

1 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

2

IN THE MATTER OF:

3

INFORMATIONAL HEARING ON THE RENEWAL
4 OF THE CLEAN AIR ACT PERMITTING PROGRAM
5 PERMIT FOR BWAY CORPORATION

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The informational hearing in the
8 above-entitled matter was conducted by
9 HEARING OFFICER CHRISTINE ZEIVEL, held at
10 Little Village Lawndale High School,
11 3120 South Kostner Avenue, Chicago, Illinois on
12 Tuesday, November 12, 2019, at the hour of
13 7:00 p.m.

14

15 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY MEMBERS:

16 MR. WILLIAM D. MARR, CAAPP UNIT MANAGER/BUREAU OF
17 AIR, PERMIT SECTION

18 MR. NORM LOWREY, EPA ENGINEER/BUREAU OF AIR,
19 PERMIT SECTION

20 MR. ROBB LAYMAN, ASSISTANT COUNSEL

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1 HEARING OFFICER ZEIVEL: We are going to go
2 ahead and get started.

3 Good evening, everyone. This is an
4 informational hearing on the renewal of the
5 Clean Air Act Permitting Program permit for BWAY
6 Corporation.

7 Let the record reflect that the time is
8 now 7:11 p.m.

9 My name is Christine Zeivel, and I am the
10 hearing officer for the Illinois Environmental
11 Protection Agency.

12 On behalf of Director John Kim, I welcome
13 you to tonight's hearing.

14 At this time please silence all cell
15 phones or any other electronic devices that you
16 have, if you have not already done so.

17 This hearing is being interpreted into
18 Spanish by way of simultaneous interpretation, as
19 Mr. Delgado explained just a short time ago. So
20 please be aware that you must speak clearly and
21 not too quickly. Should you wish to make your
22 comments in Spanish, please indicate that if you
23 have not on your registration card. If you did
24 not indicate so on your registration card, you can

1 indicate that when you come up to the microphone
2 to speak and Mr. Delgado will assist you in
3 translation so that you can communicate with
4 tonight's panel.

5 The need for interpretation and the type
6 of interpretation used is determined on a
7 case-by-case basis and everyone is reminded that
8 they should not necessarily expect the same method
9 of interpretation at future hearings.

10 This is an informational hearing before
11 the Illinois EPA in the matter of a renewal of the
12 Clean Air Act Permitting Program permit, which
13 will be referred to generally as the C-A-A-P-P, or
14 CAAPP permit, for the BWAY Corporation facility
15 located in Cook County at
16 3200 South Kilbourn Avenue in Chicago.

17 As part of this hearing proceeding, the
18 Illinois EPA has prepared documents for public
19 review that outline the major permit terms and
20 conditions that are subject to this hearing, and
21 those documents are available for review at the
22 registration desk and on the Illinois EPA's public
23 notice web page.

24 The Illinois EPA is holding this hearing

1 for the purpose of accepting comments from the
2 public on the --

3 She just indicated I needed to slow down
4 slightly. A good indication that you all will
5 need to speak slowly as well.

6 The Illinois EPA is holding this hearing
7 for the purpose of accepting comments from the
8 public on the proposed renewal of the CAAPP permit
9 for the BWAY Corporation facility prior to
10 actually taking final action on the renewal
11 application.

12 This public hearing is being held under
13 the provisions of the Illinois EPA's Procedures
14 for Permit and Closure Plan Hearings, which can be
15 found at 35 Illinois Administrative Code Part 166,
16 Subpart A.

17 Copies of these procedures can be
18 accessed on the website for the Illinois Pollution
19 Control Board at www.ipcb.state.il.us, or if you
20 do not have ready access to the Internet they can
21 be obtained from me upon request.

22 An informational public hearing is not a
23 contested case hearing, but rather is an
24 opportunity for you to provide information to and

1 ask questions of the Illinois EPA concerning this
2 permit.

3 My responsibility as hearing officer is
4 to ensure that this proceeding comports to the
5 procedural requirements and is conducted in a
6 proper and fair, but efficient, manner.

7 Also here tonight with Illinois EPA is
8 Chris Pressnall, that's spelled P-R-E-S-S-N-A-L-L,
9 the Agency's Environmental Justice Officer, he's
10 located right there, and Brad Frost with our
11 Office of Communications who is over there by the
12 registration desk.

13 Now I would like to explain how tonight's
14 hearing is going to proceed.

15 First, we will have the Illinois EPA
16 staff, located to my left, introduce themselves,
17 identify their responsibilities within the Agency
18 in regard to this particular permitting action,
19 and then each will provide a brief overview of
20 information relevant to tonight's proceeding.

21 This will be followed by additional
22 instructions from me on how we will be taking
23 public comment during the hearing this evening,
24 and then the public will be allowed to ask

1 questions and provide comments.

2 We have a court reporter here who is
3 taking a record of these proceedings for the
4 purpose of creating the public record. Therefore,
5 for her benefit, please keep the general
6 background noise in the room to a minimum so that
7 she can hear and properly record everything that
8 is said.

9 Any comments or statements made without a
10 microphone will not be interpreted and will not be
11 recorded by the court reporter.

12 The Illinois EPA will post the transcript
13 of this hearing on our web page in the same
14 general place where the hearing notices, draft
15 permit, Statement of Basis and other documents
16 associated with this proceeding have been posted.

17 You are not required to provide your
18 comments orally. Written comments are given the
19 same consideration as oral comments made during
20 this hearing and those can be submitted to the
21 Illinois EPA at any time during the comment period
22 which ends on December 12th, 2019.

23 All comments submitted by mail must be
24 postmarked in sufficient time to arrive at the

1 Illinois EPA no later than that December 12th,
2 2019, deadline.

3 Although we will continue to accept
4 comments throughout that date, tonight is the only
5 time that we will accept oral comments.

6 Any person who wants to make oral
7 comments may do so as long as the statements are
8 relevant to the issues and time allows.

9 If you have not yet completed a
10 registration card at this point, please head to
11 the registration desk located by the exit sign and
12 complete the card and make sure to check the
13 appropriate box that indicates that you would like
14 to make a comment tonight.

15 If you have lengthy comments, you can
16 consider giving only a summary of those comments
17 at this hearing and then submitting the entirety
18 of your comments to the Agency before the end of
19 the comment period and I will ensure that all of
20 those written comments are included in the hearing
21 record.

22 I ask that you please keep your comments
23 tonight relevant to the conditions and
24 requirements in the permit that Illinois EPA is

1 proposing to renew. If your comments fall outside
2 the scope of the hearing, I may ask you to proceed
3 to another issue.

4 Each speaker will have the option of
5 addressing questions to the Illinois EPA panel or
6 just making a general comment, or both.

7 Generally, we have a limited time in
8 which to conduct the hearing.

9 So, Illinois EPA staff members will be
10 responding to issues presented tonight primarily
11 for purposes of clarification. The Agency panel
12 may respond and answer questions tonight or they
13 may defer providing response to the Responsiveness
14 Summary that will be posted following the close of
15 the comment period.

16 I will not allow speakers to argue,
17 cross-examine, or engage in adversarial prolonged
18 dialogue with each other or with members of the
19 panel, and I will also not allow members of the
20 public to address comments to other members of the
21 public. Comments from the public are to be
22 addressed to the hearing panel in the direction of
23 the panel and the court reporter.

24 Representatives of BWAY Corporation are

1 here tonight and they are free to respond to
2 issues or questions after a speaker concludes, but
3 I am not in a position to require them to do so.

4 As the hearing officer, I intend to treat
5 everyone here tonight in a courteous, respectful
6 and professional manner. I ask that members of
7 the panel and the public please do the same. You
8 may disagree with or object to some of the
9 statements or comments that are made here tonight,
10 but this is a public hearing and everyone has a
11 right to express their comments in this matter.

12 However, I will only allow statements to
13 be made tonight that relate to the issues involved
14 with the air CAAPP permit.

15 Statements and comments that are of a
16 personal nature or reflect on the character or
17 motive of a group of people are not appropriate
18 for this hearing. If statements or comments begin
19 to drift into that area, I may interrupt whoever
20 is speaking and ask that they move on to their
21 next issue.

22 In addition, I just want to quickly
23 stress that we want to avoid unnecessary
24 repetition. If anyone before you has already

1 presented what is contained in your comments,
2 please skip over those issues when you speak. If
3 someone speaking before you has already said what
4 you desire to say, you are free to repeat those
5 same sentiments, but you may also pass when I call
6 your name if you no longer wish to provide your
7 comments.

8 Once a point has been made, it does not
9 make a difference if the same point is made once
10 or a dozen times over, it will be considered and
11 it will be reflected only once in the
12 Responsiveness Summary.

13 Okay. All who complete a registration
14 card or submit written comments during the comment
15 period will be notified of the final decision, or
16 the final Agency action on this permit and of the
17 availability of the Responsiveness Summary.

18 In the Responsiveness Summary, the
19 Illinois EPA will respond to relevant issues that
20 were raised at this hearing or submitted via
21 writing prior to the close of the comment period
22 on December 12, 2019.

23 Again, I will accept written comments as
24 long as they are received at the Agency in

1 Springfield before December 12th.

2 While the record is open, all relevant
3 comments, documents and data will be placed into
4 the hearing record as exhibits. You can send all
5 written documents to my attention, Christine
6 Zeivel, as indicated in the revised public notice.
7 That is available at the registration desk. That
8 public notice has my name, the e-mail in box in
9 which you can provide electronic comments, and
10 also a physical address where you can send your
11 comments by mail. Again, I will accept those as
12 long as they are received by December 12th.

13 At this time I am going to have the
14 Illinois EPA staff present tonight introduce
15 themselves and they are going to make a brief
16 statement regarding the permit and tonight's
17 proceeding.

18 After everybody on the panel is done, it
19 will come back to me and I will provide very brief
20 further instruction about how you are able to come
21 to the microphone tonight and provide comments to
22 the Agency.

23 That being said, we will start to my
24 left. Please introduce yourself, provide your

1 position at the Agency, your role in the permit,
2 and then any brief introductory statement you will
3 have.

4 MR. LAYMAN: Thank you. Good evening and
5 thank you all for coming.

6 My name is Robb Layman, and I am a lawyer
7 that works with the Bureau of Air Permit Section
8 in the Environmental Permitting Programs that are
9 administered by the Agency under the Illinois
10 Environmental Protection Act.

11 I started with the Agency in 1991 as an
12 enforcement attorney and transitioned to full-time
13 permitting matter about a decade or so ago. Most
14 of my work involve providing legal advice to
15 permit writers when they encounter various legal
16 issues or when they deal with companies who are
17 represented by legal counsel.

18 As the hearing officer noted, this is an
19 informational hearing on BWAY's application for
20 renewal of a CAAPP permit, which is the
21 federally-approved major source operating permit
22 program enacted by Congress in 1990.

23 Ordinarily, the Agency would not have a
24 lawyer participating in the panel for this type of

1 a hearing. However, because of the applicant
2 having been a subject of citizen complaints in the
3 past, it was thought that some discussion of the
4 legal framework for the Agency's permitting and
5 enforcement programs might be helpful at the start
6 of this hearing.

7 The permitting program as implemented by
8 the Agency under Title X of the Environmental
9 Protection Act assure that emission sources in
10 Illinois, like BWAY, are authorized to construct
11 and operate their emission units and that they are
12 also equipped with the appropriate control
13 systems, the methods and techniques that are
14 necessary to meet pollution standards.

15 In general, when the Agency reviews a
16 permit application, it must consider whether
17 emission sources being constructed or operated
18 will possess the ability to comply with pollution
19 standards upon issuance of its permit.

20 The legal standard for issuance may vary
21 depending on the permitting program, but the focus
22 is on whether the applicant can comply with
23 pollution standards prospectively based on the
24 time or the nature of the emission source.

1 In contrast, enforcement programs under
2 the Illinois Environmental Protection Act provide
3 a variety of remedies that also may address the
4 past or present compliance status of a source.
5 This focus is not always the same as in a
6 permitted review, and the reasons for the
7 differences are because permitting and enforcement
8 are separate and distinct functions under the Act.

9 When the Agency evaluates a permit
10 application, Illinois courts have instructed that
11 the Agency cannot deny a permit simply because we
12 may find, or we may believe, that the company has
13 violated its permit.

14 Part of this reasoning by the courts
15 relate to due process concerns that are inherent
16 in most types of licensing programs.

17 If the Agency, or another governmental
18 authority, or even citizens believe at the time of
19 the permit review that a source is violating its
20 permit, or has in the past violated its permit,
21 the courts generally tell us that we must use the
22 enforcement programs for getting to the bottom of
23 the issues, including whether there should be
24 corrective action or civil penalty rather than

1 using the permitting program.

2 For its part, the CAAPP program has its
3 own distinct set of standards and procedures.
4 Under the CAAPP, the permitting authority must
5 issue a single permit that contains all of the
6 applicable requirements for its source in a single
7 document.

8 In addition, CAAPP permits require a
9 source to certify compliance with the CAAPP permit
10 on an annual basis, which must be signed by a
11 responsible official designated by the source, and
12 permits must contain practically enforceable terms
13 for monitoring, reporting, and recordkeeping.

14 In contrast to other permit programs, the
15 CAAPP provides for a process by which an applicant
16 must submit a compliance plan describing how each
17 emission unit at the source will comply
18 prospectively with applicable requirements and a
19 schedule for addressing those requirements that
20 the source is not in compliance with.

21 A couple of other observations I can
22 note. Some folks might assume that the Agency can
23 dictate whether a permit can or cannot issue, or
24 demand things on a permit from a permit applicant

1 that we think will benefit or protect the
2 environment.

3 In fact, the Agency administers most
4 permit programs, including the CAAPP, with only
5 limited discretion. We have authority to impose
6 certain types of monitoring conditions, as well as
7 testing, reporting, and recordkeeping
8 requirements, and we have a catch-all authority
9 for imposing conditions that generally accomplish
10 the purposes of the Act. Both brands of authority
11 under the CAAPP are what allow the Agency to
12 request that BWAY incorporate certain changes to
13 this draft permit as compared to the earlier draft
14 permit that was issued in 2016. Norm Lowrey will
15 will discuss that in just a minute.

16 But most of the time, the Agency's
17 discretion is fairly constrained. The Act makes
18 it a duty of the Agency to issue a permit to an
19 applicant if the legal standards for issuance are
20 met, if a CAAPP source provides us a complete
21 application, and if the Agency follows the
22 procedures that it's supposed to implement, the
23 Agency is bound by law to issue the permit and
24 lacks the legal authority to do otherwise.

1 In addition, permit programs, including
2 the CAAPP, do not authorize the Agency to create
3 new subsidy emission standards for sources. One
4 reason for this is because a CAAPP permit is
5 merely a vessel that must contain all of the
6 pollution standards and other requirements that a
7 source must meet. A CAAPP permit does not replace
8 and is not a substitute for the regulatory process
9 which actually develop those environmental
10 standards.

11 Another reason for this is that the
12 Agency grow under the Act is simply to administer
13 permit programs. The power to create emission
14 standards falls to the Illinois Pollution Control
15 Board and to the United States EPA and not to the
16 Agency.

17 I will close by just mentioning a citizen
18 complaint about the facility that was brought to
19 the Agency's attention about two months ago, I
20 believe it was. Although the incident is not
21 being considered as part of this permit review, we
22 wanted to touch on it this evening because of the
23 potential public interest in the matter.

24 An initial inquiry was made by a field

1 operations section concerning a recording that was
2 made of black smoke emanating from a smoke stack
3 on the morning of September 14th, which apparently
4 occurred during a scheduled maintenance of a stack
5 and control device system.

6 BWAY submitted a letter to the Agency on
7 October 2nd and attached the report prepared by
8 its maintenance contractor about the incident.

9 The Agency issued a formal violation
10 notice letter to the company on October 28th. The
11 notice letter recommended submissions of a plan
12 detailing how future maintenance activities on the
13 control device will prevent a future recurrence,
14 and records relating to past inspections and
15 repairs to the device in the last five years.
16 BWAY has 45 days to respond to the notice.

17 Copies of these documents are available
18 from the Agency through the Freedom of Information
19 Act if anyone is interested. If anyone needs
20 assistance in requesting these records, you can
21 reach out to our Environmental Justice Officer,
22 Mr. Pressnall.

23 That's all I have.

24 Norm.

1 MR. MARR: Good evening. My name is Bill
2 Marr. I am the manager of the CAAPP Unit/Bureau
3 of Air, Permit Section.

4 I would like to thank you all for
5 attending this public hearing regarding the
6 planned issuance of the renewal of the Clean Air
7 Act Permit Program, or CAAPP permit --

8 HEARING OFFICER ZEIVEL: Can you speak up
9 slightly for our court reporter?

10 MR. MARR: -- for operation of BWAY
11 Corporation.

12 I am going to provide the brief
13 permitting history.

14 On April 22nd, 1999, the Agency issued
15 Central Can Company, Incorporated an initial CAAPP
16 permit.

17 The CAAPP permit was revised on July 26,
18 2002, to reflect its ownership change.

19 The CAAPP permit was last renewed on
20 August 29th, 2005.

21 A timely CAAPP permit renewal application
22 from Central Can Company was received by the
23 Agency on September 25th, 2009.

24 The Agency deemed the CAAPP permit

1 renewal application complete by letter on
2 November 24th, 2009.

3 On December 7th, 2009, the Agency
4 acknowledged by letter an ownership change from
5 Central Can Company to BWAY Corporation.

6 The CAAPP permit expired on August 29th,
7 2010.

8 Because BWAY timely submitted a complete
9 CAAPP permit renewal application nine months prior
10 to the date of permit expiration, BWAY is
11 authorized to continue operating under the terms
12 and conditions of its expired permit until the
13 Agency takes final action on the submitted CAAPP
14 permit renewal application.

15 The draft CAAPP permit went to public
16 notice on April 14, 2016.

17 On May 10, 2016, the Little Village
18 Environmental Justice Organization submitted to
19 the Agency written public comments and a formal
20 request for a public hearing. The public comment
21 period ended on May 14, 2016.

22 The draft CAAPP permit was subsequently
23 revised to address the public comments and re-sent
24 the public notice September 27, 2019, for

1 tonight's public hearing. The public notice
2 comment period ends on December 12th, 2019.

3 I will now turn the microphone over to
4 Norm Lowrey, the permit analyst, who will discuss
5 the draft CAAPP permit.

6 MR. LOWREY: Good evening. My name is Norman
7 Lowrey. I am the -- or I am an environmental
8 protection engineer in the Bureau of Air, Permit
9 Section. Thank you again for attending this
10 public hearing regarding the plan issuance of a
11 renewal CAAPP permit for BWAY Corporation.

12 I would like to highlight four aspects of
13 the draft permit that have changed since the last
14 renewal CAAPP permit was issued.

15 First, BWAY operates coating lines which
16 are subject to federal standards for can coating
17 and miscellaneous metal parts coating. The draft
18 CAAPP permit has been revised to incorporate the
19 applicable requirements, including monitoring,
20 recordkeeping, and compliance reports.

21 Second, the draft permit has been revised
22 to incorporate a construction permit which
23 authorize the installation of a new thermal
24 oxidizer to control emissions of volatile organic

1 material from three of their lithographic coating
2 lines. The construction permit also authorize a
3 permanent total enclosure around all four coating
4 lines to improve capture of the volatile organic
5 material from the lines and direct those emissions
6 to the new oxidizer.

7 Third, the draft permit has been revised
8 to incorporate a 2013 United States EPA
9 administrative consent order. Complying with the
10 consent order, BWAY utilizes a permanent total
11 enclosure and two thermal oxidizers to reduce
12 emissions of hazardous volatile organic material
13 from the lithographic coating lines.

14 For the oxidizers, the draft permit
15 requires continuous monitoring of the combustion
16 temperature.

17 For the enclosure, the draft permit gives
18 BWAY a choice. BWAY can continuously monitor
19 pressure differentials or air velocities.
20 Monitoring these parameters help demonstrate
21 compliance with applicable requirements regarding
22 volatile organic material. Required periodic
23 testing and regular inspections will help confirm
24 the enclosure and the oxidizers work properly.

1 Fourth, the draft permit has been revised
2 to require BWAY Corporation to minimize odors.
3 BWAY must maintain an odor management plan
4 designed to monitor potential odor sources. The
5 plan identifies potential odor sources, lists
6 practices utilized to minimize odors, list records
7 that will be maintained, and identifies how
8 personnel can identify odor issues.

9 BWAY must update the odor management plan
10 whenever circumstances change, such as a plan does
11 not adequately address all potential odor issues.

12 Specific details regarding plan changes,
13 the draft CAAPP permit are contained in the
14 Statement of Basis that accompanies the draft
15 permit. The Statement of Basis and the fact sheet
16 regarding this permitting action are available on
17 the Illinois EPA website.

18 Once again, thank you for attending this
19 hearing.

20 Back to Christine.

21 HEARING OFFICER ZEIVEL: Thank you, Norm.
22 Thank you to the panel for the brief introductory
23 comments. We thought that it was important to
24 just give a very brief overview of the posturing

1 of the permit, the history that led us here
2 tonight, the main provisions of the permit, to
3 provide any additional upfront comments that might
4 assist you in providing your comments to the
5 Agency or developing any additional questions that
6 you might have regarding the permit.

7 So people who have requested to speak
8 will be called upon in the order in which you
9 registered to make a comment. I have that here.
10 For the purpose of allowing everyone to have a
11 chance to comment and to ensure that we conduct
12 this hearing in a timely fashion, we typically
13 impose a time limit upon speakers. From the
14 registration cards that I have in front of me
15 tonight, I don't think that we are going to need
16 to do that. I am going to allow speakers to come
17 up and make whatever comments, questions and
18 dialogue with the panel that you wish. If you
19 start to run into the 12-to-15-minute time period,
20 I may cut you off so that other folks have a
21 chance to speak, but because of the crowd that we
22 have here tonight, I really want to give the
23 opportunity for anyone who has questions or would
24 like to dialogue with the panel to have an

1 opportunity to do so.

2 If you are cut off and you don't -- are
3 not able to finish your comments and we have
4 enough time at the end of tonight's hearing, I
5 will open it back up to the public so that anybody
6 has an opportunity to finish any thoughts that you
7 would like to ensure that the Agency hear tonight.

8 We will start with the first speaker at
9 the microphone, the podium is here with
10 microphone. Before the speaker begins, I am going
11 to read the name of the next speaker up so that
12 you are ready to approach the microphone when the
13 previous speaker is finished.

14 When it is your turn to speak, you should
15 state your name, and if applicable any
16 governmental body, organization, or association
17 that you represent, for the record. If you are
18 not representing a governmental body, an
19 organization, or an association, you may simply
20 indicate that you are a concerned citizen or
21 member of the public.

22 For the benefit of the court reporter, I
23 ask that you spell your last name. If there are
24 alternate spellings of your first name, and I know

1 that you would be aware of that if there are, I
2 ask that you choose to spell your first name as
3 well so that the record can appropriately reflect
4 who is providing comments tonight.

5 There may be instances, as I mentioned
6 earlier, where representatives from BWAY may
7 choose to approach the microphone when you've
8 concluded asking your questions if they feel that
9 they would like to provide additional
10 clarification or information in response to your
11 comment or question.

12 Once you spell your name, I will start a
13 timer just to ensure that we don't run beyond the
14 time frame that I gave earlier, that 12 to 15
15 minutes.

16 Lastly, I ask that while you are
17 speaking, that you direct your attention to the
18 hearing panel here tonight and not to other
19 members of the public, who may have made comments,
20 or to BWAY representatives.

21 The Agency is required to hold this
22 hearing tonight and to provide response to your
23 questions and comments. So we will either do that
24 today, as we are able, or if we are unable, in the

1 Responsiveness Summary, but it will truly be the
2 most productive hearing tonight if you direct your
3 comments to the stage.

4 Before we start, if anybody has any
5 questions as to how we will proceed, I encourage
6 you to come up to the microphone now, a question
7 you have might be shared by someone else in the
8 audience, and I would like to make sure that we
9 provide any additional instruction.

10 Okay. With nobody standing, we are going
11 to go ahead and get started.

12 Our first speaker tonight will be Kim
13 Wasserman. If you wouldn't mind, Kim, coming up
14 to the microphone.

15 After Kim will be Vanessa Mora. Vanessa,
16 you can stay seated and once Kim has concluded, I
17 will call your name up to the microphone.

18 MS. WASSERMAN: Good evening, everybody.
19 Please let me know if I have to slow down, I tend
20 to talk really fast, so please let me know.

21 Good evening, everybody. My name is
22 Kimberly Wasserman. That's W-A-S-S-E-R-M-A-N. I
23 am the Executive Director of the Little Village
24 Environmental Justice Organization, and I am here

1 on behalf of our organization, our community, and
2 our families. We are a 25-year-old organization
3 in the community of Little Village.

4 For the past five years LVEJO has been
5 working with community members, teachers and
6 students to understand where harsh chemical smells
7 were coming from and the effects that it might
8 have on the students, staff and community.

9 What we found was that directly left to
10 the school across Kilbourn is the BWAY/Mauser
11 plant.

12 In 2016, youth interns surveyed students
13 and staff, and found almost a hundred percent of
14 those surveyed were experiencing strong smells by
15 and on the school campus. Smells were found to be
16 the strongest in the morning around 7:00 a.m. and
17 in the afternoon around 3:00 p.m.

18 Some sports practices, like cross team,
19 had to change their route because of the smell and
20 canceled practice as well.

21 Some side effects people have experienced
22 included dizziness, headaches, and stomachaches.

23 In 2019 we are continuing to see and hear
24 similar effects.

1 One of the questions we have is how will
2 this permit ensure the protection of the students,
3 school and staff, and workers both at BWAY and
4 across the street at the high school.

5 The reality is Little Village Lawndale
6 High School was built in the Little Village
7 industrial corridor and was designed to have its
8 HVAC system and swimming pool filtration system
9 facing BWAY's exhaust system. So we do understand
10 the way in which the high school was built
11 contributes to the emissions that they intake.

12 However, we demand that the permit
13 protect the health and well-being of the students,
14 staff, workers and community as mentioned.

15 We want to understand how the permit will
16 take into consideration the HVAC system, as
17 mentioned, and how will it ensure that the
18 fugitive emissions or any emissions aren't sucked
19 into the building, as they currently are being
20 seen to do.

21 The reality is that there is quite -- I
22 am sorry, the BWAY facility emits, as we have
23 heard, volatile organic compounds, one of them
24 including toluene and glycol ethers.

1 We believe every precaution needs to be
2 made to ensure BWAY's emissions are controlled and
3 monitored.

4 The reality is BWAY is located in an
5 environmental justice community and has about
6 8,000 homes within a one-mile radius and about
7 10,000 children under the age of 17 within a
8 one-mile radius.

9 There is a lot of evidence that shows
10 BWAY's emissions are not always well-controlled or
11 closely monitored. For example, we know from the
12 U.S. EPA, BWAY failed to operate its emission
13 monitoring systems for 26 days in 2007, 11 days in
14 2008, 18 days in 2009, and, most egregious of all,
15 211 days in 2010. We want to understand how that
16 cannot happen again and how they are forced to
17 ensure that their emissions are monitored every
18 day.

19 Recently, students at the school worked
20 with the staff to move the community garden that
21 was built on campus from the back of the building
22 to the front of the building, given the concerns
23 around air quality, and wanting to ensure that
24 students can be protected from air quality issues.

1 So again, we want to know how outdoor activity and
2 how folks can be protected outdoors of the school,
3 given the proximity to the company.

4 We believe that Illinois EPA must improve
5 the monitoring, response, recordkeeping and
6 reporting protocols in the CAAPP permit.

7 BWAY should be required to employ a
8 monitoring system with infrared cameras to detect
9 and report fugitive VOC releases.

10 They should be required to have a release
11 plan that includes notifying the school
12 administration. As of currently, we don't know if
13 any of the four principals who know what an
14 emergency plan is should something happen at BWAY.

15 One of the questions we have is one of
16 coordination, or can the permit force coordination
17 with the school administration to understand what
18 would happen in the worst case scenario and what
19 happens in minor case situations, along with
20 contact with the local fire department to ensure
21 the protection of the staff and the well-being of
22 the community, and the proximity of
23 Piotrowski Park, a local community park less than
24 two blocks away.

1 And lastly, we demand that Illinois EPA
2 issue a permit that protects the well-being and
3 human health of all, as was mentioned.

4 We will be submitting additional comments
5 in writing.

6 The last thing I will say is that we
7 understand and recognize the importance of local
8 industry and the work that it brings to the
9 neighborhood, but it's also incredibly important
10 for us to also understand the thousands of
11 students that are literally located feet away from
12 this company. So we want to ensure that this
13 permit is as strong as possible to protect both
14 the workers on the inside, but everybody else who
15 is on the outside and has to live and come to
16 school every day around this company.

17 Thank you very much for your time.

18 HEARING OFFICER ZEIVEL: Kim, thank you for
19 providing comment.

20 Vanessa Mora, you will be up to speak
21 next.

22 And then following Vanessa, Nancy Meza.
23 please be ready.

24 MR. LOWREY: We can respond to at least some

1 of the questions you brought up.

2 HEARING OFFICER ZEIVEL: Kim, you can stay at
3 the microphone if you would like to engage. I am
4 sorry, I assumed with the pause, that was my lack
5 of direction. So I apologize to make you come
6 back up and down the aisle.

7 MR. LOWREY: I can't respond to all of your
8 responses at this time.

9 But this CAAPP permit, BWAY is subject to
10 two federal standards. The relevant one here is
11 called KKKK and it is the NESHAP for can coating.
12 That is designed to minimize hazardous volatile
13 organic compounds that are emitted while coating
14 cans. These federal standards gives four options
15 for compliance. Now, this standard came into
16 effect in 2006. And as you noted, there are
17 incidents that happened between 2006 and 2010.

18 The U.S. EPA issued a finding of
19 violation and they have entered into a consent
20 order with BWAY, and this consent order requires
21 BWAY to operate in a permanent total enclosure,
22 which is designed to capture all fugitive
23 emissions and reduce those emissions by an
24 oxidizer by at least 95 percent. So these --

1 enforcing these federal standards can help
2 eliminate that.

3 MS. WASSERMAN: Absolutely. And I think the
4 only caveat I would say is I think what we want to
5 see is continued enforcement and checking in on
6 those demands, because what we know for a fact is
7 BWAY or not, company or not, there is chances that
8 equipment doesn't work right, that things aren't
9 working properly, you know, the cleaning that they
10 had. So we just want to make sure along with that
11 there's continuing monitoring.

12 MR. LOWREY: Also, new to this draft permit
13 are continuous parameter monitoring of such
14 things. They have to continuously monitor the
15 temperature of the oxidation chamber, and they
16 also have to -- they continuously monitor air
17 velocity from the permanent total enclosure to
18 make sure it's blowing in and towards the oxidizer
19 rather than out. So that's the design out.

20 And that periodic monitoring comes from
21 the federal standards called Maximum Achievable
22 Control Technology. So that's the standard that
23 they are subject to.

24 MS. WASSERMAN: Because of violations in the

1 past with temperature control, we would ask the
2 same thing, that there be aggressive monitoring of
3 all of those procedures moving forward.

4 Thank you.

5 MR. MARR: And I would like to add that the
6 federal standards do add monitoring, recordkeeping
7 and reporting requirements also to the permit.

8 MS. WASSERMAN: Will those be public, by the
9 way, or would those be FOIAble?

10 MR. MARR: Well, they're in the permit.

11 MS. WASSERMAN: Right. But when they do them,
12 will the results of that be FOIAble or public?

13 MR. MARR: Yes. Actually, the source is
14 subject to submit an annual compliance report and
15 also a semiannual compliance -- or semiannual
16 monitoring reports, and I believe we've also added
17 some conditions where they are to submit a
18 quarterly report, and those are FOIAble.

19 MS. WASSERMAN: Perfect. Thank you.

20 HEARING OFFICER ZEIVEL: Learning curves all
21 the way around, folks. I appreciate your
22 understanding as we kind of get into a groove
23 here.

24 So, Vanessa, I think I saw you walking up

1 earlier and then you sat back down. I apologize
2 for that. Would you mind joining us up to the
3 podium again?

4 MS. MORA: I am Vanessa Mora. M-O-R-A.

5 I am an alumni from Little Village High
6 School. I am a senior at Loyola University.

7 I think just one of my concerns is,
8 because I was a current student, the kind of
9 prolonged effect of the smell of -- that's what's
10 going on with students, that it will have a
11 long-term effect to them for having a long
12 exposure to it, because when you are a high school
13 student you are there for four years, so you are
14 being exposed to it every day for four years.

15 So I just wanted to know how if this -- I
16 apologize, if this CAAPP program, how would that
17 kind of reduce the amount of pollutants that will
18 be affected to the students? Because students
19 will be coming in and out, sports, we do have a
20 sports program, cross-country track, football,
21 they run outside, so they are being exposed most
22 of the time than other students regularly.

23 As Kim mentioned, some of the symptoms of
24 dizziness and stomachaches that are being affected

1 to these students or just staff, students and
2 staff, because it's not only students who are
3 being affected, it's staff who are here from 8:00
4 to when it's time to leave.

5 So it's concerning to me that I was
6 exposed to it for four years, as well as I am
7 still living in Little Village, so I am still
8 being exposed to it. So the concern is just the
9 prolonged effect of it.

10 And why haven't the public been knowing
11 about this as well, too, for longer and why
12 hasn't -- why hasn't the company not talked to the
13 school as well what is going on from the beginning
14 from when it was built and opened to the first
15 class?

16 As you mentioned before, that the company
17 is supposed to keep track on the amounts of
18 pollutants that are being released. Why in the
19 times that, as Kim mentioned, the times that they
20 were not up-to-date, why has those days not told
21 to the community as well, too, that they violated
22 the permit? Because that is concerning to me to
23 hear that the community or just the school hasn't
24 been told about what has been going on.

1 As a concerned citizen, I don't recall
2 hearing about it. So that's very, very
3 concerning, and I hope that if there is more many
4 other times that has been affected, the public
5 should know about it.

6 MR. LOWREY: Most of your questions we are
7 going to be unable to respond to regarding the
8 health hazards and things like that. However, I
9 can respond to some of your questions.

10 We originally sent a draft to public
11 notice in 2016 and the Statement of Basis that
12 accompanied that draft did not address the past
13 compliance issues that BWAY Corporation does.

14 The current draft, which has now been
15 revised and submitted here, it does address those
16 compliance issues that they have in the Statement
17 of Basis. So we can -- that part I can address.

18 As far as why it wasn't addressed
19 properly the first time, I can't answer as to
20 that.

21 MS. MORA: So in this draft it talks about
22 what they violated?

23 MR. LOWREY: Yes. It says they -- I will just
24 read directly from the Statement of Basis.

1 U.S. EPA found that the company violated
2 their thermal oxidizer controlling emissions from
3 litho line one and their catalytic oxidizer which
4 is controlling emissions from lines two, three,
5 and four. They are operating that oxidizer below
6 the minimum temperature that was required. So
7 this leads to daily emissions exceeding. As a
8 result of that, the U.S. EPA and BWAY entered into
9 an agreement where, okay, they must use this
10 compliance option, and that's the only compliance
11 option that they can use, to satisfy requirements
12 for the can coating NESHAP. N-E-S-H-A-P.

13 The current draft permit tries to help
14 prevent future instances of this by requiring much
15 more stringent monitoring. So they have to keep
16 track every 15 minutes, they have to keep track of
17 the average temperature in the oxidizer, and
18 keeping that temperature -- keeping that
19 temperature high enough is what enables the
20 destruction of the volatile organic compounds by
21 at least 95 percent, which is what the standard --

22 MR. LAYMAN: And I want to say, adding to what
23 norm has indicated, the comments that were
24 submitted on the 2016 permit, I think one of them

1 was to the effect that U.S. EPA had entered into
2 an order based on alleged violations that had
3 occurred back in the time frame you mentioned, and
4 then that, I think, precipitated permanent section
5 incorporating some of the underlying requirements
6 to that in the order. And then I think we also,
7 relevant to some of the discussion points that you
8 and the earlier speaker had mentioned, the odor
9 management plan that's incorporated into the
10 permit.

11 I am assuming we have that available. Do
12 we have that as a handout?

13 MR. MARR: No.

14 MR. LOWREY: As a handout, no. I have a copy.

15 MR. LAYMAN: Okay. Well, we should have that
16 available for folks because that's one of the
17 things that -- first of all, it's not a very
18 common thing, it's not conventional by any means.

19 One of the reasons why we ask companies
20 to address an odor management plan is because
21 there have been historical issues or odor concerns
22 in the area surrounding the stores. You might
23 find, for anyone who reviews it, there might be
24 opportunity for folks to comment on what the

1 company is doing on a day-to-day basis to try to
2 minimize odors, and we've got -- both of you have
3 commented about what you believe to be a lack of
4 communication with the school administration, and
5 if -- you know, if that's what you are thinking, I
6 would certainly explore that and possibly comment
7 on recommended changes, or give us some ideas
8 about how you can integrate better communication
9 into that framework.

10 We are not necessarily inclined to have
11 the authority -- the legal authority to impose
12 that on a company, but we can certainly make that
13 a discussion point, providing comments submitted
14 to that effect, and possibly discuss in the future
15 what changes might be helpful for that plan.

16 I would note one other thing just real
17 quickly. There was a second administrative
18 consent order that was entered into. You had
19 mentioned concern about other issues. It was
20 entered into by U.S. EPA just a few days before we
21 went out to draft with this permit.

22 MR. LOWREY: After.

23 MR. LAYMAN: What's that?

24 MR. LOWREY: After.

1 MR. LAYMAN: There was maybe a day difference.

2 But as it turned out, we did not address
3 anything in the permit relative to that, to that
4 administrative order, I don't think.

5 MR. LOWREY: The second administrative consent
6 order, which was recently entered, requires BWAY
7 Corporation to make some physical changes to their
8 permanent total enclosure to help it work better,
9 and they have already done that, and they need to
10 submit their receipts to the Illinois EPA to show
11 that they've already done that.

12 And now within 150 days from the time
13 that they entered into the agreement, they have to
14 get the permanent total enclosure tested again.
15 The draft permit will require testing of the
16 oxidizers to make certain that the oxidizers are
17 actually achieving the destruction efficiencies,
18 which are required.

19 MR. LAYMAN: But that follows up on your point
20 about whether there were any other more recent
21 issues.

22 So go ahead.

23 MS. MORA: I know that as in the right for the
24 people that are living here is that we do have the

1 right to have clean air and be able to breathe, as
2 well to, as like I wanted to mention, is that the
3 EPA is responsible to kind of -- to actually help
4 the people of, like, protecting us against any
5 environmental harm.

6 So besides, you guys mentioned before of
7 how this CAAPP will help with extra initiatives,
8 because the company has violated in the past, a
9 few folks mentioned, and Kim as well mentioned,
10 has violated the permit in one form or another,
11 and I know you both -- or three have mentioned
12 that even in the process of the permit if they
13 have been in violation they cannot be denied, but
14 what other stuff -- what other things that can be
15 done because of the past violations that they have
16 so they don't recur in the near future or in the
17 future in general?

18 MR. LOWREY: As far as when violations do
19 occur, we tend to leave that to compliance and
20 legal to come into agreement to decide what the
21 necessary steps are to take care of that problem.
22 And then from the permitting section, we need to
23 make certain that there is required periodic
24 monitoring that monitors what they agree to do in

1 order to do that.

2 So that's what the testing of the
3 oxidizers will help show, that they are complying
4 with what they have to do, testing of the
5 permanent total enclosures, monitoring the
6 temperature, monitoring the air velocities,
7 keeping the required work practices to minimized
8 odors and identify the potential odor issues.
9 These are the types of periodic monitoring steps
10 from a permitting section that we are putting into
11 the CAAPP requirement to make them, okay, this is
12 what you have to do.

13 But addressing the actual violations and
14 deciding, okay, what is it, what steps need to be
15 done in order to prevent that, that's more for
16 compliance and that's for legal to decide, okay,
17 this is what you have to do. Permitting, once
18 it's decided this is what you have to do, we need
19 to put it in there to monitor that they are
20 actually doing it.

21 MS. MORA: And in the future, if there's any
22 changes, like investigations, these toxins in a
23 certain amount that has exceeded or the amount
24 that you have for -- like, for example, like with

1 mercury it's, like, 0.3 -- or 0.03 epm's, that
2 would be the limit that a company can contaminate.

3 So if there's a new investigation that
4 says that amount is not -- it's still harmful,
5 would the permit change the limit to lowering it
6 down or that's -- it would be enforced later on,
7 like the permit has to be renewed?

8 MR. LOWREY: If a new study comes out that
9 changes what the acceptable limit is?

10 MS. MORA: Yes.

11 MR. LOWREY: Then the law makers and the
12 U.S. EPA will have to go and revise the relevant
13 standards. In this case, the can coating NESHAP,
14 the miscellaneous metal parts NESHAP.

15 So once this new study is identified and
16 say, hey, we need to do better, then the
17 regulations would have to be changed and then the
18 permits can be -- well, as soon as the federal
19 standards are changed, then BWAY would have to
20 comply with those new standards, since they are
21 federal standards, and then they would have to get
22 the CAAPP permit updated to reflect whatever new
23 compliance and procedures -- the new requirements
24 and procedures are.

1 MR. LAYMAN: The permit simply is supposed to
2 keep track with the underlying regulations that
3 U.S. EPA or the Pollution Control Board
4 would recommend.

5 MR. LOWREY: Yes, that's another option.

6 If the state says, hey, we need this
7 standard, even though the federal standard is
8 less, then the Pollution Control Board would have
9 to change its standard, they would have to change
10 whatever the regulation is and whatever the
11 compliance procedures are to maintain that new
12 standard.

13 MS. MORA: Thank you. That's all.

14 HEARING OFFICER ZEIVEL: Vanessa, thank you
15 for your comments tonight and your questions.

16 Nancy Meza, you will be up next.

17 And then after Nancy is done, Keith
18 Harley, you will be next up to the podium.

19 MS. MEZA: Hello. My name is Nancy Meza,
20 that's M-E-Z-A. I am a community organizer with
21 the Little Village Environmental Justice
22 Organization and I am also a resident of
23 Little Village.

24 You know, BWAY operates in a

1 densely-populated area. As Kim mentioned, that
2 includes 8,067 homes, with about 10,190 children
3 ages 17 and under all live within a one-mile
4 radius of the BWAY Corporation.

5 The FOIA documents that we have, we have
6 learned that BWAY has again violated the amount of
7 emission --

8 HEARING OFFICER ZEIVEL: Nancy, can you slow
9 down just a little bit?

10 MS. MEZA: I'm sorry.

11 HEARING OFFICER ZEIVEL: That's okay. That's
12 okay. I appreciate it.

13 MS. MEZA: So we have learned that BWAY has
14 violated the amount of emissions that they are
15 allowed to pollute into the air.

16 Is there a way that the IEPA can put the
17 sterilize tolerance regulation or rule into the
18 permit so that when BWAY does, or if they do,
19 violate this permit again, so that they are able
20 to maybe be shut down until they get their things
21 straight because, you know, we recently learned
22 that BWAY merged with three different companies,
23 they are now known as Mauser Packaging Solutions,
24 so we can only guess that they can afford to get

1 fined when they do violate the permit because we
2 cannot afford to be getting sick.

3 Our community deserves clean air to
4 breathe. You know, we also are worried about the
5 workers who are in this facility as well. So we
6 just wanted to ensure that we are all safe.

7 MR. LOWREY: The permitting section does not
8 have the authority -- does not have legal
9 authority to impose such kind of requirements, is
10 all I can say. I apologize that I can't address
11 you, I don't even know the answer to the rest of
12 the question. The permitting section definitely
13 does not have the authority.

14 MS. MEZA: Okay. Thank you.

15 THE COURT: Thank you, Nancy.

16 Keith will be next up to the microphone.

17 And then following Mr. Harley, Ray
18 Vargas. Ray, you will speak after Mr. Harley is
19 done.

20 MR. HARLEY: I have copies of my testimony to
21 aid the court reporter.

22 HEARING OFFICER ZEIVEL: Excellent. Thank
23 you. We will enter them as an exhibit in the
24 record.

1 MR. HARLEY: My name is Keith Harley. I am an
2 attorney at the Chicago Legal Clinic. I am here
3 tonight on behalf of the Little Village
4 Environmental Justice Organization. As it's been
5 mentioned, the Chicago Legal Clinic on behalf of
6 LVEJO has already prepared comments based on the
7 2016 draft permit which led to many of the changes
8 which have been reflected tonight.

9 The BWAY facility emits volatile organic
10 compounds, including toluene, ethylbenzene,
11 xylene, naphthalene and glycol ethers. These
12 emissions are both stack emissions and fugitive
13 emissions.

14 Unfortunately, BWAY operates immediately
15 adjacent to a high school. These toxic releases
16 are occurring immediately adjacent to the
17 recreation fields used by the school. There's
18 also the potential for these releases to enter
19 into intakes for the school's heating, ventilation
20 and air-conditioning system.

21 Because of this direct pathway for
22 inhalation exposure for schoolchildren, a
23 susceptible population, as well as teachers and
24 other school employees, LVEJO believes every

1 precaution should be taken to ensure BWAY's
2 emissions are well-controlled and closely
3 monitored.

4 These concerns are only heightened by the
5 proximity of the facility to a public park,
6 Piotrowski Park, and residential neighborhoods.

7 Unfortunately, there's longstanding
8 evidence that BWAY's emissions are not always
9 well-controlled or closely monitored while it's
10 operated under its existing CAAPP permit.

11 For example, in 2012, U.S. EPA issued a
12 notice of violation asserting that BWAY's VOC
13 emissions exceeded its permit limits 12 different
14 times from May 2010 to February 2012.

15 On July 21st, 2017, U.S. EPA used an
16 infrared camera and captured footage of fugitive
17 VOC emissions escaping a capture device. These
18 fugitive emissions occurred despite all the
19 precautions, which you've mentioned should have
20 been in place to prevent the fugitive emissions
21 from occurring.

22 Notably, it's not clear for how long this
23 release had been occurring before it was captured
24 by U.S. EPA during this inspection using this

1 particular monitoring equipment.

2 As recently as October 28, 2019, Illinois
3 EPA issued a violation notice asserting BWAY
4 violated the visible emission standard when a
5 release of black smoke was observed and recorded
6 during an outdoor school event.

7 In light of this history, LVEJO asserts
8 that Illinois EPA must improve the monitoring,
9 response, recordkeeping and reporting protocols in
10 the CAAPP permit.

11 For example, BWAY should be required to
12 employ a monitoring system of infrared cameras to
13 detect and record fugitive VOC releases.

14 BWAY should be required to develop a
15 release plan that immediately responds to fugitive
16 VOC releases when they are detected, including
17 notifying the school administration so that it can
18 adjust outdoor activities and the operation of its
19 HVAC system as necessary.

20 BWAY should be required to report all of
21 these VOC releases to Illinois EPA, including a
22 description of the nature and extent of the
23 release, the cause, the remedial actions that were
24 taken, and the proactive measures to ensure the

1 incident will not be repeated.

2 This hearing isn't for me, it's for
3 members of the community. So I will stop there.
4 I will be submitting significant additional
5 written comments by the comment deadline.

6 I don't know if there are any questions
7 or comments that you would like to address at this
8 time.

9 MR. LOWREY: I can state -- I am pretty sure I
10 can state that we will not respond at this moment.
11 We will take time to consider what you are saying
12 and respond in our Responsiveness Summary.

13 MR. HARLEY: Thank you.

14 HEARING OFFICER ZEIVEL: Thank you,
15 Mr. Harley. You can direct those comments to my
16 attention and I will ensure that they are included
17 in the hearing record and addressed in the
18 Responsiveness Summary.

19 Mr. Ray Vargas.

20 And then after Ray, Miss Amy Levingston,
21 you will be up to the microphone next, you can be
22 prepared.

23 Mr. Vargas.

24 MR. VARGAS: Hello. Good evening.

1 HEARING OFFICER ZEIVEL: Hello.

2 MR. VARGAS: I want to start off by saying
3 that I grew up here in Little Village. I live 10
4 years down the street.

5 My father worked at Central Can Company
6 for over 40 years and he's 20 years retired,
7 healthy, and this was before this company started
8 adding all these stuff to the company to keep us
9 safe.

10 I have 28-plus years, and I just wanted
11 to mention that I've seen a lot of things -- a lot
12 of good things done to keep us safe and I don't --
13 I don't have any complaints inside or out.

14 So I just wanted to mention that. That's
15 all.

16 HEARING OFFICER ZEIVEL: Absolutely,
17 Mr. Vargas. We will take any and all comments
18 from the public. I appreciate you coming out
19 tonight spending your time and addressing the
20 panel and the community.

21 Amy. Hi.

22 Before Amy starts, next speaker following
23 Amy will be Theresa McNamara.

24 MS. LEVINGSTON: Hi. My name is Amy

1 Levingston. Last name L-E-V-I-N-G-S-T-O-N. I am
2 one of the teachers here on campus at Social
3 Justice High School. So I taught here for the
4 past seven years and I just want to share my
5 experience with the odors that we have smelled
6 over the years and then I have some questions at
7 the end.

8 So I wanted to start with I normally get
9 to the building at about 7:00 or 7:30. And I
10 would say on average at least three times a week
11 the smell is so strong that I am nervous to
12 breathe, and a lot of times I find myself trying
13 to rush through the door.

14 And unfortunately, once you get into the
15 school that's not the end of smelling the odors
16 because our HVAC system is right next to BWAY's
17 exhaust system. The smells are in the classroom.
18 So this isn't just an outdoor concern for sports
19 and stuff after school. It's a constant during
20 the day. In class, students are complaining about
21 smells.

22 And so I guess a lot of my other
23 questions have been answered, but one of my main
24 questions is, like, what should we be expecting to

1 change with this new permit in terms of those
2 odors? Should I be experiencing 95 percent of
3 these VOCs are going to be destructed? Does that
4 mean that I should be smelling 95 percent less of
5 the odors I've been smelling for the past eight
6 years?

7 MR. LOWREY: Odor thresholds are different.
8 They are not based on construction. It depends on
9 what is actually causing the odor.

10 I'm curious, you are saying average three
11 times a week for the past seven years. Is it
12 still happening like this week?

13 MS. LEVINGSTON: Yes. So as recent -- like
14 someone mentioned that they had already installed
15 some of these new things that you are asking them
16 to do, but I am still smelling a lot of these
17 odors.

18 MR. LOWREY: Well, the work practice standards
19 from the two NESHAPs that they're required to,
20 even though they are not directly in the CAAPP
21 permit right now, they are still required to do
22 those because they're federally enforceable.

23 However, the odor management plan, which
24 is in this draft permit, they are not required to

1 do that yet.

2 MS. LEVINGSTON: Okay. So when they are
3 required?

4 MR. LOWREY: There's some overlap in those two
5 areas, but the draft CAAPP permit attempts to take
6 care of that, and if there continues to be odor
7 issues, then EPA should know about that. So that
8 should be reported through complaints.

9 MS. LEVINGSTON: So the way that you will find
10 out is by people reporting complaints?

11 MR. LOWREY: That's one way.

12 MS. LEVINGSTON: Okay. Is there like a limit
13 to how many complaints you have to get before
14 something is done about it?

15 MR. LOWREY: I don't know the procedures
16 there.

17 MR. LAYMAN: Generally not, but obviously, you
18 know, the more complaints that are brought to the
19 Agency's attention, it's very possible the more
20 serious the matter would be viewed by the Agency.

21 MS. LEVINGSTON: Okay.

22 MR. LAYMAN: A lot of times -- you know, odors
23 have always been around or associated with
24 manufacturing activity, industrial activity, no

1 matter where you go you will get that, but
2 historically the Agency has not infrequently been
3 reluctant to enter a -- enter the fray in an
4 enforcement posture, unless we send a field
5 operations section inspector out and they are able
6 to verify or confirm that there are odors from a
7 source.

8 For the obvious logistics of that kind of
9 thing, if you smell something on a Monday and our
10 field inspector can't get out there until, you
11 know, until a Thursday, or even if it's
12 contemporaneous with when the complaint is, his
13 olfactory senses may be a little different from
14 whoever it is that's made the complaint.

15 So there's something to be said, too, for
16 the fact that, perhaps, the Agency has been
17 reluctant to come into the fray on matters that
18 are largely pitting, you know, one group against
19 another, or neighborhood disputes, if you will,
20 but that doesn't, obviously, minimize the problem
21 that would be associated with long-term historical
22 issues with odors or other compliance concerns.

23 All I can tell you is that, you know, if
24 you feel like there's a basis to say that the

1 odors you are experiencing or your students are
2 experiencing over the course of a school year, or
3 what have you, are unreasonable and you think are
4 beyond just trivial, or what have you, then
5 certainly you can bring that to the Agency's
6 attention, you can bring that to U.S. EPA
7 Region V's attention downtown in Chicago, you can
8 bring that to other governmental authorities'
9 attention as well, the Attorney General's Office
10 will field complaints from time to time, a local
11 State's Attorney's Office may possibly, you know,
12 weigh in or encourage other governmental
13 authorities to investigate the matter.

14 So it's not just one avenue, there are
15 several that are available to folks in that kind
16 of situation.

17 MS. LEVINGSTON: Okay. So I just wanted to
18 clarify. So if they are following this -- the new
19 permit that's being issued, can I expect that the
20 amount of odors is going to decrease or you are
21 not sure?

22 MR. LAYMAN: I would say not necessarily
23 because -- it's entirely possible, I don't know
24 the history or the practices of this particular

1 facility, but at more complex facilities, like
2 refinery operations or power plants, there can be
3 sources that our field operation section can go
4 out and tour a facility and look at it, there can
5 be sources of emissions that are either
6 historically not accounted for or aren't believed
7 to cause odors until a certain, you know,
8 investigation occurs.

9 It would be nice to think that all of the
10 regulations that are in place and all of the
11 requirements that are in this permit are going to
12 minimize or stop emissions, but I don't know that
13 that's any guarantee.

14 And, quite frankly, if that is not the
15 case, then that's why we have enforcement and
16 compliance programs in place to investigate to do
17 what we can to evaluate what the nature of the
18 problem is.

19 And we mentioned earlier, the permitting
20 process is usually the last in line. You either
21 have an enforcement action to develop some kind of
22 protocol to fix whatever the problem is or you
23 have rules and regulations that are brought
24 up-to-date to address the problem, and then

1 ultimately the permits are supposed to reflect
2 those first two things in line, enforcement or
3 rulemaking.

4 MS. LEVINGSTON: Okay. So just one last
5 question. Sorry.

6 So if people are filing complaints about
7 the odors, is that in the permit? Would that be
8 considered a violation of the permit if people are
9 reporting things and if somebody comes out and
10 says, oh, yes that does smell, is that a violation
11 or, no, it's not?

12 MR. LAYMAN: That would be an allegation of a
13 violation.

14 MS. LEVINGSTON: Okay.

15 MR. LAYMAN: It wouldn't be something that we
16 would -- it wouldn't be something that we could
17 incorporate into a permit in the absence of either
18 a compliance plan prepared by the company if they
19 believed that they discovered something that
20 needed to be addressed by way of odors and they
21 asked us to address in the permit, we could do it
22 in that scenario, or we could address it in the
23 permit by way of an actual adjudication or consent
24 decree that was entered between the company and

1 prosecutorial authorities to resolve an
2 enforcement case.

3 MS. LEVINGSTON: Okay.

4 HEARING OFFICER ZEIVEL: Amy, thank you for
5 your comments and questions tonight.

6 MS. McNAMARA: Hi. My name is Theresa, that's
7 spelled T-H-E-R-E-S-A, Reyes, R-E-Y-E-S, McNamara,
8 spelled M-c-N-A-M-A-R-A.

9 Good evening. I live in McKinley Park,
10 which is not too far from here. Growing up, I
11 came down 26th Street all the time, I grew up in
12 Pilsen, and now I am here at a meeting and the
13 first thing I hear is it's not personal. It is
14 personal. Maybe not for some people that are
15 here, because it's a job for some people, but
16 people live and breathe here in this community,
17 and they cannot get up and move to the North Side
18 of Chicago or move to another state. We are here.
19 This is where we get to stay. This is all we
20 have.

21 So those particulates, all that stuff
22 that we get to smell every day, does affect us and
23 it does harm us because it's not just this one
24 company, it's many companies, it's clusters upon

1 clusters that are here on the Southwest Side.

2 Like I said, I am from McKinley Park, I
3 am surrounded by five industrial corridors, and
4 right now there's a red carpet on the
5 Southwest Side for more companies, such as this
6 one, to exist.

7 I will ask you one question right now and
8 the question is, have you ever closed down a
9 company that has not been in compliance more than
10 12 times like this company? Has that ever
11 happened?

12 MR. LAYMAN: Typically, we don't close down a
13 facility by way of -- by way of permitting.
14 That's certainly a possible scenario by way of an
15 enforcement action. But to close down a facility,
16 I would think would take a fairly high legal
17 standard and a showing that there was an
18 endangerment to the public, substantial
19 endangerment of harm or to health, if you will.

20 Typically -- typically, it's piecemeal.
21 Typically, if someone is violating a standard 12
22 times over a three-month period, your enforcement
23 case will ensue -- you will investigate it, the
24 enforcement case will ensue, you will ask the

1 company, or expect them, to fix that noncompliance
2 within that window of time and then, you know, the
3 matter will be incorporated into a permit if
4 there's something they have to do, and then you
5 continue to see what happens after that.

6 So it is -- enforcement and compliance
7 generally has always been piecemeal in that
8 regard.

9 MS. McNAMARA: Okay. I am going to think
10 about me driving down the street, I go through a
11 red light, I get pulled over and I get a ticket,
12 and I get penalized. Okay. You've gotta pay so
13 much money.

14 Isn't there a penalty in regards to
15 companies when they are not in compliance?

16 MR. LAYMAN: When you actually go through
17 enforcement and you get either an agreement
18 approved by the court, because the parties have
19 agreed to settle the case, or you get an order by
20 the court or the Pollution Control Board imposing
21 civil penalty.

22 I would add that the two administrative
23 orders and consent decrees that were entered into
24 by the U.S. EPA resulted in total penalties of

1 \$265,000.

2 MS. McNAMARA: Say that number again.

3 MR. LAYMAN: 265,000.

4 The first -- the first matter I think was
5 125,000 that they paid to settle the 2013 matter.
6 The more recent matter considered was 140,000
7 civil penalty. So combined, that was the amount.

8 MS. McNAMARA: The other thing in regards to
9 this, we are talking about the health of our
10 babies, our grandparents, our teenagers, that are
11 going down the street, you know, not thinking
12 about a thing and they are taking in that air.
13 Little do they know that as they inhale here in
14 this area and in my area, that they are taking in
15 toxins, that down the road they will be in the
16 hospital, and that 200,000 won't cover it, all the
17 people that are going to be getting sick. So,
18 yeah, I take it very personal.

19 On my block alone I have eight people
20 that are sick with cancer. Can I say it's from
21 one company? No, I can't, because there's so many
22 of them here on the Southwest Side.

23 And so my feeling is that that penalty
24 should be stronger and it shouldn't be for a

1 little slap on the hand, okay, you are not in
2 compliance and I am going to see you in 45 days
3 and let's hope that you are in compliance. Why
4 wait 45 days?

5 Those people that are going to the
6 hospital are not going to be waiting 45 days to
7 get sick. As soon as they get sick, then those
8 bills come, they don't have the bills, they get
9 sued, right?

10 Why does that not happen here with these
11 companies? Why can't we put a stronger hold and
12 hold them responsible for having this crap go into
13 the school where all of our kids are at? It
14 doesn't make any sense.

15 And, yes, I understand that you guys are
16 trying to put all these things in place, but all
17 three of you are sitting there and you are saying
18 that you are not even sure that it's going to stop
19 the smell. And this is just one company, and we
20 got clusters of them here on the Southwest Side.

21 And this noncompliance, it bothers me
22 that, even though I don't know how often they get
23 checked, there is not a real stronghold on them in
24 regards to, hey, they are not in compliance, they

1 continue to function, they continue to run without
2 thinking about "Am I going to stay open?" I can
3 stay open, so I'm not in compliance.

4 But the teachers, the children that come
5 to this school, they have no choice, they are
6 walking in and they get to breathe the stench
7 that's coming from the company, and that's not
8 right.

9 I am pretty sure you saw the map up in
10 front, it's the Natural Resource Defense Council,
11 and it shows how red it is here on the
12 Southwest Side. Okay. So I am not just talking,
13 we have proof that the air quality in this area is
14 very bad.

15 And so to back a company that is saying,
16 well, I don't know if the air quality is going to
17 be better or not, I don't understand that. I
18 don't understand it whatsoever, when you are
19 dealing with babies, children, moms and dads that
20 send their kids to school every day, it bothers me
21 to no end.

22 That's all.

23 Anybody have any questions for me? I
24 guess not.

1 HEARING OFFICER ZEIVEL: Theresa, thank you
2 for your comments tonight.

3 Next I am going to call up, and I
4 apologize if I mispronounce your first name, Edyta
5 Sitko. Miss Sitko, are you here this evening?
6 Thank you so much.

7 And then next up after Miss Sitko, Karen
8 Canales. Karen, you will be up next.

9 MS. SITKO: Good evening. Thank you for being
10 here. My name is Edyta Sitko, E-D-Y-T-A
11 S-I-T-K-O, and I also work with the Union of
12 Concerned Scientists here in Chicago.

13 I wanted to make -- I talk really fast,
14 so let me know if I need to slow down.

15 I wanted to make a few comments tonight
16 on behalf of myself and a few of my colleagues.

17 I will start off with just touching on
18 some of the things others have already said
19 tonight, which is that it's just very concerning
20 to us that BWAY has applied for renewal of the
21 permit, I think it was, you said, in 2010 was the
22 last time -- or when the permit expired and then
23 it was allowed -- they were allowed to continue
24 operating under an expired permit, which I know

1 legally it's okay.

2 However, in light of the violations that
3 the company has had, that just listed between 2006
4 and 2010, and specially with the U.S. EPA giving
5 them a notice of violation in 2012, it's really
6 disconcerting that the process from the renewal of
7 the permit and for the new things added to the
8 permit isn't happening until now, because it does
9 have a profound effect on the pollution and the
10 violations and those things that the company was
11 allowed to continue on.

12 UCS, or Union of Concerned Scientists,
13 believed to report in 2018 that was specifically
14 focused on coal plants in Illinois, but
15 Little Village was one of the areas we focused on
16 because of the shuttered Crawford coal plant in
17 the neighborhood. So within a three-mile radius
18 of the Crawford plant, which includes the
19 Little Village community, there's about 340,000
20 residents.

21 We looked specifically at the cumulative
22 vulnerability index, or CVI, which looks at how
23 vulnerable communities are based on multiple
24 sources of emissions. It showed that -- 72

1 not only that Little Village actually had the
2 highest
3 PM 2.5 emissions in the state, but also had one of
4 the highest rankings for diesel particulate
5 matter, lifetime cancer risk from inhalation of
6 air toxins -- air toxics, respiratory hazard
7 index, lead paint from homes built before 1960,
8 traffic proximity and volume, which is the number
9 of vehicles on nearby roads, and also looking at
10 the risk management plan for facilities within
11 three miles and, lastly, the hazardous waste
12 treatment, storage and disposal for facilities.

13 So it's ranked one of the highest in the
14 state in all of those things. So it's a community
15 that's designated as an EJ community for reasons
16 because there is a ton of other pollutants, as the
17 previous lady had mentioned, in the area.

18 So because of the violation of notice in
19 2012 from the U.S. EPA, the continuous complaints
20 from community members about black smoke, smells,
21 reports of dizziness, headaches, stomachaches from
22 nearby residents and from people at the school, we
23 really strongly urge that IEPA consider amending
24 the permit to include additional monitoring and

1 reporting which could lead to extra compliance,
2 additional pollution controls, and also ensuring
3 that you are working closely and continuously with
4 compliance departments to make sure that the
5 monitoring is happening and then when violations
6 are noticed, that they are acted upon promptly.

7 I mean just the fact that, and again I
8 know this is the U.S. EPA, but that the violation
9 happened -- the notice of violation happened in
10 2012 and then the resolution of that violation
11 happened literally in the last month, that's seven
12 years to meet -- or to resolve an issue of
13 violations from the company is a really, really
14 long time for this community to wait.

15 So a couple of questions.

16 You had mentioned the proposed CAAPP
17 permit includes the odor management plan. I am
18 still not clear, is the company currently applying
19 or meeting those standards, or are they still
20 working towards them?

21 MR. LOWREY: At this moment the odor
22 management plan is not a requirement for BWAY.

23 MS. SITKO: Okay. So again, we urge you to
24 very closely monitor that and make sure that there

1 are folks that are coming down to this area,
2 especially as complaints arise, so that it doesn't
3 take seven years for the Agency to act when people
4 are coming forward with complaints.

5 The other thing is you had mentioned the
6 destruction efficiency of RTOs to be tested, but
7 right now the requirement is once every five
8 years. Why is the requirement so low?

9 MR. LOWREY: I will respond to that in our
10 Responsiveness Summary.

11 Do you have more?

12 MS. SITKO: No, no, no.

13 MR. LOWREY: I would also like to say you were
14 talking about other potential periodic
15 monitoring -- or monitoring requirements. Keith
16 Harley brought up several specific examples and we
17 will also respond to that in our Responsiveness
18 Summary.

19 MR. MARR: I will speak a little about the
20 destruction efficiency.

21 The NESHAP requires an initial
22 destruction test, which the company had already
23 done in, I believe, 2006 and another one in 2014.
24 As part of our -- renewal of our CAAPP permit

1 we've added as periodic monitoring that they do
2 this test every five years.

3 MS. SITKO: But again, I mean, does noting
4 that the company has a history, as you, yourself,
5 has said tonight, of violating many different
6 things, actually, wouldn't it make sense to make
7 sure that testing is done, for example, on an
8 annual basis rather than every five years?

9 MR. LOWREY: What Bill is just trying to say,
10 the standard is just an initial test and as
11 enhanced monitoring, we are going to require at
12 least once every five years, and as part of the
13 Responsiveness Summary we will consider your
14 comment.

15 MS. SITKO: Just in conclusion, again, you
16 know, I just want to say that Little Village and
17 the residents here should be protected as strongly
18 as possible by the EPA. I know that there is a
19 lot of limitations in the permitting process that
20 you may not be able to do. However, there is some
21 things that you are able to do and then working
22 with compliance department and ensuring that
23 monitoring is happening, the reporting is
24 happening, and making sure that violations are

1 being addressed in a timely manner is something
2 that I urge you to do that. Thank you.

3 HEARING OFFICER ZEIVEL: Edyta, thank you for
4 your time and your comments tonight.

5 Next to the podium we have Karen Canales.

6 And then when Karen is done speaking,
7 Susan Nelson. Susan, you will be up to the podium
8 next.

9 MS. CANALES: Hi. Good evening. Thank you so
10 much for having my testimony.

11 So my name is Karen Canales.

12 C-A-N-A-L-E-S.

13 I just wanted to start off with first me
14 asking, you mentioned that the levels would be
15 reconsidered if there's a new study that comes out
16 and shows acceptable levels. Who would that study
17 need to be done by to make them acceptable levels?

18 MR. LOWREY: That's to the lawyer.

19 MS. CANALES: I can answer for the community,
20 we don't want any of these high levels here.

21 MR. MARR: I would assume the U.S. EPA would
22 re-evaluate their rules, I think every -- by law,
23 they're required to review the NESHAPs every so
24 often to determine if they need more -- to be more

1 stricter. So I think those are --

2 MS. CANALES: What is every so often?

3 MR. MARR: Every so often, like every five
4 years I think they review them to see if they need
5 to be revised or if they are controlling emissions
6 the way they should be, they re-evaluate those
7 every five years.

8 MS. CANALES: When's the last time they
9 evaluated toluene and other VOCs?

10 MR. MARR: I don't know when this specific
11 NESHAP was last re-evaluated. I know they do
12 evaluate NESHAPs intermittently. I don't know
13 when this one was last --

14 MR. LOWREY: The NESHAP to which they are
15 subject to doesn't specifically address toluene --

16 HEARING OFFICER ZEIVEL: T-O-L-U-E-N-E.

17 MR. LOWREY: -- or any specific hazardous
18 pollutant. Instead, it just addresses hazardous
19 air pollutants as a single category.

20 The response as to when, like, specific
21 pollutants are re-evaluated as far as health and
22 things like that, I do not know the answer to
23 that.

24 MS. CANALES: So they are all put together in

1 a big umbrella and there are levels for those, for
2 a big umbrella of toxins?

3 MR. LOWREY: There are standards -- there are
4 health-based standards, there's technology-based
5 standards. I do not know how those are determined
6 or how often they are evaluated.

7 MS. CANALES: Is that done by the
8 Environmental Protection Agency?

9 MR. LOWREY: The United States Environmental
10 Protection Agency is under -- by law, supposed to
11 make sure it gets done. It's not necessarily done
12 by them, but they are required to make sure it
13 gets done, and I don't know the answer who does or
14 how. So I apologize.

15 MS. CANALES: So right now what you are
16 telling us is that we need to be okay with the
17 levels so far unless there's a new study to show
18 that they are not acceptable.

19 MR. MARR: I do know that the U.S. EPA did a
20 114 modeling request of BWAY, and our discussions
21 with the U.S. EPA is the modeling came back
22 adequate.

23 MS. CANALES: What does "adequate" mean?

24 MR. MARR: That's all that they would -- they

1 determined that there was no further
2 investigation. They told us that they came back
3 adequate.

4 MS. CANALES: I find it very irresponsible for
5 the Agency in charge that's protecting the
6 environment around a school in a community -- in a
7 densely-populated community to not know the
8 answers of acceptable levels, first of all, which
9 I don't even know if there are any, to be
10 completely honest with you, and if you are
11 considering -- do any of these VOCs accumulate in
12 our bodies?

13 MR. LOWREY: I am involved with permitting, so
14 I don't know the answer to the health question. I
15 apologize.

16 MS. CANALES: Are they going to be considered
17 in the permitting process?

18 MR. LOWREY: What will be considered in the
19 permitting process are the federal applicable
20 requirements, the state applicable requirements,
21 consent orders that have come in. Those are what
22 we consider in the permitting process in order to
23 issue a permit.

24 MS. CANALES: So we can expect -- we can't

1 expect 95 percent of the odors to go away, first
2 to not smell them 95 percent of the time?

3 MR. LOWREY: There's not a direct relationship
4 between --

5 MS. CANALES: Right, because I can smell it,
6 but maybe you can't or someone else can't.

7 MR. LOWREY: Ninety-five percent of reduction
8 of the pollutants does not mean 95 percent
9 reduction of odor. There's not a correlation.

10 HEARING OFFICER ZEIVEL: Can you speak up,
11 Norm?

12 MR. LOWREY: I said there's not a direct
13 correlation between 95 percent reduction of
14 pollutants and a 95 percent reduction of odors,
15 that's not a direct correlation.

16 MS. CANALES: Do you have studies to prove
17 that? Because I'm sure even if you smell one
18 teaspoon of Clorox Bleach versus a whole gallon of
19 it, you can definitely tell the difference between
20 that, because I know I can. So I'm pretty sure
21 there is a correlation between concentration and
22 odor.

23 This is something that you can do in a
24 basic high school chemistry lab, if you have one

1 teaspoon of gas versus a whole gallon, you are
2 going to know the difference.

3 MR. LOWREY: Well, how do you quantify a 95
4 percent reduction of odor?

5 MS. CANALES: Maybe we smell it 95 percent
6 less of the time.

7 MR. MARR: We just don't -- the Illinois EPA
8 does not currently have any odor standards.

9 MS. CANALES: And you don't have federal --
10 acceptable levels for toluene and other VOC,
11 they're all under an umbrella, or the VOC that
12 we're talking about today?

13 MR. MARR: Could you repeat that?

14 MS. CANALES: Or the VOCs that we're talking
15 about today would be --

16 MR. MARR: There are VOM standards, they're
17 just not odor standards.

18 MS. CANALES: So for the VOCs, those are the
19 ones that you all mentioned earlier were up under
20 that umbrella term, right?

21 MR. LOWREY: What they are subject to are
22 called maximum achievable control technology
23 standards. Those are what they are subject to.
24 That's what the rules and regulations are, that's

1 what we try to put in the permit. The permitting
2 section does not have the authority to create
3 additional standards.

4 MS. CANALES: I understand that you all don't
5 have the authority to create additional standards,
6 but maybe making it a little bit more in the
7 permit itself more restrictive, you know, very
8 strict, I should say, in what BWAY can and cannot
9 emit, knowing the many testimonies that we've
10 heard today and that you all will continue to
11 have.

12 I've been a Little Village resident for
13 the past 20 years up until very recently that I
14 had to move. I went to Little Village Lawndale
15 High School for the last two years of my high
16 school career. There were many times that I
17 wasn't able to play softball on my own home field
18 because of the smell, many practices, that my
19 whole team had headaches because of the smell.

20 So I think it's really irresponsible for
21 the Agency in charge of protecting our environment
22 to say, hey, you know what, if you smell it, it's
23 okay, it's 95 percent reduced, even though you
24 still smell it.

1 Also, if I call somebody on a Monday to
2 complain about an odor and they don't smell it,
3 even though they come right then and there, you
4 are telling me that they are going to take their
5 word, the EPA field officer, whoever comes out and
6 inspects, versus our word, right, because they are
7 coming out to verify the smell?

8 MR. LOWREY: I don't know how to answer that.
9 There needs to be some sort of investigation in
10 how to proceed and what comes of that. I don't
11 know how it happens.

12 MR. LAYMAN: Well, just because they may be
13 compliant with whatever percent control that may
14 be required or they are compliant with the rules,
15 that doesn't mean it's okay from the perspective
16 that they are still potentially causing odor or
17 air pollution. If there are odors notwithstanding
18 the fact that they have a permanent air compliant
19 with that permit, they can still be subject to an
20 enforcement action and made to address that odor
21 problem.

22 But as we've tried to impress upon
23 everyone here this evening, that process is
24 usually a different one from what we are involved

1 with here tonight with respect to the permit.
2 That usually involves compliance and enforcement
3 efforts, that involves what U.S. EPA has done
4 twice in the last however many years it's been.

5 MS. CANALES: What the what has done, I'm
6 sorry?

7 MR. LAYMAN: I'm sorry?

8 MS. CANALES: What the what has done?

9 MR. LAYMAN: U.S. EPA.

10 And there are two enforcement actions
11 that they brought since 2013. Well, earlier, when
12 you consider the alleged violations.

13 So that process -- and that's how it's
14 designed to work, enforcement and compliance are
15 made to assure compliance in ways that necessarily
16 a permit can't do.

17 MS. CANALES: But BWAY has been operating
18 without a permit for how many years now?

19 MR. LAYMAN: I don't think they have been
20 operating without a permit.

21 MR. LOWREY: They've been operating under
22 their existing permit because they submitted a
23 timely application.

24 MS. CANALES: Can you specify what that means?

1 MR. MARR: Yes. So by law --

2 MS. CANALES: Without the eye rolls.

3 MR. MARR: By law, they are to submit a
4 renewal nine months prior to their existing permit
5 expiring, which they did actually submit it I
6 think 11 months or -- yes, they submitted it 11
7 months prior. So by them submitting a timely
8 application and a complete application, they have
9 what we call an application shield. So they are
10 allowed to continue operating under existing
11 current CAAPP.

12 MS. CANALES: Does anyone in the enforcement,
13 I would assume, process -- does anyone come out
14 and look and examine and test the facility, or no,
15 and the air around it before issuing or before
16 approving permits?

17 MR. MARR: I mean, the company has done some
18 stack testing and, as I alluded to earlier, the
19 U.S. EPA required a modeling request that came
20 back adequate.

21 MS. CANALES: And those are done by the
22 U.S. EPA or by the company?

23 MR. MARR: That was done by the U.S. EPA. I
24 don't know what the company's involvement was

1 then. I believe they provided them the data
2 for -- I don't know if the U.S. EPA did it or the
3 company did it, I'm not quite sure.

4 MR. LAYMAN: The most recent ones?

5 MR. MARR: Yes.

6 MR. LAYMAN: The U.S. EPA conducted the
7 infrared.

8 MR. MARR: No, no, the modeling -- the 114
9 modeling request which was separate from that.

10 MR. LAYMAN: Okay.

11 MS. CANALES: You said you're not sure who did
12 that?

13 MR. MARR: No, I'm not. The U.S. EPA was
14 the -- it was coming from the U.S. EPA, they were
15 the lead on that.

16 MS. CANALES: So they could have gotten the
17 data from the company itself?

18 MR. MARR: They would probably have that data,
19 I am assuming it's FOIAble.

20 MS. CANALES: And none of it is collected by
21 the U.S. EPA, like directly by them?

22 MR. MARR: We do not have that data. The
23 Illinois EPA does not have that data.

24 MS. CANALES: The U.S. EPA doesn't either?

1 MR. MARR: The U.S. EPA does. The Illinois
2 EPA does not.

3 MS. CANALES: And so that's what I'm asking,
4 it's the U.S. EPA that's collecting the data?

5 MR. MARR: Yes, the U.S. EPA collected the
6 data.

7 MS. CANALES: Collected the data, all right.
8 Okay, thank you.

9 So the data is coming directly from a
10 U.S. EPA lab?

11 MR. LOWREY: I don't know how the modeling is
12 done.

13 MR. MARR: The modeling is done outside the
14 permit section.

15 MS. CANALES: So you're not sure.

16 MR. MARR: We are not modeling experts.

17 MR. LOWREY: I am saying I don't know the
18 answer to your question. That's my response. I
19 don't even know how to go about finding the answer
20 to your question.

21 Does anybody have a suggestion as to how?

22 MS. CANALES: If communities wanted to know
23 this data and wanted to know what was going on,
24 how would we be able to access that?

1 MR. MARR: I mean, I'm assuming that you can
2 FOIA that to the U.S. EPA.

3 MS. CANALES: All right. Thank you.

4 HEARING OFFICER ZEIVEL: Thank you,
5 Miss Canales.

6 Next up to the podium we have Susan
7 Nelson.

8 And following Susan, Andrew Ramirez.

9 MS. NELSON: Hi. My name is Sue Nelson, I am
10 a teacher here at Little Village Lawndale
11 High School. I work at Social Justice,
12 particularly. I've been teaching here for 14
13 years, since the summer that it opened.

14 In the beginning years it smelled every
15 day here and it smelled extreme. I remember
16 having a lot of conversations with other teachers
17 that worked at the school and we talked a lot
18 about what it was and none of us knew at that time
19 what it was.

20 Fast forward about, gosh, like 10 years.
21 I was working over the summer at UIC in a
22 bioengineering, like, internship and I had the
23 opportunity to study a little bit about lung
24 disease with the head of the department there, he

1 was doing, like, acoustic lung research, and I was
2 trying to think of a way that I could connect his
3 research to what I experienced with my students
4 every day.

5 I am a coach here, I coach cross-country
6 and track, track until the last two years, so I am
7 out in the neighborhood all the time with them. I
8 run -- we run back along near the railroad tracks
9 on the the other side of the school past the
10 factory, we run up the bridge over past the
11 factory, and no matter which way we go, we smell
12 it all the time.

13 I guess I'll say it has improved in the
14 last 14 years, because it has. I don't smell it
15 as often as I used to, but when I do smell it and
16 when my athletes smell it, it's strong.

17 The first thing that made me think that
18 it was a factory like right in the area was I had
19 students that would complain of burning, like
20 burning sensations in their chests, and headaches
21 when they would run, and not headaches like low
22 oxygen headaches from, you know, from running too
23 fast, it was something else.

24 So anyway, I got to work in this

1 internship over the summer at UIC and I spent an
2 entire summer investigating what was in the
3 neighborhood, what could possibly be creating that
4 smell.

5 I lived in Little Village at the
6 beginning of my career, now I live in
7 Brighton Park, and I will tell you that I don't
8 smell that smell in Brighton Park. Though it may
9 be extremely polluted over there, I don't smell
10 the same smell, and I think that's important
11 because I don't think that everyone in
12 Little Village does smell it. I think if they
13 did, there would be a lot more people here.

14 I think it's definitely -- you know, I'm
15 not an environmental scientist, I'm a biologist,
16 but I do think there's, like, a little
17 microclimate here that's in the school, outside
18 the school, it's definitely at Piotrowski, we go
19 to Piotrowski all the time, but I don't think it
20 goes all that far into the community. My in-laws
21 live over on 28th and Springfield, which is like
22 halfway through Little Village, and they don't
23 smell it there.

24 So what I want to say is that I think

1 that it's particularly affecting the students here
2 at this school, the teachers here at this school.

3 I've spent three years teaching students
4 in our unit about being a scientist, to actually
5 investigate it. We have finally this year
6 obtained a monitor, from a professor at Loyola who
7 has been interested, to actually be able to test
8 the VOCs in the air and we have actually taken
9 indoor air monitor measurements in the school.
10 There have been days when the levels spike up
11 really high in school.

12 To be honest, when I say really high, I
13 mean the machine, like, you know, it goes up from
14 point 04, whatever, to, like, point 55, or
15 something like that, which to me seems high, I'm
16 not a scientist -- I am a scientist, but I am a
17 science teacher, I don't have, like, a master's
18 degree or a doctorate degree in science.

19 I tell you that because I do think that
20 it's in the school all the time. The engineer who
21 works here has helped us to try and study the HVAC
22 system to have a little bit more idea like where
23 it's coming in, what rooms are more affected.
24 He's really concerned. He didn't know until, I

1 guess, this morning and he couldn't be here
2 tonight, but he'll probably throw in some
3 comments, I think there's some extra availability
4 for him to do that, because his office is in the
5 back and he gets headaches all the time from it.

6 So I guess what I am trying to say is
7 that one of the things that I would wish for as a
8 teacher here of students that I consider like my
9 own kids is how can we monitor this? Because to
10 be honest, I don't -- I don't trust the
11 corporation. Like the people before me have said,
12 there have been years and years where there have
13 been violations and I know firsthand that it
14 smells, and it smells extreme some days, and I
15 know that the students are very immune to that
16 smell because they do smell it all the time.

17 I asked some of my cross-country runners
18 the other day, I was, like, sniff, smell it, what
19 do you smell, and it takes them a few times before
20 they're, like, oh, it's horrible, but they are
21 used to it.

22 Students that live around the Kostner
23 area, they're used to it as well, although if you
24 ask them, they do know what I am talking about,

1 that plasticity smell, always the plasticity smell,
2 that's how they describe it.

3 But I would like to see -- I
4 understand -- I don't probably understand fully, I
5 missed the beginning about what the permit process
6 is. I would like to see there be air monitors
7 here so we could actually get data about what is
8 in our air and know for sure what is in our air.

9 You cannot expect residents to do a whole
10 summer of research, like I did, to try to figure
11 out what is coming out of the factory. I spent a
12 really long time looking at the EPA websites
13 trying to figure out what exact chemical it was,
14 what other factories were in the neighborhood. No
15 resident has the time -- very few residents have
16 the time to do that. On top of that, I have a
17 biology degree and I am interested in teaching it,
18 so I have more motivation than most people to
19 study it.

20 I want to really just briefly mention
21 that this is a community that has already so many
22 other air pollution sources. Students have asthma
23 in such a high number. I have students who often
24 are not in school because they go to the emergency

1 room for their asthma. I, myself, have asthma. I
2 was not diagnosed until I was 24 when I moved to
3 Little Village. So I know that the community can
4 impact how students are breathing.

5 I guess I just end by saying I know
6 somebody said it's not personal to people who have
7 jobs here, and I know that was probably not
8 directed at me, but I do want to say that it is
9 personal, it is very personal to a lot of teachers
10 who work here to protect the students that go
11 here.

12 Students here have many issues that they
13 have to face and it seems really awful to me that
14 they have to face a factory right behind them
15 that's putting out toxins that's going to impact
16 their lives.

17 So with that, I would just ask you -- the
18 only question I have, mine was more commentary, is
19 it at all possible for there to be air monitors
20 installed so that people are able to get data and
21 know what is impacting them?

22 Because when the UIC researchers put
23 together a map for us, they said that most of the
24 air monitors are not in this particular area.

1 So if they are not in this particular
2 area, how are we to know what, you know, what
3 we're breathing in?

4 MR. LOWREY: Air monitoring -- permitting has
5 zero to do with air monitoring. However, if we
6 can respond to that question in our
7 Responsiveness --

8 MS. NELSON: Please.

9 MR. LOWREY: I don't know if we will be able
10 to respond to that in our Responsiveness Summary
11 because permitting and air monitoring are separate
12 areas. So I don't know if we will actually be
13 able to answer that question, but if we can, we
14 will.

15 MR. LAYMAN: From my experience, none
16 firsthand, but usually just having spoken to other
17 lawyers or other people engaged in environmental
18 protection matters, my experience has been the
19 placement of monitors and the funding for monitors
20 frequently stems from broader issues that are
21 being addressed and complied in enforcement types
22 of programs.

23 Aside from that you may occasionally have
24 municipalities and/or, you know, maybe counties

1 that request the Agency for, either our Agency or
2 U.S. EPA, for monitors and/or funding for
3 monitors, but typically it's not a product or the
4 result of a permitting transaction. Typically,
5 it's from something else that's driving it.

6 MS. NELSON: I just wanted you to know what
7 it's like firsthand from somebody who has been
8 here for a really long time.

9 MR. LAYMAN: Thank you.

10 HEARING OFFICER ZEIVEL: Miss Nelson, thank
11 you for your comments.

12 I know that you mentioned that you missed
13 the beginning, but there is copies of the public
14 notice that are at the front registration table
15 that you can take. I know that you said you might
16 have someone interested in submitting additional
17 written comments, and the directions for how to do
18 that would be on that public notice. I encourage
19 you to grab one of those and share it with anyone
20 you think might want to provide comment on the
21 permit. Thank you.

22 Andrew Ramirez.

23 And then after Andrew speaks, Jasmine
24 Martinez will be up next.

1 MR. RAMIREZ: Thank you. Ramirez,
2 R-A-M-I-R-E-Z.

3 Thank you for some useful information.
4 Thank you a lot.

5 I also want to commend everyone else that
6 spoke and came out of the awareness and your
7 concern. It's very key to any community. And me
8 being part of this community, I've lived here my
9 whole life, born and raised in Little Village. I
10 grew up next to Comiskey, I could see the old
11 Crawford ComEd stacks growing up, a true corporate
12 of a lot of the pollution around here, that has
13 been shut down.

14 I've been working for the company almost
15 six years. I seen a lot of changes in and out.
16 New equipment. New machinery. New guards. Me,
17 myself, I'm part of the safety committee. I care
18 about my job a lot. I trust in my job. I trust
19 in the job providing for my future day-to-day. I
20 also trust in the job providing a safe
21 environment. Not only that, but I trust in the
22 workers. They come here working very hard, six,
23 almost seven days a week, crazy hours. And I do
24 trust in their ability to keep us safe and to work

1 the RTOs and the emissions. They are on it.
2 Trust me when I say that. They are very much on
3 it.

4 I am not trying to get too personal, but
5 it's a lot of different factors. But just trust
6 in someone as a kid from Little Village, I believe
7 in the company and I trust in this company.

8 Thank you.

9 HEARING OFFICER ZEIVEL: Mr. Ramirez, thank
10 you for your comment.

11 Jasmine Martinez.

12 And then following Jasmine, Meera Sotor.

13 MS. MARTINEZ: Hello. My name is Jasmine
14 Martinez and I've lived in Little Village my whole
15 life.

16 HEARING OFFICER ZEIVEL: Can you spell your
17 last name for the court reporter?

18 MS. MARTINEZ: M-A-R-T-I-N-E-Z.

19 So I just have a couple of questions to
20 help me understand.

21 What is the mission of the IEPA? Like
22 what is it? Can someone tell me what the mission
23 is? The mission, what are the goals? One
24 sentence. Two sentences. Three or four words.

1 MR. LOWREY: The mission of the Illinois EPA
2 is to -- well, is that the mission of the Illinois
3 EPA? The mission of the U.S. EPA is to set
4 standards to protect the environment. The mission
5 of the Illinois EPA is to uphold those standards
6 and to check --

7 MS. MARTINEZ: So they are basic, right,
8 standards, uphold the standards?

9 So very basic question, do you know, as
10 others have mentioned, what are safe amounts of
11 air pollution toxins? Like do you know what the
12 standard is?

13 MR. LOWREY: No, but --

14 MS. MARTINEZ: So how are you not in
15 compliance with your own mission to uphold the
16 standards that your organization is supposed to?

17 So BWAY, right, BWAY Corporation, do you
18 know what the safe amounts of air pollutants and
19 toxins are? Because I assume that as a
20 corporation running a business next to a high
21 school with young people, you would at least know
22 the minimum requirements of the safety levels, not
23 just for the high schoolers, but your workers. So
24 do you know the answer to that?

1 HEARING OFFICER ZEIVEL: Miss Ramirez, you
2 have to direct your questions to the panel for the
3 hearing tonight.

4 MS. MARTINEZ: Okay. So this already shows
5 that the IEPA, the Illinois EPA, can't hold --
6 can't uphold the standards that you, yourself, are
7 trying to -- I don't know, you are trying to tell
8 us that you are here to protect the environment
9 and you are trying to uphold whatever standards
10 are there that you don't even know. So I think
11 that's completely irresponsible.

12 I have been to three IEPA -- Illinois EPA
13 meetings in the last four months. I was in the
14 August meeting when we were talking about Hilco
15 Global in Little Village. I was in the September
16 meeting when we were talking about Ozinga cement
17 mixing plant in Pilsen. And now we are in
18 November, we are talking about BWAY Corporation.
19 And in all those three meetings, it's the same
20 thing. People are tired of being told that
21 there's nothing that the IEPA can do, that there's
22 nothing to hold the corporations, who are sitting
23 right here next to me, but you are telling me I
24 can't even ask them directly what are you doing to

1 hold yourself accountable and to keep the
2 community safe.

3 So what has the IEPA learned in the last
4 four months since it's literally the same people
5 that I've seen after hearing other communities'
6 concerns from three different corporations, same
7 concerns, different communities, but basically
8 it's the same thing? So what has the IEPA learned
9 from these last three community meetings that were
10 held two in Little Village and one in Pilsen? Is
11 there anything that you all can answer?

12 MR. LOWREY: I wasn't at any of those.

13 MS. MARTINEZ: So -- so that's a perfect
14 example of how irresponsible this whole process
15 is, because you may not have been there, but
16 someone was and they should have told you, hey,
17 this is what happened in this meeting, you are
18 going to be a representative in this other
19 meeting, basic communication tells us that you
20 should at least know what happened in that other
21 meeting to be prepared for this.

22 It's like, you know, you have an outline
23 for a quiz or something and you are just reading
24 the notes so you at least know what to say. So we

1 are talking about communication here as well.

2 From what I've heard, there's been at
3 least 12 violations from this corporation that's
4 literally right next to me and they are -- you are
5 able to be here, but you literally can't pick up
6 the phone and say, hey, our company just had an
7 emission that we think is unsafe, we want to let
8 you know, but you have the audacity to enter the
9 high school that you've never tried to communicate
10 with and show faith for what? It doesn't really
11 make any sense.

12 So I just want to show you all the
13 audacity of this show that we are trying to put
14 on, because again I've been to three IEPA --
15 Illinois EPA meetings in Little Village, in
16 Pilsen, in the last four months.

17 I'm sure there might be another EPA
18 meeting, and I'm sure I will be there as well --
19 as well as other community members as well, and we
20 just keep hearing the same thing and we keep
21 hearing that, oh, we don't have the answers to
22 this, we will get back to you. Oh, we can't
23 provide air monitors because for whatever, X Y and
24 Z. It doesn't make sense if your mission is to

1 uphold the standards the federal IEPA have around
2 protecting the environment, which is also to
3 protect the well-being of the people in those
4 environments, and then what you are doing is just
5 completely irresponsible.

6 And so I guess that's all I really wanted
7 to say in this, and that we've talked about what
8 other avenues can be taken, I want to emphasize
9 that if IEPA is not going to do anything or is not
10 willing to work with community members, we are
11 going to work with lawmakers to try to put an
12 ordinance. We are going to try to make sure that
13 companies like BWAY and Hilco Global and Ozinga
14 mixing cement plant can't be in business anymore.
15 Because honestly, 12 violations, that's
16 unacceptable.

17 So we would rather shut down a whole
18 fucking company than to have them -- than to have
19 you all tell us, oh, well, they just committed
20 another violation and there's no set amount of
21 violations that will lead to their shutdown
22 because why? Why can't there be a set of
23 violations? One should be enough, two -- it
24 should never reach to two.

1 So I just want to emphasize that we are
2 also trying to work other venues because IEPA and
3 these corporations are not willing to work with
4 us. And so we really -- I really hope that I
5 don't have to keep showing up at these meetings
6 because we are not being heard and basic
7 communication, right, at least communicate to your
8 co-worker about what happened in the other
9 meetings so you can be informed for this meeting
10 and for any upcoming and future meetings.

11 That's all.

12 HEARING OFFICER ZEIVEL: Miss Martinez, thank
13 you for taking the time to join us tonight and the
14 other hearings that you've attended.

15 As Mr. Lowrey indicated, each permit is
16 specific and has a permit engineer that drafts
17 that permit, and depending on the type of
18 industry, that permit may be within different
19 units within the Agency, and so our hearing panel,
20 depending on the permit, will change, but we do
21 have consistently -- our environmental justice
22 officer and other folks within the office of
23 community relations that are here consistently
24 throughout the different hearing proceedings. And

1 so if you would like to speak with them directly
2 following this hearing, you are absolutely welcome
3 and invited to do so.

4 Our last speaker that I have for cards
5 tonight is Meera Sotor.

6 If you're here tonight -- if anybody else
7 that would like to make a comment has not had an
8 opportunity to do so, you still have time to go to
9 the registration table and fill out a card.
10 Maggie will make sure to bring that to me.

11 That being said, Miss Sotor, if you could
12 introduce yourself and spell your name.

13 MS. SOTOR: Yes. Hi. My name is Meera Sotor.
14 M-E-E-R-A S-O-T-O-R. I don't have a question, but
15 rather I would like to voice a comment as a
16 concerned Chicagoan but also as a nurse.

17 I am a nurse fellow with the Alliance of
18 Nurses For Healthy Environments and an ally to the
19 Little Village Environmental Justice Organization.

20 As a nurse, it is my responsibility to
21 advocate for my patients, both individuals and
22 populations.

23 The fact of the matter is air quality is
24 a public health issue. If a teenager or a teacher

1 from the high school, or community member, comes
2 to a clinic or the emergency room with chronic
3 dizziness, headaches, stomachaches, or a burning
4 sensation in their chest, healthcare professionals
5 can do a review of systems, but perhaps determine
6 that there's nothing -- no acute reason for their
7 symptoms and let them go.

8 However, if numerous people have
9 clustered symptoms that corroborate the existing
10 data on the health effects of sustained exposure
11 to toluene, ethylbenzene, and the aforementioned
12 byproducts listed by other members here, that is a
13 significant finding and it concerns me.

14 We are all products of our failed
15 environment or the environment in which we work,
16 live and play.

17 It truly saddens me to hear of the
18 numerous and burdensome chronic health problems
19 like asthma, for example, that the Little Village
20 community faces as a result of corporations just
21 like BWAY.

22 I, of course, can't deny the right for
23 this company to exist, but as a health
24 professional, I also can't deny science, evidence,

1 and closest to my heart I can't deny the lived
2 experience of my patients.

3 This community deserves to thrive just
4 like every other one, and air quality is a major
5 threat to their well-being.

6 The permit issue should reflect strict
7 standards that hold the BWAY Corporation
8 accountable for the space it occupies in Little
9 Village.

10 All of us are encouraged to be
11 contributing members of the community and to
12 promote the health and vitality of this
13 neighborhood. BWAY should be required to do the
14 same.

15 And if encouragement isn't enough, then I
16 would hope that the legal process of the IEPA
17 permitting system would be.

18 Thank you.

19 HEARING OFFICER ZEIVEL: Thank you,
20 Miss Sotor.

21 Is there anybody else who would like to
22 return to the microphone for additional follow-up
23 questions or comments tonight?

24 Okay, Vanessa.

1 Can you state your name again for the
2 court reporter?

3 MS. MORA: I am Vanessa Mora. M-O-R-A.

4 So my major is -- in Loyola University of
5 Chicago is environmental science, double major in
6 environmental science and environmental policy.

7 So I had one additional question was, how
8 many violations, I know that we asked the question
9 over and over, but how many violations does there
10 need to be for a permit to be terminated?

11 MR. LAYMAN: For a permit to be terminated or
12 revoked, I think is the word most frequently used,
13 I would think that would require an enforcement
14 action. That's not something that is built into
15 the permit and it's not something we can do in our
16 permitting capacity.

17 If there were serious enough complaints
18 of the nature that you was having actual human
19 health impacts, if you had a substantial
20 endangerment to the surrounding neighborhood or
21 the public, that would give rise to an enforcement
22 action that can be brought by the state, or by
23 citizens groups, or by U.S. EPA, and that would be
24 part of a formal compliance investigation and/or

1 an enforcement action. Again, it's not built into
2 our permitting rules or regulations.

3 MS. MORA: So you said that it has to have
4 some serious consequences to the people or the
5 citizens who are living around there.

6 MR. LAYMAN: Uh-huh.

7 MS. MORA: But there have been serious, like
8 there's a nurse who explained, Miss Nelson, who is
9 the science teacher, who is a coach as well, too,
10 that she was my coach, I was a cross-country and
11 track runner, who I had a lot of my friends and my
12 fellow runners who have experienced serious
13 symptoms like heavy breathing and burning when
14 they are running.

15 Why hasn't that been considered an aspect
16 of how you said, you mentioned terminated --

17 What's the other word that you said.

18 MR. LAYMAN: Revocation.

19 MS. MORA: -- revocation for that, for BWAY to
20 be already terminated?

21 MR. LAYMAN: Well, we are not all knowing as
22 an Agency and consequently, you know, our ability
23 to act in a compliance or an enforcement context
24 is usually depended upon people coming forward and

1 either calling Springfield or calling our field
2 operations section and, you know, initiating the
3 process of us to investigate.

4 Certainly, U.S. EPA has done their part,
5 although I am not sure that they have addressed
6 odors directly as you are suggesting, but that's
7 usually how that process works.

8 MS. MORA: But the community members, like
9 most of the community members who live here, are,
10 as you know, Little Village is high population of
11 minorities and as well to high population of low
12 income.

13 So with that going to -- if we're going
14 into economics, many of these people are working
15 40 hours, plus hours, to make minimum. The
16 minimum wage right now is, federally or
17 state-wide, is 15, that's barely enough. So some
18 of these people are working two jobs or have a
19 family who has to take care of.

20 So how would we be able to accommodate
21 for those people that are trying to get feedback
22 or don't even know that they are able to make a
23 complaint?

24 Because you have mentioned, or you all

1 three have mentioned, that the permit before -- or
2 the violations that were heard before were not
3 told to the community or the population that lives
4 around there.

5 So how are you going to accommodate or
6 how are you going to do for this permit, that --
7 to explain to people that, look, there's ways to
8 be able to give your concerns here and there and
9 try to find other accommodations for people to
10 give their -- sorry, give their accommodations --
11 give their comments for people and their
12 availability?

13 But not a lot of people can be able to
14 come. Like you can see right here, not a lot of
15 people came today. Why? Because it's cold
16 outside. A lot of people are not trying to get
17 sick. A lot of people are trying to go to work
18 tomorrow. A lot of people are trying to feed
19 their families.

20 Some of these kids, like the nurse has
21 explained it, or Miss Nelson or other teachers
22 here have explained it, they are not able to come
23 to school sometimes, or they are in the emergency
24 room. Like my parents, my parents are not able to

1 sometimes even go to work because of their
2 breathing.

3 As well, too, for me, like I was here for
4 four years and I was a cross-country and track
5 runner, I was light-headed, I had shortness of
6 breath. I, myself, had internal -- I feel like it
7 was burning inside in my own body.

8 So it's like hearing that, like, this is
9 the limitations and, like, me as a person is not
10 considered as a human being but just a number is
11 really fucked up to just being seen with that.

12 And another thing, too, is just like why
13 is this company just really -- I am just going to
14 point it out because there's an elephant in the
15 room.

16 Why is this company really bringing their
17 workers here and telling their workers that it's
18 the fault of the people that they are going to
19 lose their job? It's like why is that okay in the
20 first place? Why is that okay? Why are you
21 bringing people here and telling them --
22 threatening them, saying, like, oh, because the
23 LVEJO community are trying to get rid of your job?

24 No, it's because this corporation does

1 not want to pay their price to work here and see
2 us as people. Because they are not seen as
3 people, they are using us for their ends and their
4 means. So it's like how is that right? How is
5 that ethically right?

6 As the U.S. EPA having this ethical --
7 environmental ethical and these other policies
8 that you guys were talking about and saying that
9 you are defending the people and the environment,
10 I really don't see it in this panel.

11 Another thing, too, is why don't you have
12 a lawyer here, a lawyer for the environment, the
13 EPA lawyer here that represents you all? Why is
14 there not other scientists here that are from the
15 EPA? I'm kind of curious why that is not here.
16 Because most of these questions were kind of
17 policy-based and as well to other permit piece
18 that you all didn't answer, that I appreciate to
19 kind of know why there are not other
20 representatives from the EPA here.

21 MR. LAYMAN: Well, Who are you referring to
22 when you say scientists?

23 MS. MORA: So when the EPA goes into the field
24 and they do their own monitoring or, like you

1 mentioned, the U.S. EPA comes to the corporation
2 and does the monitoring, why is there not one of
3 those scientists or the ones who actually monitor
4 here as to explain to us like how the operation
5 really works? Because you all three really don't
6 exactly know how the procedure goes. And like you
7 over and over have -- all three have explained
8 that either are focused on the different parts of
9 the permit or just the permit itself.

10 MR. LAYMAN: Well, if you're referring to
11 either monitoring or modeling, which are two
12 separate exercises, those areas both have their
13 own areas of expertise.

14 MS. MORA: Uh-huh. I just want to know why
15 they are not here.

16 MR. LAYMAN: I'm sorry?

17 MS. MORA: I said, I just want to know why
18 they are not here.

19 MR. LAYMAN: No, and that's a fair question.

20 I think what you find is that the
21 monitoring and the modeling that the Agency does,
22 and the same way with the U.S. EPA, those folks
23 tend to work in a field that advise or give input
24 to their respective agencies, that usually takes

1 place in the context of evaluating public health
2 and then creating rules or regulations to enforce
3 and protect public health.

4 So they are working in one group, if you
5 will, or one area of activity. Permitting is
6 distinct from the modeling and the monitoring
7 approach that these agencies conduct.

8 For the most part, the people you see up
9 here are engineers or lawyers and, you know, other
10 parts of the Agency have compliance analysts, you
11 will have some lab technicians, you will have
12 modelers and monitors, but by and large the
13 engineers and the lawyers are the ones who develop
14 and put forward the permitting documents,
15 administer the permitting programs that we are
16 discussing here this evening.

17 I am not aware of a modeler or monitoring
18 experts ever participating in this kind of
19 capacity. That's not to say that they wouldn't
20 have something useful to tell you or to answer
21 questions, but by and large we don't have those
22 issues come up in the permitting context.

23 Does that make sense?

24 MS. MORA: It makes sense in what you were

1 saying, you know, that you won't be able to
2 explain the process of the permitting, but I still
3 feel like the need to have a -- like you
4 mentioned, like the people who are out in the
5 field to further explain what is really done,
6 because there's a lot of pieces that are going to
7 be missing with all three of you and there's going
8 to be a lot of things that you all three would not
9 be able to answer, that I feel like it's not
10 really fair for the community to have missing, I
11 feel like we all deserve in this community to get
12 the full truth, not their truth and our truth, but
13 the full truth.

14 So I feel that's the reason why I was
15 asking the question, because I really want to get
16 the full truth. I mean, I deserve it and my
17 community members deserve the full truth and as
18 well, too, deserve justice because it's not given
19 to us right now and I don't -- every time that a
20 community member, and I see that they are really
21 passionate and they are in pain, because we are in
22 pain because we are not being looked as humans and
23 we are just looked as what's on the paper, because
24 you mentioned -- you, yourself, and others have

1 mentioned that we have to complain about it over
2 and over to be able to get looked as a penalize,
3 so you said like a global penalty. Why is that?
4 Why is that? Why do we have to keep bugging for
5 an agency that is supposed to protect us not to do
6 its job?

7 MR. LAYMAN: Well, bear in mind, and I've
8 discussed this at the beginning of the hearing and
9 maybe others have discussed it at other hearings,
10 the Agency is a creature of statute, we are a
11 creature of law, we are obliged to comply and work
12 within the framework we are given.

13 The areas you've talked about and other
14 folks have talked about this evening touch on a
15 lot of different disciplines. It's not just
16 engineering or legal that we are discussing here
17 this evening, but as you mentioned there's other
18 issues in play, scientific issues that don't
19 relate to the permit but may relate to the
20 public's understanding or what they want to know
21 about what's happening with this facility or why
22 certain things are happening.

23 I can only tell you that what we are
24 doing is trying to operate within the framework --

1 the legal framework that we're provided. Does
2 that mean that it couldn't be something else?
3 Well, no, it could be. It could be as simple as
4 simply having an agency protect the environment.
5 But that, I am afraid, given the laws and the
6 regulations that not only regulate the source, but
7 regulate the Agency and what we do, that's too
8 high of a standard to hold anyone to, especially
9 our Agency. We -- again, we are doing what we
10 have to in order to meet the standards that exist
11 for us.

12 Now aside from that, any other redress,
13 any other, you know, avenues for fixing what may
14 be compliance issues that you've had historically
15 in this neighborhood or any neighborhood anywhere
16 in the state, those are left to either compliance
17 and enforcement within the framework of our
18 pollution control -- I'm sorry, our Environmental
19 Protection Act, or it's left to the legislature,
20 or it's left to municipalities. Municipalities
21 can enact ordinances, I think I mentioned that
22 earlier, they can adopt certain types of health
23 standards, particularly if they're a home rule
24 municipality.

1 And so there are avenues available for
2 addressing these things, but it takes everyone's
3 involvement, it takes people showing up at
4 hearings like this. And it takes not just -- not
5 just challenging agency officials, like many folks
6 have done here this evening, but it also takes
7 being willing to convey to us the ideas and
8 suggestions and things that you have on your mind
9 that we can go back to Springfield with and try
10 to -- try to incorporate, if at all, in our
11 permitting program, but it takes everyone, you
12 know, being willing to provide that input and your
13 comment, like you folks have done.

14 MS. MORA: I have another question. So when
15 was the last time CAAPP was updated?

16 MR. LOWREY: CAAPP itself?

17 MS. MORA: Yes.

18 MR. MARR: Well, it was last issued in 2010,
19 but I mean we've updated it, but it's in the draft
20 form, it's not --

21 MR. LOWREY: Do you mean this CAAPP permit or
22 do you mean the Clean Air Act Permit Program
23 itself?

24 MS. MORA: Permit program itself.

1 MR. LAYMAN: I can't recall the last
2 amendments that they have made to Part 70 or even
3 to Section 39.5 of our Act. Once a rule -- once a
4 permit program is put into place, which the
5 Title V was in 1995, I think was the start of the
6 program, there are piecemeal efforts from time to
7 time by U.S. EPA or by the state to amend
8 different things, but, you know, as those programs
9 go through time, you learn things, or people think
10 of a new way of doing things, but I can't tell you
11 the last time that the CAAPP program we are
12 dealing with has been amended.

13 The CAAPP permits themselves are amended
14 on a five-year interval. The permits have a
15 permit term of five years and it's not uncommon
16 for us to introduce new things to a permit each
17 renewal, because you will have new construction
18 permits that are, perhaps, issued to a source for
19 new emission units that were just introduced to a
20 facility, but you will also have new rules and
21 regulations go into effect. So the idea is that
22 every five-year renewal period there will be newer
23 things, more up-to-date regulations or
24 requirements that are added to the permit over

1 time.

2 MS. MORA: So has the Agency itself, has they
3 done their own research on how much these toxins
4 that BWAY is doing -- is releasing to see what is
5 the -- what is the harming limit?

6 MR. LAYMAN: No, not that I am aware of.

7 MS. MORA: Not independently or --

8 MR. LAYMAN: I'm not sure that our Agency does
9 much of that. I know U.S. EPA will do that with
10 respect to certain hazardous air pollutants.

11 As someone earlier had mentioned that
12 with respect to a new study revealing that certain
13 pollutant is being harmful, or what have you, most
14 of that progresses by way of U.S. EPA assigned to
15 advisory group and other scientists, if you will,
16 investigating a certain pollutant and then
17 U.S. EPA using that information to develop a rule
18 and regulation.

19 In this case, we mentioned two NESHAP
20 requirements that are set forth in the permit,
21 KKKK and MMMM. Those went through at one time
22 when U.S. EPA promulgated the rules, those went
23 through a scientific process of evaluating the
24 nature of the pollutants and the harm that was

1 potentially generated through human health or to
2 secondary environmental impact.

3 And so, you know, in some sense the rules
4 and regulations that we put into these permits
5 have already addressed the public health impact
6 for NESHAP, or at least for the two NESHAPs that
7 we are dealing with here.

8 It's not as though there's no background.
9 It's not as though there's no protective standard,
10 at least for the NESHAP, because that's built into
11 the development of those rules.

12 MS. MORA: So you're saying that --

13 MR. LAYMAN: And I might add that -- that it's
14 not uncommon for science to evolve, it's not
15 uncommon for standards to get tighter or more
16 stringent over time, but that comes with U.S. EPA,
17 or possibly others, conducting, you know, the
18 necessary studies and scientific analysis that
19 they do and then taking that and working it in
20 through the Clean Air Act Program.

21 MS. MORA: So -- I lost my train of thought.

22 MR. LAYMAN: That's okay.

23 HEARING OFFICER ZEIVEL: That's okay.

24 MR. LAYMAN: If you think of -- I mean, I

1 don't know if you are to the point where you are
2 going to begin to close. If you think of
3 something as we are closing, feel free to approach
4 us and talk to us after the hearing, we can -- if
5 you've got something that comes immediate to mind,
6 you can certainly say what you will on the record,
7 but we are going to hang around for a little bit
8 to clean up and gather our things, so you're free
9 to talk to us then as well.

10 MS. MORA: Oh, okay. Thank you.

11 HEARING OFFICER ZEIVEL: Thank you, Vanessa.

12 UNIDENTIFIED SPEAKER: I just want to mention
13 that I do believe being challenged is a good
14 thing --

15 HEARING OFFICER ZEIVEL: Excuse me. I'm going
16 to need you to give your name. I'm going to need
17 you to give your name.

18 MS. MARTINEZ: Jasmine Martinez.

19 So I just want to emphasize that we're
20 not challenging you as an organization to try to
21 not work with you, but it is because we want to
22 work with you. Because we want to work with you,
23 we need to challenge the -- what's already there
24 because it's not working, and I say that as

1 someone who has gone to these meetings three
2 times, and I am sure there will be more meetings,
3 it's the same -- it's literally the same thing
4 that I am hearing for all these different
5 companies.

6 The issue is that we are being saturated
7 by these heavy-polluting industries in the South
8 and the West Side of the city, specifically
9 running around the industrial corridor.

10 So I understand that there's different
11 departments, there's different staff people that
12 do different work, but at the end of the day as an
13 agency, you should be able to see the correlations
14 and you should be able to at least acknowledge
15 what we're saying, that this is not an isolated
16 issue.

17 BWAY is just part of a larger issue of
18 letting current existing companies continue to
19 emit high levels of unsafe pollutants and letting
20 new industries come in without proper regulation.

21 So that's part of the big -- that's part
22 of the issue here. So I just really want to
23 emphasize that that's something that needs to be
24 acknowledged, even if that's not your department.

1 As an agency, hear us and understand that in being
2 challenged we are asking to be heard.

3 And to BWAY, I mean, I think it's
4 audacious or just a disgrace that you are here.

5 That's all. Have a good night.

6 HEARING OFFICER ZEIVEL: Is there anybody else
7 who has not spoken? We have just a few more
8 minutes before tonight's hearing wraps up.

9 UNIDENTIFIED SPEAKER: Do we have to be on the
10 list to speak?

11 HEARING OFFICER ZEIVEL: You would have needed
12 to fill out a card.

13 UNIDENTIFIED SPEAKER: She told me just to
14 (inaudible.)

15 HEARING OFFICER ZEIVEL: Oh, okay, then that
16 would be fine, sure.

17 I will need to you very clearly state and
18 spell your first and last name for the court
19 reporter.

20 MS. GONZALEZ: Hello. My name is Yolanda
21 Gonzalez. It's G-O-N-Z-A-L-E-Z. I work at
22 BWAY -- well, now Mauser. I work in HR.

23 One thing I wanted to address is the
24 changes. There has been a lot of changes in the

1 last four years that I've been there. Nothing is
2 the same, coming from the environment, to our
3 employees, to interacting with the school, because
4 I am the one who speaks with the engineer when I
5 call the school. I am the one who calls.

6 When we came here, all of us employees,
7 we came voluntarily because we wanted to show
8 that, yes, we believe in what they're doing. If
9 this was asked three years ago, none of us would
10 have been here. If it was actually about
11 two-and-a-half, I would say, three years, Brian,
12 three years, I believe, just to get my dates
13 correct, we wouldn't be here because that's not
14 the way we felt.

15 If we really felt that we were causing
16 this community -- but I'm from this neighborhood,
17 I'm from Pilsen, I'm from this neighborhood, I'm
18 from Little Village, and I come back to work here.
19 If I thought it was a danger, I wouldn't be here
20 myself.

21 We are trying to make the changes at BWAY
22 here in Chicago as a corporation, but we can only
23 do that if we are all working together to find out
24 what the issues are. We can't do it if it's BWAY

1 against the school, if it's BWAY -- if it's Mauser
2 against Little Village. We have to find out what
3 it is.

4 We understand -- I understand that right
5 now this is about the permit, but to the
6 community, I just want to make it pretty clear to
7 them that we are not against them, we are trying
8 to work with them, but everybody needs to
9 communicate.

10 And we don't want to give this idea that,
11 oh, we were forced to be here. We weren't forced
12 to be here. We all came voluntarily. Nobody told
13 us we had to come. We volunteered to come because
14 we believe in the changes that are being made.

15 I just wanted the community to understand
16 that. Thank you.

17 HEARING OFFICER ZEIVEL: Miss Gonzalez, thank
18 you for your time and for coming to the podium
19 tonight.

20 We have one more in the back.

21 Can you please state and spell your first
22 and last name for the record, please?

23 MR. ACOSTA: How you doing? Jose Acosta.
24 J-O-S-E A-C-O-S-T-A. I am here representing

1 Little Village Environmental Justice Organization.

2 I just wanted to, first of all, thank
3 everybody who has given comments so far. I really
4 just want to emphasize a few more things, some
5 things that need to be considered.

6 As you proceed with this permitting
7 process, there's been plenty of evidence given
8 around just in general, you know, the issue in
9 terms of how many young people are in the area,
10 aside from the high school. You know, just that
11 alone right there I think is a huge factor because
12 if we were on the North Side, you know, in a rich
13 neighborhood, where the high school is mostly
14 white kids, we might not be having this
15 conversation right now. Right?

16 So again, just to highlight on what the
17 definition of environmental racism is, over time
18 in the way a company has been allowed to operate
19 for 10 years without a permit is a perfect example
20 of environmental racism, especially when they had
21 all these violations previously. Right?

22 So again, the issue of environmental
23 racism, making sure our people in the community
24 are put first and foremost before a company.

1 Right? We cannot -- this is a city with a rich
2 industrial history, a rich industrial past, a city
3 that has always put industry over people, it has
4 always given precedence to industry over the
5 community. Right?

6 We've had countless labor strikes, labor
7 battles in the city throughout its history, and
8 one of the key things that we have to understand
9 here is the way that industry -- I mean, the way
10 that jobs are put against the environment. Right?

11 Many of the people who are actually
12 working for the company, as somebody mentioned
13 earlier, we are not trying to take away jobs, but
14 the important thing here is, number one, that the
15 company that they're working for isn't emitting
16 such the pollution that it is, because those jobs,
17 and I'm sorry, are not worth more than the air
18 quality of the environment.

19 You know, as we get away from -- as a
20 nation, as a planet, we need to get away from any
21 industries that involve the extraction of fossil
22 fuels. Things like toluene have their roots in
23 fossil fuels. Right? We need to get away from
24 them, we need to have a just transition away from

1 extracting industries to regenerative industries.

2 Right?

3 So in thinking about that transition, one
4 of the key aspects is the workforce and that
5 people who are working in these industries and
6 making sure that they are prepared for these
7 changes that are coming. Right?

8 So I mean if the U.N. is saying that we
9 have 12 years left, they said that a year or two
10 ago, right, if the U.N. is saying that we have 12
11 years left to do something about our climate, then
12 we probably actually have less than that.

13 So again, there's a major, major issue.
14 It's not just what the company is doing, but the
15 larger picture. Right?

16 Number one, the fact that Little Village
17 already has the second worst air quality in the
18 State of Illinois, which is for a number of
19 reasons, a number of pollutants, what they are
20 emitting here is part of that, and then, of
21 course, the planet. Right? All these climate
22 changes that are happening, are happening right in
23 front of our very eyes, and we cannot continue to
24 allow industries that operate on fossil fuels to

1 continue to pollute and to continue to impact our
2 planet, our local environments the way that they
3 have.

4 So these things need to be considered in
5 the permitting process, assuring that you are
6 actually protecting what's in your name. Right?
7 The Environmental Protection Agency, you need to
8 be protecting the environment, not protecting the
9 interest of industries.

10 So we need to, again, place very strict
11 regulations on these industries that are
12 polluting -- that have traditionally and
13 historically polluted black and brown
14 neighborhoods throughout the country, and we need
15 to not make industry -- not give precedent to
16 industry, but we need to, again, think about the
17 workforce and how we are making these transitions.

18 Because if we do transition away from
19 fossil fuel based industries, the first people who
20 are going to be impacted is going to be the people
21 who work in these industries. Right? So we need
22 to be thinking about that and we need to make sure
23 that we are not pitting workforce -- the labor
24 against the community.

1 As they say, some of them are actually
2 from the community, and regardless of whether or
3 not they think the company is doing a good job,
4 the facts are there. We know what has been
5 historically emitted at this facility, we know how
6 it impacts the youth at the high school, and these
7 things cannot continue to be permitted, to be --
8 this is not acceptable.

9 If this was a white, rich neighborhood we
10 would not be having this conversation, but because
11 it's a neighborhood with a majority (inaudible)
12 population, these things have been allowed to
13 happen. Right? Ten years without a permit, I
14 guarantee you that would not have happened in
15 Lincoln Park, that would not have happened
16 somewhere on the
17 North Side. Right?

18 So we need to hold industry accountable,
19 and in this permitting process think about the
20 larger picture here, because it's not just BWAY
21 and Mauser, it's not just Little Village, this
22 impacts the larger area, the City of Chicago, and,
23 you know, our planet as a whole.

24 So please, you know, just really consider

1 everything that the people here in the community
2 are saying and asking for, and holding industry
3 accountable.

4 Thank you.

5 HEARING OFFICER ZEIVEL: Mr. Acosta, thank you
6 for taking the time to come to the microphone
7 tonight.

8 Okay. I believe everyone registered and
9 in the audience today has had an opportunity to
10 speak. We are out of time this evening. If you
11 did not get a chance to speak, please submit your
12 comments to the Agency in writing and they will be
13 included in the record and reviewed as the
14 Responsiveness Summary is prepared.

15 As we bring this hearing to a close, I
16 need to remind everyone that the record in this
17 matter closes on December 12th, 2019.

18 Please send any written comments to my
19 attention as indicated in the public notice that
20 is available either at the registration desk or on
21 the Illinois EPA's web page for public notices.

22 A repository of documents, I believe
23 there were documents referenced today by the
24 panel, a repository of documents for this

1 permitting action is available at the Toman Branch
2 of the Chicago Public Library,
3 2708 South Pulaski Road in Chicago, and at the
4 Illinois EPA's offices in Des Plaines and in
5 Springfield, as also indicated in the public
6 notice.

7 Copies of the draft CAAPP permit and its
8 Statement of Basis is also available on the
9 Illinois EPA public notice web page and upon
10 request.

11 As was noted a few times tonight, this
12 facility is located in an area of Environmental
13 Justice concern, pursuant to Illinois EPA's
14 Environmental Justice Public Participation Policy.

15 More information concerning Environmental
16 Justice can be found on the Illinois EPA
17 Environmental Justice web page.

18 Thank you for your participation and your
19 cooperation tonight.

20 The time is 9:53 p.m., and this public
21 hearing is adjourned. Thank you.

22 (The public hearing concluded at
23 9:53 p.m.)

24

1 I, PAMELA S. MORGAN, Certified Shorthand
2 Reporter in the State of Illinois, do hereby
3 certify that the above hearing was recorded
4 stenographically by me and was reduced to
5 typewritten form by means of Computer-Aided
6 Transcription.

7 I further certify that the foregoing
8 transcript is a true, correct and complete record
9 of the testimony given and of all proceedings had
10 before me to the best of my ability.

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PAMELA S. MORGAN, C.S.R. 084-001687

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