healthy if it's a trickle of water
6 surrounded by mining waste. Every year,
7 healthy creeks are diminished and destroyed
8 because mining and mining activities come too
9 close and destroy the zones around the
10 streams that nurture life. The current rule
11 helps protect important headwater streams.
12 Small streams help clean water in ways that
13 maintain downstream water quality.
14 Protecting headwater streams is important for
15 maintaining water levels needed to support
16 everything from aquatic life to domestic
17 water consumption.

18 The proposed rule would allow companies
19 to mine next to, or through the streams, if
20 they can show whatever the damage that
21 mining operations won't increase suspended
22 solids within 100 feet downstream, and will
23 minimize the destruction of fish and wildlife
24 to the extent possible. This is a
25 nonenforceable standard that means nothing.

1 I am asking you to withdraw the proposed
2 rule, and instead, enforce the existing
3 buffer zone rule.

4 Water is not negotiable.

5 MR. HARTOS: Bill McCabe, please. And
6 Nancy Martin-Silber on deck.

7 MR. McCABE: I'm Bill McCabe, I work
8 for and speak for and represent the Citizens
9 Coal Council. I live and work on the banks
10 of the Tigriss Valley River. I play in and
11 love and honor that stream and many others in
12 the mountains of Appalachia. I'm absolutely
13 convinced that strip mining is a crime
14 against the people, a crime against the land,
15 and is economic insanity. I incorporate
16 fully by reference the 70,000 comments
17 opposing mountain top removal, valley fills
18 and environmental destruction submitted
19 during that mountain top removal EIS hearing.

20 In addition to the 50 plus years that
21 I've lived in these mountains and worked by
22 these streams, I have spent the last three
23 years as an organizer for Citizen's Coal
24 Council, and if I wasn't convinced before
25 those three years, I am now. I want to state

1 that I, and CCC absolutely oppose this change
2 in the stream buffer zone. This rule change
3 will legalize the outlawed practices of strip
4 mining.

5 Let me share just two quick stories.
6 The first is a story about a woman called
7 Maria, or we'll call her Maria, for her
8 protection. She's a young, single mother who
9 stayed in her home place to protect the land,
10 and because it fed her family and her soul.
11 She loved it growing up, she loved it as a
12 young adult. Three years ago, the mining
13 company came; three years, nine floods, three
14 bridges rebuilt, one dead dog, one almost
15 dead child, now she's a victim of terror.
16 Recently, we found out that Maria's truck was
17 sabotaged by pouring something into the gas
18 tank. A week following that, her truck was
19 again sabotaged with the brake lines being
20 cut. Why? Because she tried to protect her
21 streams and her land.

22 The second story that I would like to
23 talk about, the crime against the people that
24 directly involves this rule change, deals
25 with a young man named Joe. 12 years ago, he

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1 built a fine home up a hollow, a place of
2 beauty. Today, the trees are gone, the fish
3 are gone, the herbal plants are gone, his
4 recreational abilities in his neighborhood
5 are gone. His land has been raped, his value
6 of his home is next to nothing, his
7 opportunity to move is nonexistent, his
8 quality of life has been destroyed. That's a
9 crime against the people.

10 It is also a crime against land, and I
11 have to take a deep breath when I say this,
12 because it's just inconceivable to me that
13 the OSM, an agency responsible for protecting
14 streams, could allow 1200 miles of mountain
15 headwaters to be obliterated. 1.44 million
16 acres, according to your own EIS study, will
17 be affected and destroyed over the next
18 umpteen years. 244 species will be affected;
19 a crime against the land.

20 It's also economic insanity. Lisa
21 Smith earlier talked about the high cost of
22 invasive species. In southern West Virginia,
23 where you've buried so many streams, or
24 allowed so many streams to be buried, all we
25 can find are Italian olives and scrub grass;

1 deer won't even eat it.

2 60 million board feet of hardwood per
3 year have been destroyed forever. Fewer
4 jobs, many fewer jobs, because the mining
5 companies choose to strip mine rather than
6 deep mine. Understanding the government is
7 supposed to protect its citizens, or I
8 understood, as a social studies teacher, that
9 government was supposed to protect its
10 citizens, but for the last 20 years, since
11 1983, when the stream buffer zone originally
12 was passed, all OSM has done is to ignore it,
13 not to enforce it; a crime against the land
14 and the people. 1200 miles of obliterated
15 streams, and now, rather than simple
16 avoidance of your task, you want to make it
17 legal. Your proposal is to eliminate it.
18 Your proposal is to eliminate your obligation
19 to protect the streams and land of this
20 country.

21 Just a few questions. I know you said
22 you weren't going to answer questions, but
23 let me ask them rhetorically. You claim the
24 rule change is to clarify. What is it do you
25 not understand about OSM's obligation to

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1 protect us, to protect our land, to protect
2 our water, to protect our rivers and streams
3 and our homes? What is it that you do not
4 understand about that obligation? Why would
5 OSM choose to change this rule, even before
6 the final report from the EIS, the draft EIS
7 was done? Well, let me suggest to you that
8 the answer to that question is reflected in
9 the early 2004 electoral campaign
10 contributions.

11 The coal industry, just up to this
12 point, which is April 1st, basically, has
13 contributed \$1.1 million to the Republican
14 Administration. That does not include the
15 soft money, which is, as we all know, where
16 the big bucks are in campaign contributions.

17 I have to read what I read the other
18 day that claims OSM is wrong. This is not a
19 simple change, this is a drastic change, this
20 is a change that will legalize the outlaw
21 coal industry. We oppose it.

22 And, finally, whether you worship God,
23 or Mother Earth, or whatever creator you
24 choose to worship, I urge you to reflect that
25 whoever that is would be disappointed in OSM.

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1 Thank you.

2 MR. HARTOS: Nancy Martin-Silber,
3 please. James Fitch on deck.

4 MS. MARTIN-SILBER: My name is Nancy
5 Martin-Silber, I am a mother and
6 environmental educator.

7 I think we're starting to get to the
8 heart of the matter. I come here tonight,
9 not to convince you that mountain top removal
10 is a bad thing, not to offer scientific data
11 proving that filling in streams with soil and
12 waste is a bad idea, I think we all know that
13 ecologically, it's a crazy idea. It isn't
14 about that, it's about the lack of ethics and
15 integrity and wisdom governing this nation
16 today. It doesn't require much more than a
17 very basic understanding of nature and how
18 watersheds and small streams and ecosystems
19 function, remain vital, and able to provide
20 their invaluable services to the health and
21 welfare to our planet home, and to our very
22 existence, to know that mountain top removal
23 and a relaxation of the buffer zone rule is
24 nuts.

25 We need soil to have healthy water. We

1 need water to have healthy, productive soil,
2 we need both to live. Without soil and its
3 four to eight percent of organic matter, we
4 would not be here tonight having this
5 discussion. Without groundwater recharge
6 happening only where water meets soil, we
7 would not be here having this discussion. We
8 need healthy water and soil in order to be
9 healthy, in order to have life. Water and
10 soil need us tonight to speak for their
11 protection and conservation. They give us
12 life, the least that we can do is speak on
13 their behalf and on behalf of our children
14 and future generations.

15 I come to speak to the heart and to
16 appeal to our integrity and common decency.
17 I come to acknowledge that when it comes to
18 issues of this magnitude that affect all of
19 us living in the region, in the world, there
20 is no "us" and "them," there is just us,
21 working and living together to find the best
22 way to provide for our needs and for those of
23 future generations, just one "us" to act with
24 integrity and decency and wisdom.

25 I come to speak of respect, reverence

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1 and of the sacredness of the land, to speak
2 of gratitude and the respect and stewardship
3 that that respect demands. Short-sided
4 visions that trade in our children's
5 inheritance for a finite resource are not
6 wise. After we've blown the tops off of our
7 mountains and filled in the streams, then
8 what? What will our next desperate move be?
9 When will we provide real incentives to move
10 forward with renewable energy sources?

11 We haven't even touched on the mining,
12 burning of fossil fuels, CO2 emissions,
13 global warming connection tonight that's a
14 part of this conversation. How much of our
15 children's inheritance will be destroyed
16 before we're forced to rethink our
17 unsustainable consumption? Will we have
18 anything left to speak for?

19 I teach environmental ed. to middle
20 school students. I teach resource
21 conservation and watershed awareness. I
22 teach children the importance of behaving
23 properly on the land in order to protect the
24 water. We teach the importance of riparian
25 buffer zones to stream bank stabilization and

1 pollution infiltration. I teach love and
2 respect and stewardship. One wonders why we
3 would teach this to our children, when we
4 have not understood these concepts ourselves.

5 I appeal to the hearts and souls of
6 those who have the power to make these
7 decisions and ask that they choose love, and
8 act with wisdom.

9 MR. HARTOS: James Fitch, please. And
10 Michael Nixon on deck.

11 MR. FITCH: Good evening. Thank you
12 for the opportunity to give a few comments
13 this evening.

14 My name is James Fitch, I live here in
15 Pittsburgh, and I am a private citizen and
16 voter. I belong to several pro environmental
17 groups, because the environment cannot speak
18 for itself, and it needs people to speak for
19 it.

20 I am opposed to any weakening of any
21 laws or rules protecting the environment. I
22 believe that weakening the buffer zones for
23 streams would have detrimental effects, not
24 only on wildlife, but the entire ecological
25 system in the area. If any change is made at

1 all, I believe the buffer areas need to be
2 increased.

3 When I'm out backpacking, I make sure
4 to make my camp site at least 200 feet away
5 from any stream, if possible, and if any
6 impact I would have, compared to the impact
7 from mining, mine would be a drop compared to
8 a torrent that mining produces.

9 It appears to me, as a lay person, that
10 Bush Administration is going all out to roll
11 back as many environmental protections as it
12 can, disregarding the best scientific
13 information available. I am outraged by this
14 behavior, and I hope that professional
15 government employees, as opposed to political
16 employees, have the courage to speak the
17 truth about this.

18 Tonight I'm asking you to please regard
19 the desires of the majority of citizens.
20 Please regard the scientific information
21 that's available. Please think of future
22 generations of people and wildlife who will
23 be negatively affected by any actions you
24 take. Please do not weaken these rules.

25 MR. HARTOS: Michael Nixon. Then we'll

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1 take a short break.

2 MR. NIXON: Sounds good to me.

3 I'm just going to summarize my comments
4 and submit more full comments in writing.
5 I have a bit of laryngitis tonight, and
6 before I start, I want to say I adopt and
7 incorporate, by reference, the over 70,000
8 comments received by OSM so far in opposition
9 to the proposed weakening of OSM's
10 regulations regarding valley filling, et
11 cetera, and stream buffer rule, et cetera.

12 One thing that's not addressed at all,
13 and it's evident from everything I've read so
14 far, is the interconnectiveness of our world
15 and its elements, especially water, are not
16 understood by OSM, they're not addressed,
17 they are not taken care of. It says here in
18 the Federal Register of the proposed rules
19 from January 7th, one of the reasons OSM
20 proposes to amend the regulations to more
21 closely align its basis in surface mining
22 law, that actually, the whole basis for it is
23 the Clean Water Act, because we're talking
24 about water, streams. One simple and common
25 sense solution to this conundrum, this

1 problem that OSM purports to identify with
2 its stream buffer rule, an alternative that
3 needs to be fully considered and reconsidered
4 for adoption is in the regulation, which
5 states "No land within a hundred feet of
6 intermittent or perennial streams shall be
7 disturbed by surface coal mining and
8 reclamation operations." There should be a
9 period there, and you should strike the
10 "unless the regulatory authority specifically
11 authorizes surface coal mining and
12 reclamation operations through such a
13 stream." If you get rid of that, you don't
14 have a lot of problems. Talk about paperwork
15 reduction. That will really reduce a lot of
16 paperwork and reduce a lot of repetitive work
17 and make the rule very predictable,
18 manageable, simple, easy to manage,
19 consistently applied, because a hundred feet
20 is a hundred feet everywhere in the world.
21 And you could keep the second sentence in the
22 rule that says "The area not to be disturbed
23 shall be designated as a buffer zone and
24 marked at specified in the regulations."

25 Just a few other things. It mentions

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1 here that there's anticipated, after
2 preparing a draft EA, that there will be a
3 finding of no significant impact. Well
4 that's belied by the facts underlying the
5 professed cause and effects behind this
6 proposed rule change. I mean, it's an
7 insult. A FNSI, finding of no significant
8 impact, regarding these rules, is not only
9 absurd, it's deceptive on its face. It
10 indicates this whole process to be another
11 tragic farce by the Bush Administration, and
12 we don't accept it. At a minimum, an EIS,
13 environmental impact statement, regarding
14 these proposals, must be prepared, and you
15 must consider in full force and effect the
16 true impact to the human environment, which
17 includes the cultural resource values of
18 those streams and those areas, and Bill
19 McCabe mentioned, for example, the herbs that
20 were obliterated by the mining operation in
21 that one lady's hollow. There are a lot of
22 medicinal plants that are associated with
23 streams and alluvial wetlands.

24 I'm also going to point out one other
25 important thing to you here in so far as

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1 Pennsylvania is concerned. This rule change
2 is not going to overtrump our constitutional
3 rights in Pennsylvania. Article I, Section
4 27 of the Pennsylvania Constitution, titled
5 "Natural Resources in the Public Estate,"
6 declares "The people have a right to clean
7 air, pure water and to the preservation of
8 the natural scenic, historic and aesthetic
9 values of the environment." You're better
10 off not touching this rule, but if you do, I
11 suggest, again, I reiterate my suggestion,
12 you just strike that whole idea of allowing
13 any encroachments within a hundred feet.
14 Play it safe.

15 Thank you.

16 MR. HARTOS: We'll take a ten minute
17 break. I promise we'd stop at 7:45 it's
18 7:40, so we'll start again at 7:50.

19 (Recess taken.)

20 MR. HARTOS: Why don't we have a seat,
21 we can get started again.

22 Okay. Can I have JoAnne Evansgardner.

23 MS. EVANSGARDNER: Am I next?

24 MR. HARTOS: Yes. If that's you?

25 And I'll have Gerald Gardner on deck.

1 MS. EVANS GARDNER: Somebody, would you
2 fix that? I got my hands full.

3 I wonder if it -- how offensive it
4 would be to ask the people here who support
5 this, who believe what they're doing is a
6 good thing, if they plan to have any
7 children? And the reason I ask that question
8 is just looking at your own family, are you
9 doing your children and the -- their children
10 any favors? Because one thing that we all
11 figure out, eventually, and the more clear it
12 becomes to you, the older you get, is there
13 isn't going to be any more land. We've only
14 got so much here, and even perhaps more
15 stressful, there isn't going to be any more
16 water, and I wonder how somebody can take the
17 position that the people who support this
18 change have taken, which is they don't care
19 about the next generation, they don't care
20 what happens to anybody but themselves and
21 their own narrow interests in earning a
22 living. Either that, or they haven't thought
23 about it; either that, or they're not very
24 smart. It's very clear -- I came to this,
25 because I'm new to this movement. I got

1 interested in the problem when the
2 situation -- I live in Hazelwood -- the
3 situation with Hays hilltop became public,
4 and I came largely to learn, because I have a
5 lot to learn, and one of the most interesting
6 things that I've learned today is that there
7 aren't very many people here who believe in
8 what you're trying to do. So far, there's
9 just been this one kindly gentleman who's had
10 a positive statement to make.

11 So I would like you to examine what
12 you're leaving to your heirs, just personally
13 to look at what you and people like you are
14 leaving to your heirs. I think, either you
15 don't plan to have any heirs, or you haven't
16 thought about it, or there has to be some
17 explanation for why you would propose to this
18 change.

19 And the other point that I would like
20 to make, just to make sure that it is made,
21 in case it isn't clear, is I utterly oppose
22 any weakening of any environmental laws,
23 which this certainly is, and I will make sure
24 that everybody I know, and most importantly
25 my legislators, know that I oppose it too.

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1 MR. HARTOS: Thank you.

2 Gerald Gardner, please, and Jeanne Zang
3 on deck.

4 MR. GARDNER: My name is Gerald
5 Gardner, and I live in Hazelwood, which is
6 just across the river from Hays, which is
7 where they're proposing to take this top off
8 this mountain, strip mine the coal, then
9 build a race track and casino.

10 It absolutely amazes me that within a
11 city of this size, somebody can come along
12 and strip mine coal within the city. The
13 people in the city aren't allowed to burn
14 coal, but people come in and mine it, and
15 make a mess. I think it's disgusting. I
16 couldn't see that the Office of Surface
17 Mining is of the slightest help to people who
18 live in the city, who don't want to have this
19 thing.

20 Anyway, I came here, and I'm sorry,
21 this is the first time I seen this proposal
22 as published in the Federal Register. I
23 looked through it to try and see a reason for
24 why anybody would want to change the existing
25 rule. Why get rid of this hundred foot

1 buffer zone? I don't know why it was put
2 there in the first place, but I imagine there
3 was a very good reason, they were trying to
4 protect the streams, and all the subsequent
5 damage that's done if you don't do that. So
6 I looked through this, and I really can't
7 find why that -- I mean, you just read one
8 sentence, which seems to me to get close to
9 it, and it says here, "The mine operator may
10 have to place fill in small streams adjacent
11 to the preparation facility." I -- he "may
12 have to place it." He doesn't have to place
13 it, he can put it somewhere else. Or he
14 doesn't have to have a mine at all, he
15 doesn't have to place it there. There is no
16 necessity to put this stuff in the stream, if
17 putting it in the stream is not a good idea.

18 It seems to me this rule was created
19 because people thought it was a good idea.
20 It sounds like a good idea. So I think this
21 document ought to have really clear reasons
22 why the rule has to be changed. Now, it's
23 page after page, and it's very difficult to
24 read, like all government documents, but
25 they're ought to be a clear statement

1 somewhere of why somebody wants to have this
2 changed.

3 Now, because everybody has their own
4 explanation for why things happen, mine is
5 that these coal operators wanted to do the
6 cheapest thing, and they don't care. The
7 simplest thing to do, if you got a lot of
8 stuff that you want to get rid of, is throw
9 it over there; if it happens to be a stream,
10 fine. But if all coal operators have to
11 operate under the same rule, then none of
12 them are at an economic disadvantage. It may
13 be a little bit more costly to put this stuff
14 where it's safe, or not to mine coal, if you
15 can't find a place to put it, but if all the
16 operators operate under the same rule, then
17 there's no reason to give them a break by
18 making things a little bit cheaper.

19 Thank you.

20 MR. HARTOS: Thank you. Jeanne Zang
21 and Bev Braverman.

22 MS. ZANG: My name is Gene Zang, and
23 I'm a resident of Sewickley, Pennsylvania,
24 and I'm a voter. I am also a member of
25 Allegheny Unitarian Universalist Church, and

1 I support the Unitarian Universalist
2 principles of belief of interdependent web of
3 all existence of which we are a part.

4 The first time I ever heard of mountain
5 top removal was when I was attending a
6 workshop in West Virginia. My first reaction
7 was "You've got to be kidding. That's
8 insane." I couldn't imagine that the
9 government would actually allow mountains to
10 be blown up and thrown in the valleys.

11 Now, I am appalled to hear of George
12 Bush's proposal to even further erode the
13 protection of our streams and mountains.
14 Eliminating the buffer zone rule would permit
15 the further destruction of these precious
16 natural resources. Many people here tonight
17 have addressed various aspects of this issue.

18 I would like to focus on the issue of
19 bio diversity. In May 2002, the
20 Administration eliminated a 25 year old Clean
21 Water Action -- Clean Water Act regulation
22 that prohibited the Army Corps of Engineers
23 that allowed industrial waste to bury and
24 destroy U.S. waters, then one year later the
25 Administration released a draft environmental

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1 impact statement detailing the harm caused by
2 this practice.

3 I would like to highlight two of the
4 harmful impacts; one, forest losses in West
5 Virginia alone has the potential of directly
6 impacting as many as 244 vertebrate wildlife
7 species. Two, even if hardwood forests can
8 be reestablished, which is unproven and
9 unlikely, there will be a drastically
10 different ecosystem from premining forests
11 for generations, if not thousands of years,
12 but what difference does bio diversity make?
13 Who cares about some little known species of
14 aquatic life?

15 To answer that question, I will now
16 read a brief excerpt from "Waiting for
17 Aphrodite by Sue Hubbell." Quote, "A great
18 many of the organisms that were present in
19 the world when we came into it, may be much
20 more important to us than we are to them.
21 The plants and animals and bacteria and molds
22 that make up our ecosystem, many of which are
23 invisible to us as we walk through this world
24 acting as though we own it, were already in
25 place when we came along. We don't know very

1 much about our ecosystem or about them. We
2 don't even know the identities of a great
3 many pieces of this ecosystem, and
4 practically nothing about how the totality
5 works. Maybe we won't miss one bit, the
6 golden toad, or the Karner or Xerces blue
7 butterflies, or any of the other specific
8 animals with funny names on which we have put
9 intolerable pressures, but eventually, if we
10 continue to be profligate with the biota and
11 all its needs, we will, of a certainty, cross
12 some line that separates the ecosystem in
13 which we have thrived from a new one.
14 Crossing the line will represent a test to
15 us, a test that the odds say we will flunk.
16 We don't know where that line is, and we
17 can't begin to understand what it would mean
18 to live in a new ecosystem, because we don't
19 understand the one we have. That makes me
20 nervous. So call this a conservation ethic
21 based on nervousness, but I think the smart
22 money would agree, be really, really careful
23 with all the things in the world,
24 particularly those that were here before we
25 were. We may need them more than they need

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1 us," unquote.

2 I would ask you to think very hard
3 about the folly of George Bush's proposal and
4 the irreparable harm that it will do to our
5 world and our children's world.

6 MR. HARTOS: Thank you. Lisa Smith.

7 MS. SMITH: I think there must be some
8 confusion.

9 MR. HARTOS: Okay. Maybe I got those
10 mixed up here.

11 Heather Sage, and Pieter Maris on deck.

12 MS. SAGE: Good evening, my name is
13 Heather Sage, and I'm testifying on behalf of
14 Citizens for Pennsylvania's Future, a
15 state-wide public interest organization
16 working to ensure a just future where nature,
17 communities and the economy thrive.

18 Penn Future has over 1200 members in
19 Pennsylvania, many of who are living in and
20 around past, present or future surface coal
21 mining operations. Penn Future will be
22 submitting more detailed written comments in
23 addition to my comments this evening. I
24 would also like to incorporate fully herein
25 by reference the over 70,000 comments

1 opposing mountain top removal, valley fills
2 and environmental destruction caused by these
3 activities submitted during the public
4 comment period relative to the draft EIS.

5 Penn Future is very concerned with your
6 proposals to change the stream buffer zone.
7 We are opposed to mountain top removal on any
8 scale. We are opposed to wholesale stream
9 valley fills, and we are opposed to your
10 proposed changes. We do, however, want the
11 Office of Surface Mining to protect water,
12 protect streams, protect the unique
13 ecological communities living in valleys, and
14 to protect human communities throughout areas
15 of this country where surface coal mining
16 takes place. We appreciate the opportunity
17 to provide our comments and hope that this
18 process is not merely symbolic.

19 As a zoologist and environmental
20 scientist, the changes proposed here truly
21 fly in the face of my years of education and
22 experience, and I'm older than you think.

23 Streams should not be treated as
24 obstacles to overcome, and the end should not
25 justify the means. Often we are told that

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1 development and natural resource extraction
2 has to be a balance against environmental
3 protection. But all too often there is no
4 balance at all. These rules -- rule changes
5 demonstrate that the interests of the few,
6 coal mining interests, outweigh the interests
7 of the many, everyone else.

8 The Surface Mining Control and
9 Reclamation Act provides for a stream buffer
10 rule in its environmental protection
11 performance standard. SMCRA expressly states
12 that roads cannot be constructed, quote, "up
13 a stream bed or drainage channel, or in such
14 proximity to such channel, so as to seriously
15 alter the flow of water."

16 In discussing the placement of mine
17 spoil, disposal is limited to, quote, "an
18 area that does not contain springs, natural
19 water courses or wet weather seeps." The
20 Office of Surface Mining incorrectly defines
21 the goal of the stream buffer zone rule to
22 protect only those streams outside the mining
23 permit area, thus attempting to consider the
24 effect of sedimentation on streams only lying
25 outside the mining permit area.

1 In the late 1970s, and again in 1983,
2 the same rule was discussed by OSM. In the
3 '70s, OSM found, and I quote, "Buffer zones
4 are an effective method to be used to prevent
5 sedimentation of streams by runoff from
6 disturbed surface areas." It also recognizes
7 that small streams may have a biologic
8 community of considerable complexity worthy
9 of protection. In 1983, OSM found, quote,
10 "Buffer zones are used to protect streams
11 from sedimentation and from gross disturbance
12 of stream channels caused by surface coal
13 mining and reclamation operations."

14 As such, OSM contradicts itself as to
15 the purpose of the stream buffer rule as
16 stated in this proposed rule change. This
17 new, quote, "modified goal" will not provide
18 sufficient protection to streams. Being
19 concerned about sedimentation outside the
20 permit area, and allowing for the ultimate
21 sedimentation inside the permit area, by
22 totally obliterating stream segments from
23 fill quite simply makes no sense. Allowing
24 this type of filling, and eliminating buffer
25 zones, most certainly will result in

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1 violations of the Clean Water Act, as well as
2 state laws, such as Pennsylvania's Clean
3 Streams Law. It is not lawful to allow for
4 violations of Federal effluent limitations.

5 OSM incorrectly reasons that since,
6 quote, "It is virtually impossible to conduct
7 mining activities within 100 feet of an
8 intermittent or perennial stream without
9 causing some adverse impacts," end quote, the
10 buffer zone rule must be brought in to allow
11 more mining activity within 100 feet of a
12 stream. The error in this line of reasoning
13 is that it implies that there must not only
14 exist a potential for mining activity to
15 occur within the 100 foot buffer, but that it
16 must occur, and with frequency.

17 OSM disregards the intent of the
18 prohibition on the mine activity within the
19 buffer zone made by Section 816.57 of the
20 regulations. The buffer zone rule is not
21 meant to allow mining activity to occur near
22 streams, but has a goal of quite the
23 opposite.

24 Valley fills and stream encroachments
25 are more and more frequent in mining

1 operations in Pennsylvania. This is a
2 problem we know all too well from our
3 neighbors in West Virginia, but we see it at
4 home as well. There's a pending proposal
5 that we've heard earlier for strip mining
6 project within the City of Pittsburgh, a
7 smaller scale version of mountain top removal
8 right here at home. We know the damage it
9 causes and that it can cause. Nowhere is off
10 limits, it seems, if there is coal. That is
11 why we urge you to abandon this rule change
12 and uphold our laws.

13 Thank you.

14 MR. HARTOS: Thank you.

15 Pieter Maris.

16 MR. MARIS: My name is Pieter Maris,
17 and I guess I'm here to represent myself.

18 A lot of things that have been said
19 here this evening. One thing I would like to
20 stress is the importance of clean and fresh
21 water. Human life is impossible without
22 clean and fresh water. Well, what's more,
23 any kind of life is impossible, as far as we
24 know it, without clean and fresh water. What
25 is NASA looking for on Mars; oil, coal? No,

1 they're looking for water, because that might
2 indicate the existence of life.

3 Much of the U.S. has had a severe water
4 shortage over the last couple of years, last
5 couple of summers. It was maybe not that
6 noticeable in Pittsburgh, but where I used to
7 live in North Carolina, I believe two summers
8 ago, there was a couple of weeks' water left
9 in the reservoirs by the end of summer, and a
10 couple of weeks is not much.

11 Let me tell you something that I
12 experienced about ten years ago when I was
13 living in Japan, where there was truly a
14 severe water shortage. I was living in
15 Nagoya, city of about 15 million people, so
16 it is not a small area. The water shortage
17 was such that running tap water was limited
18 to four hours a day. Only between 4:00 p.m.
19 and 8:00 p.m. did you have running tap water,
20 so you better make sure you flushed the
21 toilet, take a shower and fill a couple of
22 bottles of water in that time; otherwise, you
23 are out of luck for the next 20 hours or so.
24 Imagine that in a major city area here. So I
25 would like to stress that protecting the

1 water, the streams and the area that feeds
2 into the streams should be the highest
3 priority, and those areas should be protected
4 at all costs.

5 Coal is not that important for survival
6 of the human race as water; clean and fresh
7 water is, so that's my most important
8 message.

9 Next, go to a few specifics of this
10 proposal, and I quote from your proposal, "By
11 these changes, we intend to clarify our
12 program requirements and reduce the
13 regulatory uncertainty concerning these
14 matters." In order to do so, you say, a few
15 lines down, "We will require the applicant to
16 demonstrate, to the satisfaction of a
17 regulatory authority, that the mining
18 operation will be designed, to the extent
19 possible, to minimize impacts on hydrology,"
20 et cetera, et cetera, "prior to allowing
21 mining within a hundred feet of perennial or
22 intermittent stream."

23 There is a very easy way to clarify
24 your program requirements and to reduce the
25 regulatory uncertainty, just don't allow for

1 any mining activities within those hundred
2 feet. And, in fact, given the importance of
3 water, if any changes need to be made, that
4 limit of hundred feet should be extended, or
5 there should be a larger region around
6 streams that should be protected from any
7 surface mining activities, and I would also
8 like to see underwater streams, underwater
9 seeps and reservoirs included in those kind
10 of protections, because those are even more
11 important, I think, for clean and fresh
12 drinking water.

13 Given the time, I think I will stop
14 here.

15 Thank you.

16 MR. HARTOS: Well, that was the last of
17 our registered speakers.

18 Is there anyone in the audience who
19 would like to speak, raise your hand and
20 state your name as you come up, and your
21 affiliation.

22 MR. MOONEY: My name is Paul Mooney,
23 and I really don't have any affiliation,
24 other than myself as a citizen of this state
25 and this country. And I guess I've been a

1 Pennsylvanian all my life. My grandparents
2 and my parents are from the anthracite region
3 of Pennsylvania. I've seen what the effects
4 of coal mining can do to the countryside over
5 a long period of time, and I guess I have to
6 say I appreciate the opportunity to come here
7 and express my views.

8 I don't have any particular prepared
9 remarks, but I guess, on balance, I'd say I'm
10 here because I'm angry. I'm angry, because I
11 feel that these kind of meetings shouldn't be
12 necessary. It seems to me that it's self
13 evident, common sense that you don't put dirt
14 in streams. You don't put coal refuse in
15 streams, and I just find all this regulatory
16 environment stuff to be extremely
17 frustrating.

18 I have been Republican my entire voting
19 career, and I am ashamed of the Republican
20 stance in this area, and I just wish that
21 message will get back to whoever it has to
22 get back to, that I think people have zero
23 tolerance for this, and I think the common
24 sense aspect of it is what angers me so much.
25 Do we have to sit here and argue about

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1 whether a hundred feet is enough, or any
2 number of feet is enough, when the obvious
3 answer is, you just don't do this.

4 That's all I have to say. Thank you
5 for hearing me.

6 MR. HARTOS: Thank you. I saw another
7 hand.

8 MR. BLOSE: Hi, my name is Pete Blose.
9 I am not a member of any organization
10 whatsoever, which is very refreshing. I
11 don't represent anyone, except myself, and I
12 don't have any prepared remarks, but I am a
13 little bit disappointed that the only person
14 here speaking on behalf of this proposal is
15 my -- gentleman to my left, and what that
16 indicates to me is something that we all know
17 very well, and that is the incredible
18 arrogance of the Bush Administration. I'm
19 sure Dick Cheney would call it chutzpah, but
20 I regard it as extreme arrogance, that they
21 are so sure of themselves that there isn't
22 even anyone here from the industry to attempt
23 to defend this proposal. And, frankly, what
24 that leads me to is that it's very -- seems
25 futile to come here and give public

1 testimony; I mean, why bother, in the face of
2 such extreme arrogance by the Bush
3 Administration. And, you know, what can I
4 say, what can I possibly say that anyone in
5 OSM is going to agree to, or even seriously
6 consider?

7 Well, there's something else that we
8 know, and that is that the Bush
9 Administration has a penchant for making
10 regulations based solely on politics, and not
11 on the facts or signs. There's no need to go
12 into the details of that, there is a record
13 already of that sort of thing. And so I
14 would like to talk about the politics of this
15 regulation. I don't know if that's what I'm
16 supposed to do, but that's what occurs to me.

17 Recently, there was an article in the
18 Pittsburgh Post-Gazette indicating that some
19 of the supporters of the Bush Administration
20 were making contributions to the Ralph Nader
21 campaign. Maybe you all read that. I
22 happened to read that article, and lo and
23 behold, one of the individuals listed in
24 there as being a prominent Republican, who is
25 supporting financially Ralph Nader, was Terry

1 Jacobs. Terry Jacobs is also the owner of a
2 coal company, Seven Sisters Mining Company in
3 Delmont, Pennsylvania, which I think it
4 probably no coincidence, and so I suppose the
5 adoption of this proposed rule-making might
6 gain, you know, one -- at least one vote for
7 George Bush in the November election, but the
8 way I look at it, the adoption of this
9 proposal, you know, the weakening of the
10 stream buffer rule and the promotion of the
11 mountain top removal, will be seen by the
12 general public as reckless and irresponsible.

13 Clearly, the Bush Administration is
14 already -- is not highly regarded as
15 environmentalists, and I'm sure he, you know,
16 accepts that. But this proposal just, in my
17 mind, goes to the extreme and will result in
18 a net loss of votes to George Bush and Dick
19 Cheney in the November election.

20 And so what this leads me to is that I
21 would have to agree to my gentleman to the
22 left here, who said that perhaps this
23 proposal is premature; perhaps the
24 Administration should consider tabling this
25 proposal until after the November election.

1 And that's about all I have to say.
2 Thank you.

3 MR. HARTOS: Thank you. Any other
4 speakers? Having seen none --

5 MS. EVANS GARDNER: Aren't you guys
6 going to answer some of the questions that
7 have been directed to you?

8 A VOICE: They're not allowed to.

9 MS. EVANS GARDNER: They're not allowed
10 to?

11 MR. HARTOS: We cannot.

12 MS. EVANS GARDNER: I hereby order you
13 to.

14 MR. HARTOS: Well, we will in the
15 write-up.

16 MR. GARDNER: Are you allowed to answer
17 any questions individually?

18 MS. EVANS GARDNER: I mean, there were
19 several pertinent questions, putting aside
20 mine, there were serious questions, and I
21 think you owe this audience an answer to
22 them.

23 MR. HARTOS: Well, I apologize, but we
24 cannot tonight. We are here to listen to
25 you, and listen to the views on the rule, and

1 we will be considering the comments we heard
2 tonight, a lot of good testimony, and that
3 and any written comments that you guys will
4 provide.

5 MR. GARDNER: Are you ever going to
6 give a public explanation of your point of
7 view?

8 MR. HARTOS: Absolutely.

9 MR. GARDNER: When?

10 MR. HARTOS: It comes out when we
11 analyze the comments.

12 MR. GARDNER: I mean, a spoken one.

13 MR. HARTOS: Yeah, the next version of
14 when we come up with a final rule, a rule,
15 the next rule, there is an analysis to the
16 comments.

17 MS. SABL: How would we contact you for
18 responses? I'm sure that as part of your job
19 description, some level of nonformalized
20 response must also be possible to individual
21 questions. I imagine you field individual
22 questions all the time and do not put out
23 public briefs each time.

24 MR. HARTOS: We're just not allowed to
25 do this during that time period.

1 MS. SABL: Right. So I'm asking how we
2 would contact you for responses to questions
3 in general.

4 MR. HARTOS: Oh. If you have questions
5 in general in terms of mining regulations or
6 such, if you're from Pennsylvania, it's
7 probably best to first go to the state,
8 Department of Environmental Protection,
9 they're the regulatory agency in this state.

10 MS. SABL: No, I actually meant you
11 guys.

12 MR. HARTOS: Yeah. Well, I needed to
13 explain just how that relationship works. We
14 have an oversight responsibility here in
15 Pennsylvania. The questions in terms of
16 oversight, probably should be directed
17 towards either one or two places. There is a
18 Johnstown area office, and that's headed by
19 Joe Geisinger, or the Harrisburg field
20 office, that's George Reiger, and actually,
21 he's got a duty here in Greentree, and I will
22 be happy to furnish any of those names for
23 you. They should be in the phone book
24 though.

25 MR. BARTSCH: And on the website. And

1 on the website

2 MR. HARTOS: Yeah, that's a good point.
3 It's on OSM's website, which you have the
4 link up here. It has the organization and,
5 so anybody that may be out of state, Ohio,
6 West Virginia, there's a lot of good
7 information there. There may be some answers
8 to some of your questions too, if you look.

9 MR. COLEMAN: Could you tell us what
10 each of you people have as a job description
11 for OSM?

12 MR. GARDNER: Who are you?

13 MR. COLEMAN: Are you the boss? I
14 don't think you're a --

15 MR. HARTOS: Well, I could just say, I
16 guess for myself, I'm a physical scientist
17 for the Office of Surface Mining, and I work
18 out of Greentree.

19 MR. COLEMAN: Is that a job category,
20 physical scientist?

21 MR. HARTOS: Yes.

22 MR. GARDNER: Could you just give us
23 your name? I didn't hear it, I was late.

24 MR. HARTOS: Oh, David Hartos, that's
25 H-a-r-t-o-s.

1 MR. GARDNER: Could I have his too?

2 MR. COLEMAN: Is a physical scientist,
3 you mean geologist? I would understand
4 geologist or earth scientist, or physicist,
5 or --

6 MR. BARTSCH: Maybe you can describe
7 your duties, what you do.

8 MR. COLEMAN: Yeah.

9 MR. HARTOS: Well, I'd rather not go
10 into my details here tonight on this
11 particular hearing. Maybe after the hearing
12 I'd be glad to talk with you, but I just want
13 to thank everyone for coming here tonight,
14 and -- yes.

15 MS. BRAVERMAN: I'm sorry, I have one
16 more comment, question.

17 MR. HARTOS: Okay.

18 MS. BRAVERMAN: We want to make sure
19 that the 70,000 plus comments that were made
20 in regard, or in answer to the public comment
21 period for the environmental impact
22 statement, do end up being attached to our
23 comments, and I think we made that clear.
24 There were about five or six people who
25 reiterated that. I want to make sure that

1 that occurs.

2 MR. GARDNER: After every --

3 MS. BRAVERMAN: Yeah. There were
4 70,000 plus comments submitted in response to
5 the environmental impact statement on
6 mountain top removal and valley fills. We
7 have specifically asked that they be
8 incorporated, all 70,000 plus of them
9 opposing those practices with our comments.
10 So, I mean, if we have to go find where they
11 are, get copies of 70,000 comments and submit
12 them by April 7th -- is that the date; the
13 7th?

14 MR. HARTOS: Yes.

15 MS. BRAVERMAN: Then we need to know
16 how to do that, unless the Department will
17 promise that they will address that issue and
18 they will get those comments, and they will
19 resubmit them for this particular comment
20 period, and for this particular issue.

21 MR. HARTOS: Beverly, all I can say is
22 we heard the testimony tonight, and, as you
23 said, multiple people had made that link
24 towards the 70,000, and that would be given
25 due consideration. I can't answer that

1 question tonight.

2 MS. BRAVERMAN: Who gives the due
3 consideration? Who exactly is going to
4 review all these comments?

5 MS. SABL: And where can we send them?
6 I mean, if we print them out and send them
7 along, who do we send them to?

8 MR. HARTOS: Yeah, comments should be
9 submitted to the Administrative Record.

10 MS. BRAVERMAN: Who is going to review
11 them, Dave? Do you have names of specific
12 people who would review these comments? I
13 would very much like to know who they are.

14 MR. HARTOS: I do not.

15 MS. BRAVERMAN: Okay. Who can I call
16 to find out?

17 MR. McCABE: Jeff Jared.

18 MR. HARTOS: Yeah, it would probably be
19 Jeff Jared eventually.

20 MS. BRAVERMAN: Okay. Thank you.

21 MR. HARTOS: Okay.

22 MS. SABL: Does he have a job title?

23 MR. HOCH: Sir, do you have anything in
24 the authoring board, or investigators for the
25 proposed rule change that we could ask

1 questions to before April 7th; are you saying
2 nobody is allowed to answer any questions
3 during the public comment period?

4 I have some specific questions I would
5 like to ask before I submit my written
6 comments.

7 MR. HARTOS: Let me try to briefly
8 explain this. Would you, I guess for the
9 court reporter, would you state your name?

10 MR. HOCH: My name's Richard Hoch,
11 H-o-c-h.

12 MR. HARTOS: The problem is, if we
13 would answer questions on the substance of
14 the rule here today, that there may be
15 another meeting going on somewhere else, and
16 if I would give you a substantial answer to
17 those questions, or you may give me
18 information that wouldn't go into the record,
19 then there may be folks that would not be
20 privy to that.

21 MR. HOCH: Can I make written
22 questions, submissions to an authoring board
23 or investigators?

24 MR. HARTOS: Submit -- I would just
25 suggest to you that you submit your

1 questions, but I would do it as rhetorical
2 questions to the Administrative Record.

3 MS. EVANSGARDNER: Could you explain
4 your answers? There may be folks who would
5 not be privy to your answers. We have a
6 court reporter here, and she's going to write
7 down everything you say, if you say anything,
8 but who isn't going to hear it? I mean, we
9 all expended energy and time, and probably
10 money to come here, and so far, we haven't
11 gotten, at least I have not, speaking for
12 myself, JoAnne Evansgardner, I have not
13 gotten any satisfaction from you all. We
14 haven't gotten any answers to any questions.
15 It's hard even to get your names, and what
16 you gave us as your job title doesn't sound
17 like any job title I ever heard of, and I
18 asked for your name and job title, and you
19 just sat there and didn't answer, so either
20 the answer that we get is modest, or --

21 Dr. KOHLI: My name was given by him in
22 the beginning.

23 MS. EVANSGARDNER: I wasn't here
24 because I got held up in the traffic. I
25 started in time to get here.

1 DR. KOHLI: Okay. My name is Kewal
2 Kohli, and I'm a mining engineer.

3 MS. EVANS GARDNER: G-a-l-e-n?

4 DR. KOHLI: No, K-o-h-l-i is my last
5 name, and K-e-w-a-l is my first name.

6 MS. EVANS GARDNER: Thank you.

7 MR. HARTOS: Again, we were here to
8 listen to your comments tonight, and I am
9 going to close this meeting, and I thank you
10 all for spending some time in sharing your
11 views regarding the rules with us tonight.

12 - - -

13 (Thereupon, at 8:29 o'clock p.m., the
14 hearing was concluded.)

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REPORTER'S CERTIFICATE

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I, Linda M. Frost, certify that the foregoing one hundred nine (109) pages are a true and correct transcript of my stenographic notes taken at the proceedings on Tuesday, March 30, 2004, held at the Best Western Parkway Center, 875 Greentree Road, Pittsburgh, Pennsylvania 15220.

Linda M. Frost

Linda M. Frost
Court Reporter

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