

In The Matter Of:
*Department of Natural Resources
& Environmental Control*

*In Re: Delaware City Refining Company
March 24, 2015*

*Wilcox & Fetzer, Ltd.
1330 King Street
Wilmington, DE 19801
email: depos@wilfet.com, web: www.wilfet.com
phone: 302-655-0477, fax: 302-655-0497*



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1 incorporate the Delaware City Refinery permit and
2 the Delaware City Power Plant.
3 My presentation will briefly discuss
4 an NPDES overview, go into the permit background and
5 rationale for this permit, and then discuss some
6 major changes made to this permit if allowed.
7 First off are a list of hearing
8 exhibits which can be found right down in front
9 here. They include the application, the draft
10 permit and draft fact sheet, as well as all the
11 hearing record comments that we have received from
12 the public thus far.
13 The National Pollutant Discharge
14 Elimination System is a system originally
15 established under the Federal Water Pollution
16 Control Act for permitting wastewater discharges.
17 This includes a variety of types of
18 discharges, including waste stormwater from
19 construction sites, from industrial facilities,
20 as well as municipal separated storm sewer systems.
21 Of course, tonight we are here to
22 discuss an individual industrial discharge. With an
23 individual permit, they fill out an application
24 discussing the type of facilities operating there

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1 and give detailed data on the outfalls from the
2 facility. And DNREC would develop a site-specific
3 permit based on that application information and
4 applicable regulations.
5 Although the permit is individual and
6 site-specific, the permits have common sectors to
7 them, starting with the intro section which
8 covers -- which identifies the facility and the
9 authority of the Department to issue the permit.
10 Next would be effluent limitations,
11 which will either be technology-based or
12 water-quality based, whichever one is more stringent
13 in use. And these limit what can be discharged from
14 the outfalls.
15 And then there are monitoring and
16 reporting requirements. So with this facility they
17 have to fill out a discharge monitoring report
18 monthly and submit that to the Department. Those
19 and other required reports help us to determine the
20 wastewater treatment efficiency and determine if
21 they are complying with the permit conditions.
22 Next are our standard conditions.
23 These are the administrative and legal requirements
24 of the permittee, such as a duty to comply with

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1 their permit and a duty to report noncompliance to
2 the Department, or the Department's right to enter
3 to determine facility permit noncompliance.
4 These conditions are straight out of
5 the regulation and puts into the permit to reinforce
6 the requirement with the permittee.
7 Special conditions are everything
8 else that doesn't fit. They often include more
9 detailed monitoring requirements, or specifying
10 sampling methods not or included in sampling
11 effluent limitations.
12 And there are a variety of other
13 things such as wastewater treatment plant operator
14 licensing, wastewater treatment plant sludge;
15 management, and any other conditions that do not fit
16 in other sectors.
17 For this facility, the Delaware City
18 Refinery, a permit was last issued to Star
19 Enterprises in September 1997 and has been
20 administratively extended since September of 2002.
21 After changing hands a number of
22 times, Valero shut the refinery down in 2009. And
23 the refinery was then started by the Delaware City
24 Refining Company in 2011.

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1 In 2010 when the Delaware City
2 Refinery was looking to acquire and restart the
3 facility, they and the Department of Natural
4 Resources entered into the agreement governing the
5 acquisition and operation of the Delaware City
6 Refinery.
7 In that agreement, one of the things
8 required was that the Delaware City Refining Company
9 would have to submit a an updated application and
10 would set a path forward for permit renewal.
11 In 2011 the Department came out with
12 a pre-notice draft permit. Part of that was a
13 preliminary draft interim Best Technology Available
14 determination. This did not proceed to public
15 notice.
16 The important part -- one important
17 part is that the BTA determination was interim as
18 the permit, itself, allowed time for the facility to
19 perform studies to support or refute the
20 Department's BTA determination.
21 While the Department was working on
22 developing that 2011 draft permit, something else
23 was happening with the EPA. Section 316(b) of the
24 Clean Water Act required EPA issue regulations on

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1 the design and operations of cooling water intake
2 structures in order to minimize adverse
3 environmental impacts.
4 In April 2011, the EPA issued -- In
5 2011 the EPA proposed the Clean Water Act 316(b)
6 rule. This was required to go final in 2012 due to
7 settlement of a federal court case.
8 As we were working on our 2011 draft
9 permit, amending it and addressing comments that we
10 received, EPA was working on a rule that would
11 significantly impact the permit that we were working
12 on. As such, the Department made a determination to
13 stop pursuing issuing the permits at that time.
14 The 316(b) rule eventually got issued
15 August 15, 2014, and the Department rededicated
16 their efforts into renewing the permit to be
17 consistent with the new 316(b) rule.
18 Parallel to working on the new draft
19 permits that we are discussing tonight, the
20 Department negotiated a settlement agreement with
21 the Delaware City Refinery Company to resolve past
22 violations. This settlement agreement included a
23 supplemental environmental project. Supplemental
24 environmental projects are often done in place of

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1 penalties. And in the case of this settlement
2 agreement, that resulted in incorporation of
3 modified traveling screens and fish friendly fish
4 returns as the interim impingement BTA for cooling
5 water intake structures. Again, this is in the
6 interim.
7 And if you look at the picture on the
8 right there, you will see the difference between
9 impingement and entrainment. When filtering the
10 water that comes into the refinery, the fish or
11 other aquatic life that would be stuck on these
12 screens will be impinged, and all those that would
13 flow through the screen -- eggs, larvae, juvenile
14 fish -- would be entrained.
15 The modified traveling screens are to
16 address impingement mortality. They are not meant
17 to address the entrainment mortality. What they
18 will do will be include fish buckets, a low-pressure
19 wash. There will be rotating continuously and will
20 have smaller, smoother screens. These factors will
21 lead to fish getting into a fish return, which will
22 prevent predation and re-entrainment and get a
23 significantly reduced impingement mortality.
24 316(b) does not require impingement

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1 BTA selection until after a final entrainment BTA
2 has been selected. Therefore, Delaware City
3 Refining Company's installation of modified
4 traveling screens at this time would provide benefit
5 in the near term by reducing impingement mortality.
6 Additionally in the settlement
7 agreement, there is also a condition to recycle
8 effluent from the wastewater treatment plant into
9 the cooling water system, and this will result in
10 reduction of water otherwise needed from the river
11 for the system.
12 Lastly, the settlement agreement
13 clarified expectations regarding compliance with the
14 final 316(b) rule and some other items the
15 Department intended to incorporate into the draft
16 permit, such as selenium limits.
17 What the settlement agreement does
18 not do: It does not supersede or circumvent the
19 public participation process. The agreement
20 explicitly states that the public notice process for
21 this draft permit will be followed, public comments
22 will be considered, and any necessary or advisable
23 revisions will be made prior to the finalization of
24 the permit.

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1 It also does not limit the
2 Department's discretion in making any final
3 determination regarding BTA under the rule.
4 The final EPA rule, as I said
5 earlier, does impact this permit in a number of
6 ways: The first one being the rule provides for
7 detailed NPDES permit application requirements for
8 facilities with cooling water intake structures.
9 What I mean by this is 40 CFR 122.21(r) lists eleven
10 different studies that the refinery will be required
11 to perform, including, among others, cooling water
12 intake structure data, cooling water system data,
13 existing entrainment performance studies,
14 entrainment characterization studies, and benefit
15 evaluation studies.
16 Now look at the last one on the list.
17 This is not a study. Peer review is a requirement
18 in 316(b) that several studies that they are
19 required to do. Not only will their consultants be
20 reviewed by the Department but will also be reviewed
21 by a third party which the Department is required
22 to -- the Department has the discretion to approve.
23 Part of the 316(b) rule does allow
24 permitting authority to waive some of these federal

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1 requirements if the permit process begins prior to
2 the effective date of the new 316(b) rule and if the
3 permitting authority believes there is sufficient
4 information to establish final BTA. This is not
5 what the Department has done. As much of the
6 information that we have is over ten years old,
7 performed by the previous owners, and does not
8 address several different areas that are required in
9 the eleven studies under the 316(b) rule.

10 The rule does allow the application
11 to have interim BTA requirements until the studies
12 are complete and a final BTA determination can be
13 made.

14 And in this permit we include several
15 different interim BTA requirements, including
16 modified traveling screens with a fish friendly fish
17 return system, as we discussed earlier, which will
18 significantly decrease impingement mortality;
19 entrainment studies that provide the information
20 that we need to make the BTA determination; effluent
21 recycling project which will reduce the water intake
22 from the Delaware; as well as reduction in flow to
23 Outfall 001.

24 There will be a limit on flow 001 of

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1 303 million gallons per day on a 12-month rolling
2 average. This is a significant decrease in the flow
3 from the previous permit resulting in much less
4 water being taken in from the river and associated
5 reductions in fish mortality.

6 Lastly, the permit requires that
7 DNREC must coordinate with NOAA, the National
8 Oceanic and Atmospheric Administration Fishery
9 Section regarding the Endangered Species Act. Not
10 only in the permitting process, but also throughout
11 the years, as we are required to provide annual
12 reports on the fish data we have.

13 So the 316(b) rule and its
14 implications are a big part of this permit, but it's
15 not all the permit includes. There are several
16 other permit changes including, as I mentioned, this
17 permit combines the Delaware City Power Plant permit
18 and the Delaware City Refining permit. It adds the
19 12-month average flow limit of 303 million gallons
20 per day at Outfall 001 and chronic bio-monitoring
21 and removes acute bio-monitoring.

22 It also requires new NPDES
23 application forms for all their outfalls, as the
24 application data submitted is more than three years

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1 old.

2 It continues the Delaware Estuary PCB
3 TMDL, total maximum daily loads which are
4 implemented through a pollution minimization plan.
5 It also adds sensitive monitoring for dioxins and
6 furans. Some EPA studies have shown that refineries
7 such as this can inadvertently generate dioxins and
8 furans. Those same studies show that some of those
9 dioxins and furans can be removed by the wastewater
10 treatment plant process. That is why we will be
11 looking for them at the outfalls from the plant and,
12 if found in significant quantities, we'll require
13 track back studies to identify them.

14 We are also adding specific
15 requirements for operation and maintenance of the
16 API separator 2 and guard basin five and six. There
17 will be correcting and updating of outfall
18 information, as some of the outfalls are duplicative
19 and there are several stormwater outfalls that are
20 new to this permit.

21 There will be an increase in the flow
22 at Outfall 501. This is due to the modified
23 traveling screens discussed earlier, as they will be
24 moving continuously and additional water will be

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1 required to remove the aquatic life and get them
2 back to the stream resulting in additional flow at
3 that outfall.

4 Outfall 601 is the outfall from the
5 wastewater treatment plant and has previously gone
6 to guard basin four, which is taken out of service
7 at this time. And so the water from that outfall
8 will be directed into guard basin five and six.

9 We will also add a requirement to the
10 stormwater plan that all stormwater discharges to
11 the Red Lion Creek and Dragon Run Creek must comply
12 with the respective TMDLs for the water monitoring
13 that includes nitrogen, phosphorous, and
14 enterococcus.

15 And lastly there, they added schedule
16 of compliance to effectuate the interim BTA
17 requirements that we discussed earlier in accordance
18 with the final 316(b) rule.

19 Thank you very much for attending.

20 **MR. HAYNES:** Thank you. It's 6:30.

21 We will take public comments. We ask you to come up
22 to the podium to speak. Please be respectful of the
23 public speakers. And, of course, the first speaker
24 is actually from the applicant.

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1 The NPDES permit is a little unusual
2 -- (microphone squealing) The NPDES permit is a
3 little unusual in that the applicant files with the
4 Department and the Department then prepares the
5 draft. Mr. Godlewski, do you want to speak?
6 **MR. GODLEWSKI:** Hello. Can everybody
7 hear me? Hopefully this microphone works better
8 than the other one.
9 Hello, my name is Tom Godlewski, and
10 I'm the Environmental Manager at the Delaware City
11 Refining Company. I'm here tonight with
12 Mrs. Rebecca Gudgeon, who is on my staff and is
13 responsible for most compliance-related matters in
14 the water realm.
15 We would like to thank DNREC and Mr.
16 Haynes tonight for putting on the hearing and giving
17 us the opportunity to lead off the comments. We
18 would also like to thank you all for coming out and
19 for showing interest in matters pertaining to our
20 permit tonight.
21 The refinery has submitted a comment
22 letter to the draft permit, and I'm not going to
23 read that letter tonight or even go into all the
24 details contained in the letter.

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1 Most of the comments are of a routine
2 nature when dealing with permit renewals -- new
3 limits, new monitoring requirements, things of that
4 sort.
5 Mr. Ashby spoke to those matters in
6 his presentation. And we had some comments that we
7 think are important, but probably less interesting
8 for all of you here, that we spoke to in our letter.
9 And I'm just going to let our letter speak to those
10 more routine matters.
11 This permit, however, as evidenced by
12 the turnout tonight, has some very non-routine
13 aspects to it. And it's to those matters I would
14 like to focus the remainder of my brief comments
15 tonight.
16 Section 316(b) was enacted under the
17 1972 Clean Water Act. This section of the Act
18 requires NPDES permits for facilities with cooling
19 water intake structures to ensure that the location,
20 design, construction and capacity of structures
21 reflect the best technology available -- and you are
22 going to hear that a lot -- to minimize harmful
23 impacts on the environment. More specifically, on
24 the impingement and entrainment of aquatic life.

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1 However, EPA, when they came out with
2 the rule in 1972 didn't promulgate the 316(b) rule
3 for many rules after the enactment of the Clean
4 Water Act.
5 In 2001 -- bear with me -- EPA set
6 out phase one of their rule making for new
7 facilities. In the 2004 through 2006 time frame,
8 EPA promulgated rules for existing facilities, first
9 the power generators and then manufacturing
10 facilities.
11 These rules, however, were remanded
12 by the courts for EPA reconsideration in 2007. And
13 we waited and waited.
14 As Mr. Ashby mentioned, in April of
15 2011, the EPA responded to the remand issue to
16 propose new rules for existing power generators and
17 manufacturing facilities all in one new rule.
18 There was a lot of discussion and
19 feedback, both from industry and environmentalist
20 groups when those -- and then we waited some more,
21 and then we waited some more. And deadlines were
22 set by EPA. Deadlines were missed by EPA.
23 And finally, in June of 2014, EPA
24 said we have the final rule and we're going to tell

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1 you what it is real soon.
2 Finally, on August 15, 2014, the
3 rule -- the wait was over, and the rule became
4 effective October 14th of 2014. So after long last,
5 here we are. We finally know the rules by which we
6 need to evaluate the system at the Delaware City
7 Refinery.
8 Understandably, after what seemed
9 like an ordeal for everyone involved, everyone is a
10 bit impatient to get on with things and determine
11 the best technology available for the refinery with
12 respect to both impingement and entrainment-related
13 impact.
14 And for impingement, the final rule
15 did, in fact, settle some matters. There are seven
16 compliance options listed for impingement. And we,
17 the permittee, get to pick which of the seven we
18 wish to install and live with.
19 We selected option five or six -- I
20 don't have the whole list memorized, which is the
21 installation of modified traveling screens. It
22 requires an optimization study in two years to make
23 sure that we are running those screens the best that
24 we can. But, in essence, it's a preapproved option,

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1 and the manufacturers of our screens, the Hydrolox
2 Company, is specifically mentioned in the rule
3 documentation as meeting the performance standards
4 that EPA was aiming for when they set out the rules.
5 Although EPA did give us seven
6 options for compliance with impingement mortality,
7 there are no compliance options listed for
8 entrainment. Entrainment is a much more complicated
9 issue to resolve, and EPA recognizes there cannot be
10 a national standard; entrainment compliance would
11 have to be determined on a case-by-case basis for
12 every facility.
13 However, EPA did give us a framework
14 on how this determination should be made. And this
15 draft permit that DNREC has for us to consider
16 tonight follows that framework.
17 The refinery has to conduct several
18 studies, some of which involve multiple year of
19 biological study and samplings to deliver DNREC the
20 information they need to make the determination.
21 The rule that EPA promulgated simply
22 doesn't support that the decision can be made
23 without all of this information and without
24 consideration of all the aspects outlined in the

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1 detailed framework. The refinery has not had the
2 opportunity to supply this information, since this
3 rule was only published in August of last year, and
4 it would be highly improper for DNREC to make a
5 determination at this time.
6 Mr. Ashby pointed out a hypothetical
7 that DNREC could make a BTA determination now. The
8 rule says they can do this if, and this is a quote,
9 "substantially the same information was already
10 submitted and considered." So, in essence, if DNREC
11 already has all the information that has been
12 submitted and considered, they can move forward and
13 not require the refinery to do all the evaluation
14 again.
15 Public comments have already been
16 made by some of the folks here tonight that the
17 pre-draft BTA determination that DNREC made back in
18 2011 is adequate and should be moved forward
19 consistent with that pre-draft BTA determination.
20 As I mentioned previously and as
21 Bryan pointed out, the final rules were not out at
22 that time, and DNREC has rightly decided not to go
23 forward with the now-improper BTA determination. I
24 say that it is now improper because it does not meet

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1 all the requirements that the latest version of the
2 rule has.
3 That determination, first, relied on
4 much information that was not submitted by the
5 permittee, perhaps the most relevant being the cost
6 estimate for implementation of their selected BTA
7 technology of closed-cycle cooling towers.
8 And I mean no disrespect to DNREC,
9 but there is a reason that the rule requires a cost
10 estimate be done by the permittee. DNREC is not in
11 the business of estimating and executing major
12 capital projects, nor are they experts in the
13 surrounding technical issues that might complicate
14 such installation at a place like a refinery.
15 So that assessment is properly
16 conducted and submitted -- there is that language --
17 by the permittee. As a safeguard to the process,
18 EPA has required peer review and has a list of
19 preapproved peer reviewers. And DNREC has the
20 authority to approve or suggest additional peer
21 reviewers, and these peer reviewers --
22 **MR. HAYNES:** Are you finishing up?
23 **MR. GODLEWSKI:** I'm working on it.
24 Sorry -- these peer reviewers and impartial

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1 third-party reviewers who have the expertise to
2 determine whether the cost estimate is reasonable,
3 and that's a crucial aspect of evaluating BTA and
4 what "available" means. And it hasn't been done.
5 Part of "available" is determining whether the
6 installed costs are bearable. It's not "available"
7 if it puts a company out of business.
8 Some statements have been made about
9 record profits at the refinery and how easily
10 affordable closed-cycle cooling is. And it's hard
11 to say that without a good handle on what the cost
12 really is. I would like to point out, even if it's
13 not totally relevant, that the assertion that the
14 refinery is in record profits simply isn't true.
15 I'm not in the economics and planning
16 group at the refinery, but there have been other
17 periods at the refinery where profits have been
18 higher than they have been in the three to four
19 years that PBF has been in the facility.
20 Times seemed pretty good when I
21 worked for Premcor and Valero in the 2004 through
22 2008 time frame; but, yet, in 2010 we were all
23 without jobs. We are still in a highly competitive
24 East Coast region, and the cost for these cooling

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1 towers won't be a drop in anyone's bucket. That's
2 for sure.
3 The rule requires other technologies
4 to be considered, including fine mesh screens and
5 water reuse, and those technologies have not been
6 considered.
7 The rule requires many of the studies
8 that Bryan has listed, and the burden of proof is on
9 the permittee to justify that any existing studies
10 are still relevant, and we simply don't feel, with
11 the age of the studies and the change in the water
12 body and the change of operation at the refinery,
13 that we can meet that burden. So we will redo the
14 studies and get the information to DNREC that they
15 need to get the permits.
16 And lastly and most importantly, I
17 think the rule requires that other non-water quality
18 and other impacts be assessed. Cooling towers
19 create air emissions. And with the quantity of
20 water required to cool the refinery, those emissions
21 can be pretty significant. We are in an area that
22 was, until very recently, characterized as in
23 non-attainment for particulate matter, and we are in
24 non-attainment for ozones, which VOCs, volatile

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1 organics, is a precursor. Both of those pollutants
2 are emitted by cooling towers. And the permitting
3 hurdle in the air realm has to be evaluated. I
4 don't even know if we can get those permits.
5 **MR. HAYNES:** Are you wrapping up?
6 **MR. GODLEWSKI:** Yep. I have just a
7 little bit to go here. Thank you for your patience.
8 I could go on and on, but I'll stop
9 here in the interest of time. If you have heard
10 nothing else that I have said to this point, is that
11 the evaluation of BTA for entrainment is not simple.
12 There are a whole host of considerations that you
13 just can't gloss over. You can't say the best
14 technology available is cooling towers as if it's a
15 no-brainer. There is a reason that the EPA has
16 given facilities four and a half years to conduct
17 the studies. It will likely take that long to do it
18 right.
19 So, as I said in the beginning, I
20 know it's part of the aspirations when the rule,
21 itself, has been anticipated for a decade and a half
22 now. So the question is what we are doing now. I
23 think Bryan laid that out pretty well.
24 I have a sample, if anyone wants to

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1 come up after the fact, of what -- this is a sample
2 from the Hydrolox Company on the screens. There are
3 a number of benefits that will be realized with the
4 screens. First, the screens are made of an
5 engineered polymer, so they are a smooth material
6 that will be rotating continuously, as Mr. Ashby
7 pointed out, that will minimize the amount of time
8 that any fish can be impinged.
9 Also, since they are moving
10 continuously, they provide a moving target for small
11 fish to have to fit through the holes on the screens
12 which, as Mr. Ashby also pointed out, are much
13 smaller here than what we have on our existing
14 screens. There's a couple different screen sizes.
15 That's part of the two-year evaluation we have to do
16 to make sure that we have the right size for our
17 refinery so that we can minimize the impacts to
18 aquatic life. I will put this down, because it's
19 kind of heavy.
20 I'm on my last page. I promise.
21 It's only half a page.
22 **MR. HAYNES:** I'm sure, since this
23 hearing is on you, we will give you more time.
24 **MR. GODLEWSKI:** The last benefit --

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1 only one paragraph to go -- is the improved fish
2 return system.
3 The current fish return system is a
4 concrete trough that's permitted to pass about
5 3 million gallons of water through it. It sounds
6 like a lot of water, but the preliminary information
7 we have suggests that the optimal amount may be a
8 few times that.
9 So we have increased that amount in
10 the permit, and the new trough will be engineered to
11 safely deliver the fish back to the water body,
12 protect the fish from predation of the birds, and
13 make sure that they are put back in the location
14 where they will not be re-impinged.
15 And that's a brief overview. I cut
16 it down, I promise. And thank you for your time and
17 patience.
18 **MR. HAYNES:** And you can submit your
19 statement.
20 **MR. GODLEWSKI:** Okay.
21 **MR. HAYNES:** Thank you. We have
22 elected officials. Stan Green, do you want to be
23 recognized? Do you have any comments? Any other
24 elected officials here that would like to be

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1 recognized?
2 **MR. GREEN:** My name is Stanley Green.
3 I'm a resident of Delaware City, where I have
4 resided for the last 16 years.
5 Before I start my comments this
6 evening, I would like to say thank you, gentlemen,
7 or DNREC, thank you very much for hosting this
8 event. That's the American way, as far as I'm
9 concerned.
10 I want to make clear that I am not an
11 engineer or a lawyer of any type. In addition, I am
12 not nor have I been employed by the refinery or one
13 of its subsidiaries.
14 However, of my many years of being
15 granted the privilege to walk this earth, I have
16 served as a public servant my adult life for over 28
17 years. Having said this, I would like at this time
18 to focus my comments on things that I do know.
19 I know that in the United States of
20 America we are given the right to speak freely and
21 let our comments be heard, especially with any
22 diversification of thoughts. I do know that tonight
23 is one of those times. Your thought or mine should
24 be respected. Maybe not agreed upon, but we should

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1 respect each other in our thoughts.
2 I do know we elect federal, state,
3 county and local officials to represent us. We pay
4 taxes so that our elected representatives can hire
5 knowledgeable and educated professionals to oversee
6 and protect our citizens' needs.
7 I do know that the EPA and DNREC need
8 to be acknowledged as our trusted sources of
9 information, along with other professional
10 organizations that have proven themselves reliable.
11 I do know it does not mean that me or
12 any of you here will review something without
13 question. On the contrary, we are supposed to ask
14 questions so that we become knowledgeable.
15 Knowledgeable is the cornerstone of information. It
16 is like a photograph taken. It is a snapshot in
17 time. And the more you look at it, the more you see
18 or learn from it.
19 While the more knowledge we gain, we
20 gain what we can share and articulate how we feel
21 based on quantifiable information. Then, when
22 someone asks your opinion, you can share that with
23 accurate knowledge of the subject.
24 I have snapshots in my head

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1 specifically viewing the refinery when it was
2 closed. I didn't like the picture then, and I don't
3 like -- I wouldn't want to think about it now. I
4 came to realize our individual remaining thoughts
5 equal knowledge, and they must be shared to make
6 things better.
7 So I think we can agree that
8 technology has to play a significant role in making
9 things better, not just for the refinery, but for
10 all of us.
11 Let me articulate what I mean. This
12 has been a very cold and brisk winter, but I set in
13 my home with the heat turned on to keep me warm. I
14 watch my television. I work on my computer. And
15 yes, I drove my car here to this meeting. All of
16 these things that I mentioned are byproducts of
17 technology and certainly to make our lives
18 comfortable. And, without a doubt, the refinery
19 business plays a major role in this.
20 In addition, I know firsthand the
21 senior management of the D.C. Refinery, as well as
22 their managers and staff members, are concerned
23 about public opinion. Therefore, they seek it out
24 just like our local, county, state, and federal

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1 officials do.
2 These people who work at the D.C.
3 Refinery carry a lot of the weight to ensure that
4 processes and procedures are followed. And if they
5 don't, there are consequences to their actions.
6 Furthermore, the entire D.C. Refinery
7 organization knows well that rules set forth by the
8 EPA and DNREC must not only be observed but adhered
9 to, and they are required to provide volumes of
10 reports for audit and compliance reasons to the EPA
11 and DNREC. If they don't follow the rules of the
12 road, there are consequences to those actions,
13 as well.
14 In closing, once again, I don't want
15 to look at the plant that would be closed down. I
16 have seen that photo snapshot, and it was not good.
17 Therefore, I express my personal opinion that
18 positive steps be taken to continue to issue the
19 NPDES permits as they have in the past so that the
20 refinery can continue to operate, provide jobs, and
21 can continue the use of technology to provide the
22 highest level of professional services in the
23 community at large, as well as our state and our
24 country under the continued professional and

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1 stringent scrutiny of DNREC and the EPA and other
2 professional organizations.
3 Madam, gentlemen, thank you very much
4 for your time.
5 (Applause)
6 **MR. HAYNES:** Thank you. That was
7 five minutes and 14 seconds. (Laughter)
8 The next person who registered to
9 speak -- and this is something that may be helpful,
10 is having people ready to speak so we don't have the
11 traffic jam. Linda Quigley? That will be followed
12 by David Chandler. Linda Quigley, are you here?
13 Linda Quigley.
14 **MS. QUIGLEY:** I didn't circle to
15 speak.
16 **MR. HAYNES:** Okay. David Chandler,
17 followed by Don Desroches. Excuse the
18 pronunciation. David Chandler, Don Desroches,
19 Stephanie Herron. She is here. Oh, I'm sorry.
20 Somebody is coming up. Nope. (Laughter)
21 She will be followed by Linda
22 DelPizzo.
23 **MS. HERRON:** Linda DelPizzo is not
24 here. She had an emergency.

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1 **MR. HAYNES:** Okay.
2 **MS. HERRON:** She called me.
3 **MR. HAYNES:** Thank you for telling
4 me.
5 **MS. HERRON:** Sure. She was coming
6 until like 20 minutes before.
7 **MR. HAYNES:** Okay.
8 **MS. HERRON:** My name is Stephanie
9 Herron. I will try to be brief, and I think I will
10 be successful.
11 One quick thing: I think you might
12 already know about this. But I wanted to let you
13 know that in the public notice for this hearing,
14 there was a website -- or, I mean, an e-mail address
15 listed, publiccomments.dnrec@state.de.us, where
16 people were told to send their comments in advance
17 if they couldn't make this hearing.
18 And one of our -- someone I know sent
19 an e-mail to that address with their public
20 comments, and it bounced back. And so I sent a test
21 e-mail, and it also bounced back. So you might want
22 to re-issue a notice or something so that people
23 will know.
24 **MR. HAYNES:** Okay. We were made

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1 aware of that yesterday and did correct it. And,
2 obviously, we don't use that -- the last time we
3 used it was Delaware Refinery Title 5, and we
4 probably will be using it in the future. So the
5 glitch has been fixed. So thank you.
6 **MS. HERRON:** Okay. Thank you. And I
7 understand that you have extended the comment
8 period, so I appreciate that so people have a chance
9 to get their comments in. I will just keep it very
10 quick.
11 My name is Stephanie. I strongly
12 support the Best Technology Available determination
13 that DNREC has already made that already I think
14 spent a pretty significant amount of time and state
15 funding in doing that research.
16 I think that, understandably, some
17 conditions have changed. And I totally agree with
18 you about the 316(b) rule taking a very long time.
19 So I am feeling very impatient, given that the
20 refinery's current water intake system was built in
21 the 1950s and so was operating on some very outdated
22 technology that, until recently, killed over
23 45 million fish per year, now over 30 million. So
24 that is quite a few. And I think that Delaware

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1 River and the health of the Delaware River, the
2 cleanliness of the water and the health of the
3 ecosystem are part of the public trust and belong to
4 all Delaware citizens and all of the people who live
5 in the Delaware watershed. And so I would like,
6 obviously, to see that be addressed as quickly as
7 possible.
8 I will submit more detailed written
9 comments. But I just wanted to point out an article
10 super quickly that I read on February 12, 2015,
11 written by Jeff Montgomery of the News Journal, that
12 I read. And I'm definitely not a financial expert
13 by any means. I was an English major. But it says
14 here that the Delaware City Refinery owner, PBF,
15 reported bullish results for its fourth quarter and
16 all of 2014. And at the very bottom here it says,
17 "In addition to the report, PBF said that it would
18 pay 30 cents per share of quarterly dividends in
19 March."
20 And, again, I'm not a financial
21 expert, but I do have a pretty basic understanding
22 that generally when companies are struggling
23 financially or potentially in a situation where a
24 permit or a new system would put them out of

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1 business, they don't really issue dividends to their
2 shareholders. So I will submit the rest of my
3 comments in writing. Thank you.
4 **MR. HAYNES:** Thank you.
5 (Applause)
6 **MR. HAYNES:** Our next speaker is
7 Martin Willis, and he submitted his request to speak
8 the old fashioned way by U.S. Postal Mail, and we
9 got it. (Laughter)
10 **MR. WILLIS:** My name is Martin
11 Willis. And I live in New Castle, Delaware. First
12 and foremost, I would like to thank DNREC for
13 holding this hearing for the Delaware City Refinery
14 National Pollutant Discharge Elimination System
15 Permit.
16 This permit addresses very important
17 issues that are associated with the discharge of
18 cooling water, how to treat processed wastewater and
19 stormwater at the refinery.
20 But I will focus my comments and
21 opinion on how the refinery and the State of
22 Delaware will enact the Environmental Protection
23 Agency 316(b) rule as it pertains to the fish
24 impingement at the refinery.

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1 The 316(b) rule requires the EPA to
2 implement federal regulations to reduce injury to
3 fish and other aquatic life that can be caused by
4 cooling water intake structures at existing power
5 plants and factories nationwide.
6 The EPA, in its wisdom, set up
7 flexible technology standards that have
8 site-specific circumstances, common-sense
9 regulations, and cost-effective options for the
10 states to follow. Flexible, site-specific,
11 common-sense, cost-effective.
12 Even though the 316(b) rule is the
13 law of the land, the State of Delaware and the
14 refinery signed a binding settlement agreement on
15 December 4, 2014. And on December 10, 2014, a draft
16 permit was submitted and made available for public
17 review.
18 All the provisions of the settlement
19 agreement are woven into the draft permit and are
20 now conforming to the 316(b) rule. By entering into
21 the settlement agreement, the refinery will install
22 all the new equipment on its water intake structures
23 earlier than required by law.
24 The installation of all the new

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1 equipment will provide celebrated environmental
2 benefits for the people of the State of Delaware.
3 And the refinery should be commended and applauded
4 for that.
5 The 316(b) rule provides that each
6 facility subject to the standards select from one of
7 seven different EPA-approved compliance alternative
8 for fish impingement mortality.
9 The refinery, in their draft permit,
10 has selected modified traveling screens to comply
11 with the standard, with the intention to have
12 construction and initial operation of the traveling
13 screens and the first day of the existing intake
14 structure done no later than May 31, 2015; the
15 second phase intake structure done no later than
16 June 30, 2016. And by June 30, 2017, the refinery
17 shall have completed and begun the operation of the
18 modified traveling screens in the third and final
19 peg.
20 Also, by June 30th, 2017, a complete
21 installation of the fish return system must be done
22 and operational, everything done and up and running
23 in two years.
24 That could be the best thing about

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1 the draft permit, the schedule of compliance.
2 Seventy days, May 31st of this year -- seventy days
3 from today, May 31st of this year, we will start to
4 see applicable, measurable, tangible results.
5 But I believe there are some people
6 here tonight that will advocate and recommend that
7 the State of Delaware require the refinery to
8 install another one of the seven alternatives for
9 fish impingement, a closed-loop cycle cooling tower
10 system, as it relates to the June 2011 pre-notice
11 draft made by DNREC.
12 The apparent flaw with the pre-notice
13 June 2011 draft compared to the settlement agreement
14 is the schedule of compliance or closed-loop cycle
15 cooling tower. The pre-draft notice requires the
16 refinery to submit a plan, design, and schedule of
17 construction by the year 2021, six years from now.
18 The pre-notice draft that is
19 preferred and recommended by some of the protestors
20 here also require the refinery to start construction
21 of a closed-loop cycle cooling tower system by the
22 year 2022, seven years from now. And no later than
23 2025, ten years from now, all the construction shall
24 be completed and done.

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1 I would like to know from the
2 protestors, what kind of a benefit will anyone see
3 anytime soon?
4 Another liability not found in the
5 June 2011 pre-draft report is the obstacle of a
6 closed-cycle cooling tower system at the refinery.
7 During the summer months, the temperature of water
8 supply from a cooling tower will be higher than the
9 temperature of incoming river water. Most of the
10 existing heat exchangers in the refinery are
11 designed for input from river water. They are not
12 designed to handle the higher temperatures that will
13 be dispensed from a cooling tower.
14 I believe there are over 150 heat
15 exchangers in the fluid culvert unit alone. The
16 cost for repairing just the heat exchanger in the
17 culvert unit alone would cost more than the modified
18 traveling screens.
19 I have two questions: Since the
20 comment period has been extended, there was a
21 settlement agreement that stated that the refinery
22 had to install the intake structure from the first
23 bay by May 31st of this year. Is that schedule
24 still in compliance, or will it be extended? And my

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1 second question is: Since this is a federal permit,
2 does the EPA have to sign off on it? Thank you.
3 **MR. HAYNES:** Two questions. The
4 first question, will the existing time schedule be
5 modified, does the Department still consider this
6 permit application and draft permit.
7 Possibly, that would be something I
8 would do via the Department's agreement.
9 And the second question is does this
10 have EPA review. I believe it does. It does. EPA,
11 this is a federal program that the state implements
12 and is subject to EPA oversight.
13 So, yes, that would be -- the EPA has
14 submitted comments as part of the record now, and
15 maybe they will submit more. All right.
16 The next speaker is Margaret
17 Cassling, followed by Richard Schneider. Spell your
18 last name, please.
19 **MS. CASSLING:** Oh, Cassling,
20 C-A-S-S-L-I-N-G. I think it's time to demand that
21 DNREC and government agencies stand up for the
22 welfare of all of its citizens, not just the
23 refinery. The corporation has benefited greatly
24 from the taxpayers in Delaware. They received

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1 \$42 million from Delaware's Economic Development
2 Office to get started. And at that time they
3 promised a 90 percent reduction in the river intake.
4 And it's time that they honored the 90 percent
5 reduction promise.
6 The refinery should have to install
7 cooling towers, or it should have had to install
8 those towers 13 long years ago. But it has been
9 given a pass for all these years.
10 The solution currently offered by the
11 corporation right now, in my opinion, is more of a
12 bandaid. It needs to be a responsible partner with
13 the state and install the required cooling tower.
14 This corporation is making
15 record-breaking profits. According to a News
16 Journal article that I read, they had over around
17 75 million in just one quarter last year. If they
18 are making those profits, they can well afford to
19 put this tower in now.
20 This reminds me of my brother-in-law.
21 He had a great job on Wall Street, and yet he went
22 through bankruptcy twice. He had the ability to pay
23 his bills; he just was not willing to pay. So the
24 state must require better from the refinery.

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1 The damage to the river and its fish
2 pose a terrible loss to all of us who live here.
3 Only 6 percent of Delaware freshwater is clean
4 enough to drink and swim in. The industries such as
5 fishing and tourism that the refinery are killing
6 are worth billions to the region, much more than the
7 cost of the towers.
8 More importantly, the vitality of the
9 river is a priceless resource to all of us. The
10 people of the State of Delaware have been good to
11 the refinery, offering incentives allowing them to
12 build a highly profitable business. It's time for
13 the refinery to step up to the plate and do what was
14 required, install the cooling towers, a
15 closed-cycling cooling system. It's affordable and
16 achievable. Thank you.
17 (Applause)
18 **MR. HAYNES:** Mr. Schneider followed
19 by Steve Masterson.
20 **MR. SCHNEIDER:** Hello. My name is
21 Richard Schneider. I do not want the refinery to
22 close. We need gasoline. I just want it to stop
23 killing millions of fish every year.
24 The refinery just needs to

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1 discontinue antiquated and outdated methods of
2 cooling and change to a less harmful cooling system.
3 Just to change the fish screens won't
4 solve the problem. It's still drawing in
5 300 million gallons of water a day. EPA has
6 statistics that show that 93 percent of the fish
7 killed in a one-through cooling are killed by
8 entrainment; so to continue one-through cooling, you
9 are still killing millions of fish.
10 DNREC already had two complete years
11 -- has completed two-year fish studies and fish kill
12 data; so to do more fish studies is a waste of time
13 and money.
14 The real solution is to utilize the
15 heat that's generated at this facility. That's what
16 you are trying to do. While there are things called
17 waste heat recovery systems that use that heat and
18 generate electricity from it -- it's out there in
19 industry at steel mills, at glass-blowing places,
20 glass production places and others. They are called
21 Arnhem engines and Stirling engines. They exist out
22 there.
23 The problem is you need to dissipate
24 the heat. Do you use once-through, or do you use a

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1 cooling tower? I suggest to the refinery and DNREC
2 to look into the idea of using that heat. It is
3 thermal energy. It will -- and it's used to create
4 electricity.
5 So the waste heat recovery systems
6 dissipate the heat. Heat means profits for the
7 refinery. So it can be a benefit for the refinery.
8 Plus, with the once-through cooling, you have to
9 dredge that intake canal like once a year, which
10 costs millions of dollars.
11 So the solution is to use that
12 energy. Think out of the box. There is companies
13 out there that build systems. They will come and
14 look at your facility and say how many jewels of
15 energy do you have? And they say, "Okay, let's make
16 a deal. I will come in, I'll install it, design it,
17 do everything, and we share the profits."
18 This is the 21st century, it's energy
19 efficiency. The systems are out there. This is the
20 ideal location for it. This is the solution. It
21 will benefit the company. They will make money off
22 of the electricity. They will reduce the amount of
23 water with once-through cooling, which clogs the
24 system from organic matter. You don't have to

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1 dredge every year, which costs money, and you reduce
2 maintenance costs. It's an idea that can work.
3 Let's think about it. Let's make it happen.
4 We have billions of jewels of energy,
5 thermal energy that's wasted at this facility. Heat
6 is energy. It can be created into electricity.
7 If everyone would go home and Google
8 waste heat recovery systems, you will fully
9 understand what I am talking about. I asked DNREC
10 and Valero and the refinery to consider that and
11 work up a plan to make it happen. You can do it in
12 a small sample and try it. But it's out there. It
13 exists, and it can work. Let's make it happen. You
14 are wasting all this heat. And heat is the problem.
15 That's why we are all here, because you are
16 regenerating so much in the refining process.
17 That's where the problem is. Solve
18 the problem. Use it as a benefit and asset and
19 solve the problem. Let's make it happen. It's that
20 simple. Plus, we will stop killing millions of fish
21 every year.
22 This once-through cooling system is
23 antiquated. It's outdated. It's harmful.
24 Statistics show it. There is proof. You know, stop

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1 killing the fish. And it's a win-win-win situation.
2 You create fishing jobs, which we need for
3 commercial recreational fishing. You create
4 construction jobs installing these waste energy
5 recovery systems. You create electricity. You
6 create money.
7 Use this energy instead of wasting
8 it. It can be done, and it can be a win-win-win
9 situation. You have a closed-loop system --
10 **MR. HAYNES:** You're going to have to
11 sum it up.
12 **MR. SCHNEIDER:** Okay. Well, there is
13 a solution. I would like to offer it. And I ask
14 DNREC and the refinery to seriously consider it.
15 Thank you.
16 **MR. HAYNES:** Thank you.
17 (Applause)
18 **MR. HAYNES:** Steve Masterson? Is
19 Steve Masterson here?
20 **MR. MASTERSON:** My name is Steve
21 Masterson, President and CEO of Waste Master
22 Solution, a private local environmental company here
23 in the state of Delaware.
24 Waste Master's employs 80

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1 Delawareans. The Delaware City Refinery is a large
2 customer with a dozen employees working there on a
3 day-to-day basis. What do we do? We assist in
4 waste solutions at the refinery.
5 Some quick facts that you may not
6 know: Over the last three years, the refinery has
7 recycled over 300 tons of material, metals,
8 cardboard, paper, plastic, wood, and heat waste.
9 (inaudible) equivalent resources. 4,971 mature
10 trees. That's enough timber for 61 million pieces
11 of paper. 258,000 gallons of oil, enough energy to
12 heat and cool more than 1,200 homes for a year.
13 5,400 gallons of gasoline, enough gasoline for
14 Delawareans to drive more than 151,000 miles.
15 1,575,000 gallons of water, enough water to meet the
16 daily freshwater needs of 21,000 Delawareans.
17 3 million-kilowatt hours of electricity, enough
18 power for an annual energy need of 250 Delawarean
19 homes. 3,690 cubic yards of landfill air space
20 avoidance, enough air space to meet the annual
21 disposal needs of a community of almost 5,000
22 people.
23 In closing, as a United Air Force
24 veteran with two children in the Delaware National

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1 Guard, a business owner, a resident of Delaware, I
2 understand the importance of balancing our
3 environment with our country's energy needs.
4 What I am certain about is the vast
5 majority of us drove here tonight in cars that
6 require resources. We do not want to be held or
7 want our children fighting wars on foreign soils.
8 It is imperative that we work to develop and refine
9 America's resource in a responsible matter, which,
10 in my opinion, the Delaware City works to every day.
11 Thank you.
12 (Applause)
13 **MR. HAYNES:** The next person is Bill
14 Boyle followed by David Carter.
15 **MR. BOYLE:** My name is Bill Boyle,
16 and I live in New Castle. I'm here as a retired
17 private citizen. I have no past or present work
18 connection to the refinery. I'm not related to
19 anyone who has ever worked there, but I do know a
20 few people who do and a few retirees of the various
21 trade unions who did.
22 I have lived in Delaware since 1974,
23 and in that time I have read every newspaper article
24 about the refinery in Delaware City, which was built

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1 in 1957. Being that old, it started out behind the
2 eight ball with very weak pollution control and lax
3 state standards.
4 Over the years -- over the years all
5 the owners and operators of the refinery, from '57
6 to 2010, not everything that could have been done to
7 improve pollution control was done. But, as I feel
8 now and always have, I don't believe that the sins
9 of the fathers should fall on the son.
10 In other words, Delaware City
11 Refinery Company should not be held accountable or
12 punished for the failures of previous operators.
13 Thankfully, the refinery was bought
14 by PBF and slowly reopened starting in 2010. And I
15 feel that it's constantly been reinforced with
16 improvements since.
17 I believe that Delaware City Refinery
18 Company has become, by far, the best steward ever to
19 own the site, because they have not balked at any
20 required upgrades and are ahead of the curve on many
21 others, such as cooling water uses.
22 As recently as last week, they sought
23 approval for a \$100 million new hydrogen plant for
24 use in reducing sulfur in their products.

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1 I'm not an expert on the water intake
2 or the problems they face now, but I do know a lot
3 about the jobs at the refinery and how important
4 they are to the refinery and to the area, to the
5 state, to the county. So many of New Castle's
6 higher-paying industries have slowly disappeared in
7 recent years. Newark, Chrysler, and Boxwood GM are
8 gone. And if a venture capitalist has its way,
9 there probably won't be much left of DuPont in
10 Delaware.
11 In my mind, this pretty much leaves
12 the Delaware City Refinery as one of the few living
13 wage islands in a vast minimum wage sea.
14 At a time when every politician on
15 the talking head shows is insisting we need more
16 good-paying, middle-class jobs, I'm not sure that I
17 understand why some people want to do away with the
18 ones we have.
19 Today, Wal-Mart is the largest
20 employer in 20 states, and people wonder why our
21 economy is lagging. The good wages paid to the
22 workers at Delaware City Refinery are not hoarded
23 away like the wealthiest 1 percent. They are used
24 to buy homes, appliances, vehicles, clothing,

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1 groceries, and all other essentials. They are used
2 to educate children, eat out, go to the movies and,
3 if there is any left, to go on vacation.
4 In other words, the workers there are
5 able to live a middle-class life right here in
6 Delaware. The higher taxes paid and the more
7 disposable income spent by these well-paid
8 wage-earners, along with the millions in taxes and
9 fees paid to the state by the Delaware City Refining
10 Company, certainly lessens the burdens on the rest
11 of us.
12 There is some environmental risks
13 with everything we do in this country. Look what
14 happened when plain old dirt was piled beside the
15 495 bridge. (Laughter and loud applause)
16 As always, we dealt with it and moved
17 on. That is one of the many things that makes this
18 a great country. As opposed to in the past, all the
19 mid-east crude being delivered to DCR by
20 foreign-flagged vessels, manned by crews from
21 third-world countries, we should rejoice that a lot
22 of the crude is now being delivered by railcar.
23 I live in old town New Castle, so I
24 hear the train whistles, and I am sometimes delayed

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1 at the rail crossing. But you know what I see when
2 the tank cars go by? Not danger and not
3 inconvenience. I see American oil hauled by
4 American railroads, manned by American union train
5 men, headed to American-owned refineries to be
6 processed by American union refinery workers. And
7 not one damned dime goes to Saudi Arabia. (Loud
8 Applause)
9 The employment and monetary benefits
10 that Delaware City Refinery Company and their
11 employees provide to the State of Delaware and her
12 hard-working citizens can and will continue to
13 improve only if you approve this permitting renewal.
14 I implore you to do so. Thank you.
15 (Loud applause. Standing ovation)
16 **MR. HAYNES:** Thank you. Dave Carter.
17 **MR. CARTER:** My name is Dave Carter.
18 I'm Conservation Chair for the Delaware Audubon
19 Society. I want to thank you for the opportunity to
20 speak here tonight.
21 There are many issues and concerns
22 with this permit, but an awful lot of what we see
23 are quite good and quite an improvement,
24 particularly since it hasn't been updated since

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1 1997, which was done in response to a lashing by the
2 Audubon Society and Natural Resources Defense
3 Counsel, not only the refinery.
4 I am submitting for the record also a
5 letter here from 1973 from a former colleague of
6 mine, an administrative of our fisheries section.
7 From 1973, which he discusses the urgent need to
8 address countless numbers of fish being destroyed
9 back then at the Getty Oil Refinery.
10 This has not been addressed yet, and
11 I think it's a real weakness in this permit. It's
12 42 years since that letter was written, 60 years
13 since the problem has existed. And I think, for the
14 good of the refinery going forward, it makes sense
15 to address this issue. I think it's a good
16 investment. It makes a big difference for Delaware.
17 And I think it will help the refinery in the long
18 run.
19 Due to time limits, I'm only going to
20 talk about three specific issues. But first I want
21 to put on the record is a specific concern I have
22 about DNREC's suppression of the public records
23 pertinent to this permit that are critical for the
24 public's ability to provide informed comments. I

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1 will talk about that in a moment.
2 The fact that the proposed action
3 does not meet an acceptable standard of reduction of
4 the needless killings of tens of millions of aquatic
5 organisms per year, despite the overwhelming data
6 and science that we have, much of which I reviewed
7 in my prior professional career.
8 And the failure to create the needed
9 skilled labor jobs by implementing a project creates
10 jobs while solving a series of environmental
11 problems of fish kills by filling a closed-loop
12 system.
13 We have a lot of skilled labor here
14 that would be -- just do a wonderful job in building
15 that. And the proposal for the closed-loop system
16 would create a lot of jobs. Somebody has to build
17 it. I would love for the people here to be building
18 that system and working their butts off for a couple
19 of years to get it done and protect the fish.
20 We are submitting for the record our
21 petition to the Attorney General and the
22 accompanying documentation of DNREC's excessive
23 efforts to suppress public information pertinent to
24 the permit process.

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1 While we appreciate the extension of
2 the record, we think that it is insignificant. We
3 specifically ask that the record be kept open for no
4 less than 60 days beyond the date of the
5 determination by Delaware's Attorney General's
6 Office regarding DNREC's violation of the Freedom of
7 Information Act.
8 Being your presentation from DNREC is
9 specifically mentioned, the supplemental
10 environmental projects -- that is the information we
11 have sought under the Freedom of Information Act --
12 I will submit for the record my letters to the
13 Attorney General in that petition, all of my
14 requests, and the countless number of denials of
15 DNREC to meet that, limiting the public's access to
16 information to make informed decisions on the
17 permit. That not only violates the law under FOIA;
18 it may violate the law under the administrative
19 processes of this permit procedure. The way to
20 avoid that is to keep the record open until we get
21 that information and time to review it.
22 I want to also talk about the
23 acceptance of the failed standard for the level of
24 fish kills. Those of us who have worked on this and

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1 reviewed those technical reports know that this
2 proposed traveling screen will only reduce the fish
3 kill by probably 4, maybe 6 percent. The bulk of
4 the problem, we know, 93 percent of it is
5 entrainment.
6 It is time to put these guys in this
7 room to work building that closed-loop system that
8 will not only reduce the fish kill, but my guess is
9 reduce the long-term maintenance costs due to salt
10 and sediment and all the corrosive activities taking
11 place in those pipes, which I hope would at least
12 allow the refinery to regain some of the costs that
13 they have invested. You know, we gotta stop this
14 critters getting sucked in this that we go through.
15 I also want to mention you received a
16 letter from the National Marine Fisheries Service,
17 who were not at all pleased with the secret
18 settlement that was made, the same one that we
19 requested FOIA, because we believe and they believe
20 that this presents a serious threat to sturgeon in
21 the Delaware Bay, and it may constitute a violation
22 of the Endangered Species Act.
23 We need to get that addressed and get
24 it addressed now. And I believe entrainment is

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1 needed to address that issue.
2 Both DNREC and EPA have both
3 previously found the closed-loop system to be the
4 best available technology. More concerning is we
5 should have been moving with this now under the
6 agreement that the governor made to (inaudible)
7 I don't disagree that we needed the
8 jobs. As difficult as it was at that time, I think
9 it was understandable to put these people back to
10 work, but I would hope that this refinery would have
11 honored that agreement. And we are within five
12 years into a process that is now moving with
13 entrainment. Instead of kicking out what was going
14 to be a ten-year delay, to be a 15-year delay. It's
15 just unconscionable.
16 **MR. HAYNES:** Wrap it up.
17 **MR. CARTER:** Okay. Just to wrap it
18 up, I do think you need to consider the employment
19 impacts of this decision over a closed-loop system.
20 That closed-loop system will require a lot of
21 welders, a lot of pipe fitters, a lot of
22 construction trades experts. It will solve a huge
23 environmental issue. It will add to our tax base.
24 And I hope it will solve other problems that lead to

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1 malfunctions in the refinery as we get corrosion and
2 other things.
3 I hope DNREC will agree with this. I
4 please ask you to reconsider your closing date of
5 this record at a minimum until we get the decision
6 from the Attorney General's Office. And since it
7 took DNREC 90 days to review those documents that
8 they refused to give to us, I think it's only fair
9 to give the public 60 days to review them to make an
10 informed decision about what's going on. Thank you
11 very much for your time.
12 (Applause and booing)
13 **MR. HAYNES:** Thank you. Reference
14 those e-mails received?
15 **MR. CARTER:** I will submit that.
16 **MR. HAYNES:** I will make this as
17 Carter Exhibit 1.
18 **MR. MOYER:** Good evening. Let me
19 first say that I did not expect a standing ovation
20 after the completion of my comments, so don't feel
21 compelled to do that. (Laughter)
22 Good evening. My name is Bill Moyer.
23 I am a 30-year retiree of the Wetlands Section,
24 Wetlands and Subaqueous Lands Section of DNREC.

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1 One of my responsibilities at DNREC
2 was to issue permits to the Delaware City Refinery
3 Company for the dredging of its cooling water intake
4 canal. Because of the long tenure of my
5 interactions with the refinery, I became very
6 involved with the issues surrounding the
7 controversial water intake structure and continued
8 to follow the issues after retiring in 2004.
9 At a September 22, 2008, DNREC public
10 hearing on an application to dredge the intake
11 canal, I presented a detailed 19-page testimony and
12 18 exhibits for consideration by the presiding
13 officer. I would like to make this previous
14 testimony a part of my documents to be submitted
15 tonight. I feel that I am qualified to provide
16 expert testimony for the purposes of this hearing.
17 First of all, I would like to
18 congratulate PBF Energy for continuing the long
19 tradition of totally disregarding the calamitous
20 impacts resulting from operating a 60-year-old water
21 intake structure. This, in spite of promises made
22 in a May 31, 2010 Acquisition and Operation
23 Agreement with DNREC that PBF Energy would operate
24 the refinery in a manner that would, "achieve

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1 environmental benefits through modifications to
2 certain existing permits and regulations to the
3 refinery." That can be found at page two in that
4 agreement.
5 As I will comment further in my
6 testimony, Delaware City Refinery's blatant
7 disregard for the impacts to aquatic resources of
8 the Delaware Estuary Refinery resulting from the
9 intake of millions of gallons of river water a day,
10 disappointingly did not rise to the level necessary
11 to meet the Environmental Protection Agency's
12 requirement that the intake structure be Best
13 Technology Available.
14 The May 31, 2010 "Agreement Governing
15 the Acquisition and Operation of the Delaware City
16 Refinery" required the Delaware City Refinery to
17 submit an updated NPDES permit application by the
18 end of 2010, which it did.
19 Under the terms of the agreement,
20 DNREC'S draft NPDES permit was to include its BTA
21 determination. For as yet inexplicable reasons, it
22 took DNREC over four years to draft an NPDES permit,
23 with much of the delay due to pushback from the
24 Delaware City Refinery on what constituted BTA.

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1 However, DNREC published a BTA
2 determination fact sheet on June 8, 2011 that
3 stated, "The department has determined that BTA is a
4 closed-cycle cooling system." That can be found on
5 page three in that report. There has been no public
6 explanation as to why a closed system is not now
7 being required.
8 Why, then, did DNREC and the Delaware
9 City Refinery enter into a settlement agreement on
10 December 4, 2014, allowing the Delaware City
11 Refinery to amend and submit a revised NPDES permit
12 application by December 5, one day later?
13 The settlement agreement requires the
14 Delaware City Refinery to submit a proposed schedule
15 for the phased construction of modified traveling
16 screens and fish return system. None of these
17 discussions were made public, and the basis for the
18 settlement agreement came as a surprise in that it
19 alludes to the fact that a permit may be required
20 for constructing the traveling screens.
21 DNREC has yet to announce their
22 decision, even though the screens are apparently
23 under construction. And I'm not quite sure of this.
24 This can hardly be considered

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1 transparent governance. The aquatic resources of
2 the Delaware Estuary belong to the public, and the
3 public should not be shut out of the negotiations
4 that affect its resources.
5 Section 6003 of Delaware's
6 Environmental Protection Act requires a permit for
7 the construction of equipment that may contribute to
8 the disposal of solid waste, which is defined at
9 6002(23) as refuse. Refuse is defined as dead
10 animals at 6002(19) in Definition 19. Since dead
11 fish are impinging on the screens at the Delaware
12 City Refinery, a permit is required for the
13 construction of the traveling screens. A public
14 notice should have been published or should be
15 published prior to the initiation of the
16 construction of the screenings.
17 Even more disturbing, the settlement
18 agreement gives Delaware City Refinery more time to
19 add to the already exhaustive number of studies that
20 describe the deleterious effects of the antiquated
21 intake structure design, apparently because the
22 Delaware City Refinery developed a way to reduce
23 their water intake.
24 They knew that they then could argue

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1 that, since they were withdrawing less water, there
2 must be reduced impacts on the estuary. As I have
3 stated, it is business as usual for the refinery,
4 and if you can beat the system in spite of record
5 profits, why not?
6 **MR. HAYNES:** You'll need to wrap it
7 up.
8 **UNIDENTIFIED SPEAKER:** I'll cede my
9 time.
10 **MR. MOYER:** Can I have somebody
11 concede their time?
12 **UNIDENTIFIED SPEAKER:** I'll cede my
13 time.
14 **UNIDENTIFIED SPEAKER:** And I'll cede
15 my time.
16 **MR. HAYNES:** I mean, you've got a
17 written statement.
18 **MR. MOYER:** It's only going to be a
19 couple minutes.
20 **MR. HAYNES:** Okay.
21 **MR. MOYER:** In addition, the
22 settlement agreement imposed a \$116,000 fine for
23 past violations at the refinery. The fine was
24 suspended since, according to Secretary Dave Small,

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1 "They are implementing early under the rule, so we
2 are giving them credit for that." This was in the
3 News Journal, December 11, 2014, on Page A7.
4 Giving them credit for what? Being
5 good neighbors and cooperating by not implementing
6 what DNREC scientists say is required, which is a
7 closed water cooling water system?
8 It should also be noted that, in his
9 October 26, 2009 Hearing Officer's Report on the
10 September 22, 2008 public hearing I referenced
11 earlier, Robert Haynes states, and I quote, "I agree
12 with the public comments that the fish kills have
13 been going on too long without any regulatory
14 action. Some mitigation for the great harm done to
15 the environment is overdue." He goes on to suggest
16 a fee based on the harm caused to four species of
17 fish killed, and the range is between \$428,789,940
18 and 588,182.
19 He did not recommend carrying this
20 out but to defer such action to wait and see the
21 long-term solution to reducing the Delaware City
22 Refinery's future reliance on the intake.
23 **MR. HAYNES:** You've got 30 seconds.
24 **MR. MOYER:** Given past experience, I

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1 hope that long-term does not mean another 60 years.
2 I can assure you that it will most likely be another
3 five years before the NPDES permit is finally
4 issued, allowing for even further delays.
5 A DNREC consultant estimated in 2001
6 that the refinery killed vastly more fish than those
7 taken by commercial and recreational fishing in
8 state waters. Counting egg and larval losses, the
9 Environmental Protection Agency estimated that the
10 Delaware City cost the river four times the number
11 taken --
12 **MR. HAYNES:** Time is up.
13 **MR. MOYER:** Can I have one final
14 paragraph?
15 (Audience yelling no)
16 **MR. HAYNES:** No. Time is up.
17 (inaudible) (Some applause) The next speaker is
18 Todd Booth followed by Dave Spence.
19 **MR. BOOTH:** Good evening. My name is
20 Todd Booth. I am currently in my eleventh year of
21 services as a contract employee to DCR. I work for
22 Project Control Services as a planner/scheduler for
23 major projects.
24 I was employed at the refinery in

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1 November of 2009 when the previous owner closed the
2 facility and planned to demolish the plant. Like
3 some other East Coast refineries, Delaware City had
4 been shuttered because the refinery was
5 unprofitable.
6 I was present that day and remember
7 the uncertainty that I felt wondering how I would
8 provide for my family. Hundreds of my coworkers
9 experienced the same immediate sense of loss that
10 day.
11 Because of the closure, countless
12 direct and indirect jobs were lost in Delaware.
13 Fortunately for DCR, PBF Energy purchased the
14 refinery embarking on a full-scale initiative to
15 revitalize and restart the facility.
16 During this period, a tremendous
17 amount of work was performed to upgrade and ensure a
18 safe, reliable, and environmentally satisfactory
19 refining process.
20 Since the restart, this refinery has
21 run much more reliably than it had prior to the
22 closing. And the personnel who work here, myself
23 included, view this accomplishment with pride but
24 also as a serious responsibility. All those who

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1 work at DCR clearly understand what is at stake.
2 Unfortunately, our story is not the
3 same for the other two facilities on the Delaware
4 River that remain closed to refining. They are now
5 terminals only, at a great economic loss to their
6 respective local economies.
7 No one employed at DCR ever wants to
8 relive the event that occurred in November 2009.
9 Therefore, we ask that you base your decision
10 regarding the issue of a NPDES permit in a fair
11 manner consistent with federal and regional
12 regulations and do not push DCR into a permitting
13 situation which can lead to an economic hardship for
14 the refinery, placing our livelihood and the future
15 of the facility at risk.
16 I urge DNREC and the State of
17 Delaware to approve and deem as the Best Technology
18 Available the modified traveling screens compliance
19 option for the Delaware City Refinery. This option
20 meets the new federal regulations and allows for
21 immediate environmental benefits to be realized.
22 Thank you for your time this evening.
23 (Applause)
24 **MR. HAYNES:** After they dispense with

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1 the applause.
2 **MR. SPENCE:** Good evening. My name
3 is Dave Spence. And I'm 53 years old. I have been
4 born and raised in New Castle County, Delaware, my
5 whole life.
6 My comments are very personal. I
7 came to the refinery in 1979 as a pipefitter
8 apprentice at Local 80. My 30-years-plus service at
9 the refinery, I have learned a lot over the years.
10 Things have changed for me. I was only 18 years old
11 when I went to work at the refinery, to the point
12 where my parents, because they were the next of kin,
13 had to sign basically a permission slip to tell me
14 it was okay that I work there.
15 Since then, I have been married to
16 the same woman for 30 years, I've raised two
17 children, and now I have two great, wonderful
18 grandchildren.
19 Lots of things have changed over the
20 years. I learned a lot through a lot of skilled
21 tradesmen, not only pipefitters and welders, but
22 other tradesmen, as well. And I learned to do the
23 job safely. But a lot of other things have changed,
24 too. Back then, we didn't have an environmental

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1 group. Nobody even talked about it. Now we have a
2 great one.
3 The building trades of Delaware and
4 the refinery have teamed up together to go to
5 extensive means to train us. They do things like
6 mutual understanding now. Like before, when I went
7 there, we just went to work; but now we take the
8 time to understand the job and do it safely, not
9 only for our own safety, but for the environment,
10 as well.
11 We have job site analysis. We are
12 all trained in LDAR, which is leak detection and
13 repair; volatile organic compound releases, just to
14 name a few.
15 I look tonight, and I see all the
16 people in here, and I consider them my extended
17 family. We all work together. I see the plant
18 manager here. I see the grass cutters here. I see
19 the guys I work with every day.
20 It doesn't matter what kind of job
21 you do: We are all trained; we are all background
22 checked. We go through an extensive background
23 check to work at the refinery. We are good,
24 respectable, tax-paying people.

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1 I look around. I know for a fact
2 that the refinery spent in excess of \$400 million on
3 two stack gas scrubbers to save the air in the
4 state. We spent over \$100 million to bottle up our
5 coke so it wouldn't blow all over the county, just
6 to name a few.
7 We have a volunteer -- I say
8 volunteer -- oil response team that is not paid that
9 goes out, not only when there is a problem at the
10 refinery, but they volunteer to help others along
11 the Delaware River.
12 We have a volunteer fire brigade,
13 which can be very dangerous at times. Once again,
14 the key word is volunteer.
15 We participate in Meals on Wheels.
16 These are a lot of things people don't know about
17 the folks in the refinery. They don't get paid for
18 any of this. Our own cars. For being supporters of
19 the blood bank, local schools, Toys for Tots, March
20 of Dimes.
21 I've paid taxes to the state and the
22 county since 1977 yearly without fail. The folks
23 that aren't paying anymore are the folks that used
24 to work at Avon, used to work at General Motors,

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1 that used to work at Chrysler -- they don't pay
2 anymore -- and all the spin-off businesses that were
3 related to them.
4 I was there that fearful day in 2009
5 when the refinery closed, and I had to go home and
6 tell my wife, "I don't work anymore." I was one of
7 the fortunate ones that was only out of work for 17
8 weeks.
9 I have been there for 36 years. I'm
10 proud of the place. And I urge this committee to
11 move forward. There are a lot of taxpaying people
12 in here in this room that work in that refinery.
13 And I sure wish there was a lot more public
14 officials here that realized that this family out
15 here are paying their salaries. And we can't pay
16 those salaries and those taxes if we don't have
17 jobs. Thank you for your time this evening.
18 (Loud applause, standing ovation)
19 **MR. HAYNES:** After him will be George
20 Spriglia. After him will be Cebenka, Ken Cebenka.
21 **MR. SPRIGLIA:** My name is George
22 Spriglia. I'm one of the carpenters at the
23 refinery.
24 **MR. HAYNES:** Do you want to spell

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1 your name for the court reporter?
2 **MR. SPRIGLIA:** S-P-R-I-G-L-I-A. All
3 right. In 2009 when the refinery closed, a lot of
4 people and businesses went through a lot of hard
5 economical times. The reopening of the refinery in
6 2010 added much jobs in the area, which helped the
7 people, businesses, and tax base in the area, as
8 mentioned.
9 Delaware City Refining Company has
10 been upgrading safety, and they've also been
11 upgrading and building the plant to be
12 environmentally sound.
13 I work on it every day at the plant
14 helping out, but we do it for the environment.
15 Carpentry put up a lot of stuff to stop leaks. So
16 people get up and fix leaks, fix problems, so there
17 isn't any spills to cause any problems.
18 All right? I'd like to personally
19 thank the refinery for coming back and giving jobs,
20 well-paying jobs to all the people that it did.
21 And I personally think that they
22 should pass this. And it's two permits which they
23 do already have in effect. They just want to
24 combine the two into one permit, which I think is a

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1 good thing. And I think they should go on and pass
2 it. Thank you.
3 (Applause)
4 **MR. HAYNES:** Following Mr. Cebenka
5 will be Leslie Ingram. Could you spell your name
6 for the court reporter?
7 **MR. CEBENKA:** C-E-B-E-N-K-A. Good
8 evening. My name is Ken Cebenka. I would like to
9 thank the refinery ownership for bringing jobs back
10 to Delaware City and to the environmental groups for
11 keeping the company honest.
12 After all, between recycling, yard
13 waste restrictions, and getting our vehicles
14 inspected, we ought to have a measure of
15 environmentalists.
16 I have worked for several contractors
17 over many owners of the refinery. I would like to
18 share what is different about the Delaware City
19 Refinery.
20 They have increased the water intake
21 with the increased operations of their cooling tower
22 usage, and they are currently in the process right
23 now of installing the more environmentally friendly
24 intake screens, all of which are sometime mandated

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1 before they are supposed to.
2 Let's not confuse operating an oil
3 refinery with a lemonade stand. It's a volatile
4 business. But over the last four-plus years,
5 observing the restart and continuous operations, the
6 current ownership and management have shown respect
7 for their surrounding environment. They have also
8 shown respect for the community with all the jobs
9 they have.
10 I feel a level of trust with the
11 owner, in fact enough to speak in support of the
12 refinery and their future direction.
13 I have raised my family in one of the
14 surrounding communities, Delaware City, and I would
15 not stay in my home and speak on their behalf if I
16 did not have the confidence of their continued
17 diligence and respect for the community and the
18 environment. Thank you.
19 (Applause)
20 **MR. HAYNES:** After Ms. Ingram will be
21 James Maravelias.
22 **MS. INGRIM:** My name is Leslie
23 Ingram. I'm a proud member of the United Steel
24 Workers Local 4898, shop steward for the Laboratory

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1 Group in the Delaware City Refinery.
2 Not only that, but I'm an endangered
3 species. I'm an endangered species because I am one
4 of the few well-compensated blue collar jobs left in
5 this state. Thanks to PBF, thanks to Delaware City
6 Refining Company, I can say that I still have a job.
7 I was one of the ones impacted with the 2011
8 closure -- or I'm sorry, 2009 closure. I went back
9 in 2011.
10 I started my career with Getty Oil in
11 1979. Some of the companies that I have worked for
12 over the years have not been as environmentally
13 conscious as Delaware City Refining Company.
14 But I can attest to this: Fully
15 one-third of the manhours in our laboratory go to
16 water quality testing. We are scrutinized not just
17 by our laboratory management, not just by our
18 environmental department, but by DNREC and by EPA
19 and by the Coast Guard. We are audited on a regular
20 basis.
21 We also perform what we call round
22 robin testing where our results are compared to
23 results amongst 40 or 50 other laboratories in this
24 country. And we always rate in the top percentiles

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1 on this.
2 We are environmentally conscious. We
3 have reduced our water usage by 30 percent since we
4 started back up. We are about to put these
5 traveling screens into service. They are going to
6 do wonders for the fish impingement at our water
7 treater.
8 Our reduction in impingement is huge
9 compared to what we used to suck into the screens in
10 the seventies, eighties and nineties.
11 I would like to thank DNREC for the
12 opportunity to present my piece of this little
13 story, and I would like to applaud them for fairly,
14 fairly and equally allowing everyone to have a
15 chance.
16 I firmly support the permit as it's
17 been submitted today. Thank you.
18 (Applause)
19 **MR. HAYNES:** Following Mr. Marvelias
20 will be Kevin Herbein.
21 **MR. MARAVELIAS:** Good evening. My
22 name is James Marvelias, M-A-R-A-V-E-L-I-A-S. I am
23 the president for Delaware Building Trades. I'm
24 also vice president of the AFLCIO. I'm also the

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1 business manager of the Laborers District Council in
2 Laborers Local 199.
3 I heard a lot of things tonight.
4 They said, you know, you should prepare a speech,
5 because when you talk off the cuff, you say a lot of
6 things you shouldn't. But here it comes.
7 (Laughter)
8 I heard conspiracy theories. I heard
9 accusations. And I really appreciate the Audubon
10 Society with all my heart sticking up for us for all
11 the jobs that the closed loop would do, but you were
12 also one of the groups that sat there and killed the
13 Data Center for us, too; so I appreciate that.
14 **UNIDENTIFIED SPEAKER:** That's right!
15 (Loud applause)
16 **MR. MARAVELIAS:** I don't know how you
17 can blame a current company for the sins of the
18 past. And we want to stick the baby in with the
19 dirty water, and we want to throw him out the
20 window.
21 This company has come in, opened it
22 up. And when the state troopers were standing at
23 the gates turning all of these people you see back
24 here out, they told them to go home, that the plant

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1 closed.
2 Well, the Delaware Building Trades
3 and AFL is not going to risk playing a poker hand
4 with the Delaware City Refinery Again to see if
5 their, as the young lady behind us said, their 30
6 cents per share. Well, Avon is still paying 30
7 cents per share, and whatever they're paying, and so
8 is Astra Zeneca, but they are not in Delaware
9 anymore.
10 So don't push the envelope and
11 getting into somebody else's pocket if they can
12 afford a \$300 million closed loop. We are totally
13 against it. We are in support of the Delaware City
14 refinery and their actions that they are taking
15 right now to try to alleviate the problem with the
16 fish.
17 And I hope DNREC looks at this and
18 looks at the jobs and the people that are in this
19 auditorium that depend on this refinery and the
20 neighboring businesses that are out there. Thank
21 you.
22 (Loud applause, a few standing)
23 **MR. HAYNES:** Following Mr. Herbein
24 will be Jerry Geimer.

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1 **MR. HERBEIN:** Good evening. My name
2 is Kevin Herbein, President of U.S. Local 4-898,
3 representing 350 members at the Delaware City
4 Refinery, consisting of operators, maintenance
5 mechanics, storehouse clerks, and lab techs.
6 I stand in support of the water
7 permit being issued presented by PBF Energy.
8 The refinery has already reducing
9 cooling water usage by 30 percent and is waiting for
10 approval from DNREC to implement a project to
11 further reduce cooling water usage by recycling a
12 portion treated with water effluent for reducing the
13 cooling water system.
14 The refinery has also agreed to
15 install modified screens and cooling water intake
16 impingement on aquatic organisms.
17 East Coast refineries still face the
18 most competitive market in the country, and the
19 requirement to install cooling water towers without
20 the supporting studies that are being proposed by
21 some groups would be very expensive and detrimental
22 to the viability of the Delaware City Refinery.
23 Once again, I and the members that I
24 represent stand in support of the cooling water

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1 permit that's presented. I thank you for the
2 opportunity to speak on this important issue.
3 (Loud applause)
4 **MR. HAYNES:** Following Mr. Geimer
5 will be John Bland.
6 **MR. GEIMER:** Good evening. My name
7 is Jerry with a J, Geimer, G-E-I-M-E-R.
8 I want to thank you all for hosting
9 this public hearing so we have the opportunity to
10 talk. It's one of the things that makes America so
11 great.
12 I am a proud employee of Delaware
13 City Refining Company, and I speak in support of
14 this permit tonight. I feel that it's fair by
15 requiring implementation of refinery improvements to
16 continue to minimize the environmental impacts on
17 aquatic life in the river.
18 This permit calls for the net
19 reduction in discharge limits to the river. We have
20 already heard from folks here that we have done over
21 30 percent reduction in our water intake so far.
22 There is still net reductions that are going to be
23 met here as part of this permit as it is. I think
24 it represents a significant commitment to

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1 maintaining our environment.
2 I just want, when you guys are --
3 when you guys are considering this type of a permit
4 application, I just want to make sure that you
5 consider this company not as some abstract being
6 that's out there.
7 I sit back and I -- sometimes I hear
8 the opposing voices out there and protestors. When
9 they talk about Delaware City, are they talking
10 about the refinery as some abstract, you know,
11 hungry monster that just wants to chew up the
12 environment. And profits are so bad? You know, why
13 is that? I mean, that's business. This is America.
14 We are in business to make money.
15 But I encourage you guys to think
16 about the refinery and this organization as a group
17 of people. That's what business is, after all.
18 Right?
19 And I don't have the history that I
20 can talk to you guys about, you know, back in the
21 seventies or the eighties, you know, the poor
22 environmental stewardship. I don't have those
23 stories.
24 But I do have stories from other

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1 refineries and chemical plants that I worked with up
2 in Pennsylvania where actually the requirements
3 aren't as tight as Delaware.
4 So I applaud this state for being
5 tight and being, you know, good and keeping
6 companies in check and making sure that we take care
7 of our surroundings.
8 But regardless, you know, you guys
9 have had those strict requirements for years, and
10 maybe other companies haven't done so well. Again,
11 that's what I hear.
12 What I do know is since I have been
13 here, since the restart, I can say that I haven't
14 been in any other facility in the industry -- and I
15 have been in the industry coming up on 25 years --
16 in operations, and I have not seen the commitment
17 from the management, from the engineers, all the
18 effort that goes into every day making sure that we
19 follow the law and that we do the right thing.
20 Okay?
21 Most importantly, it's down to the
22 people that are in the field. You've heard our
23 trades, building trades talk, our maintenance
24 people, our operators, you know, our biggest

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1 stewards. They are in with this stuff every day,
2 and one of the common things that you hear from
3 these guys is, you know, let's keep it in the pipes,
4 keep it in the pipes, and, you know, we are not
5 making a mess. Everything that they do is out there
6 looking for things before they get bad.
7 So I guess I take offense sometimes
8 when I hear other people -- this is another good
9 thing about these public hearings, because you kind
10 of hear the perspective of people that really don't
11 get it. They don't understand. They don't
12 understand your business. "It's just some cloud,"
13 you know, so to speak. "It's the refinery, right,
14 it's some bad thing over there. I don't know
15 anything about it, so I fear it." Right?
16 But I'm here to tell you I've been in
17 the business, been in a bunch of similar industries
18 here, and this place, as you know, each one in this
19 room, you know that they care. And they do a good
20 job, they care about what they do, and they care
21 about the environment.
22 So I hope that we kind of try to stay
23 focused on what we're looking at here right now when
24 you talk about the Best Technology Available. And

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1 I'm, you know, haven't had the time dedicated to,
2 you know, go through these permits and these details
3 with everything that's involved with this. Thank
4 God we have people to do that for us.
5 But the bottom line is, I think, when
6 we set rules up -- and I understand things change
7 and, you know, there are delays in the process. But
8 once we come to that conclusion that this is what we
9 are going to do, we ought to go ahead and do that.
10 That's what we are doing right now. That's what
11 this permit is about.
12 And so I just, you know, I urge DNREC
13 and Delaware to consider the permit as it is right
14 now and, you know, help keep this company viable
15 again in the future and keep everybody here
16 employed.
17 Because if anybody else was to come
18 in and take ownership here, if they could make it,
19 you know, financially feasible to continue to run
20 this refinery, I don't think you're going to find a
21 company out there with the people that genuinely
22 care about what they do and do a good job and be
23 responsible.
24 You don't know on the outside looking

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1 in, but I'm here to tell you that I'm very proud to
2 be part of this team that cares so much. Thank you
3 for your time.
4 (Loud applause - voices saying "Whooh!")
5 **MR. BLAND:** Good evening. I thank
6 you for letting me speak tonight. Everybody has
7 already touched on what Delaware City is already
8 doing with their water intake with the new system --
9 **THE REPORTER:** Sir, can you say your
10 name, please?
11 **MR. BLAND:** I'm sorry. My name is
12 John Bland, business agent with Local 13
13 Boilermakers.
14 **THE REPORTER:** Thank you.
15 **MR. BLAND:** Like I said, I just want
16 to look at a few other things. Since I knew this
17 hearing was coming up, I started researching a few
18 other things with the Delaware River in general. I
19 started looking at the Delaware River Basin
20 Committee.
21 The Delaware River Basin Committee,
22 they cover the whole river from the Delaware Bay
23 all the way up, all five, all six zones of the whole
24 Delaware River.

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1 They started early. This
2 organization was started in 1961. The pollution in
3 the river in all four areas were extremely bad. By
4 the late 1980s, over one billion dollars had been
5 spent on improving wastewater treatment facilities
6 in Delaware River Basin, which benefited communities
7 along the river and strengthened the fish
8 population.
9 Okay. That was in the eighties. How
10 about now? And this is all coming from this
11 committee. Today the cleanup of the Delaware is
12 hailed as one of the world's top water-quality --
13 quality success stories. The river now supports
14 year-round fish population as well as all those
15 returning to their native water spawning grounds.
16 2011: The Delaware River was named
17 the Commonwealth of PA River of the Year after a
18 public vote. That's, just like I said, that's from
19 the Delaware River Basin Committee.
20 Delaware River Survey, they do
21 surveys once a year, once every other year
22 sometimes. From June 18 to November 22, 2013,
23 biologists conducted the Delaware River Seine
24 Survey.

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1 Over the course of these six months,
2 crews hauled in 311 individual seines, and a total
3 of 74,277 fish were caught with an average of 238
4 fish per haul.
5 On June 18, the total number of the
6 Menhaden caught during the entire -- oh sorry -- got
7 my glasses -- on June 18, 2013, on the single catch
8 Atlantic Menhaden totaled 372,000 fish. This is
9 91 percent of the total number of Menhadens caught
10 during the entire 2013 survey.
11 This one catch alone accounted for 46
12 percent of all fish caught during 2013. The five
13 most abundant species caught were Atlantic Menhaden,
14 American Shad, Bay Anchovy, (inaudible) Yellow Fish,
15 and White Perch.
16 One of the biggest things that I
17 started researching and noticing that hurt the
18 Delaware River, and that was in the early 1960s and
19 why they did so much cleanup, is the dissolved
20 oxygen is what was really keeping the fish from
21 spawning upstream.
22 Now, the five zones are tested all
23 the time. Right here in our area, the Delaware City
24 area from Dover up to Marcus Hook area is Zone 5.

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1 They test that, and they test that right there in
2 (inaudible) Island as island jetty.
3 All their tests, the dissolved oxygen
4 meets all the criterias by their committee. The PH
5 meets all their criteria. All the water conditions
6 meet their criteria. Like I said, everything that
7 Delaware City is doing for the fish and everything,
8 I appreciate.
9 Like I said, my biggest problem, if
10 the Sierra Group comes in and they want to demand
11 that we go with a closed-loop system and demand
12 this: Up until 2010, the Sierra Group took 25 to
13 \$26 million from natural gas companies. And, you
14 know, if they are going to take money from chemical
15 companies and gas companies, if they are going to
16 try to demand that we do work, maybe they ought to
17 start paying for something. Thank you.
18 (Loud applause)
19 **MR. HAYNES:** Thank you. Maya Van
20 Rossum followed by Ian O'Reily.
21 **MR. HEFFELFINGER:** Hello. My name is
22 Don Heffelfinger. I held a Professional Engineer's
23 license in our state, and I have worked at the
24 Delaware Refinery for over the last 45 years, both

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1 as a direct employee and now as a contractor at
2 Graybeard.
3 My wife and I both hunt and fish and
4 enjoy using the Delaware Estuary, so my opinion is
5 not only based on my employment but also with my
6 enjoyment.
7 As an engineer, my duties have
8 included improving energy efficiency, making sure
9 the power station was in compliance with the sulfur
10 and fuels burned both with and without the old stack
11 gas rubber, if anybody remembers that monster.
12 We have replaced -- I worked on the
13 replacement project where we replaced all of the
14 instrumentation with state-of-the-art digital
15 controls, so I do have a substantial background of
16 experience.
17 Bear with me as I talk about some of
18 these experiences that taught valuable lessons that
19 are relevant to this discussion.
20 As I look back at projects the plant
21 has undertaken, they fall into several categories.
22 We have discretionary projects, those that economics
23 that meet or beat or produce the startle rates.
24 That is, they could qualify for capital funding to

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1 be built installed. And I emphasize "could,"
2 because there is stiff competition for limited auto
3 funds.
4 You may think that oil companies are
5 limitless and have deep pockets. They don't. This
6 company was based on venture capital, and those
7 people who invested their money expect a return.
8 Then we have non-discretionary
9 projects. Those projects are required to meet
10 regulatory laws. These projects allow the refinery
11 to remain in business. They don't add a nickel's
12 worth to the bottom line of profitability. And I
13 say profitability with a -- in a positive note.
14 That's why we all want to work. We make a profit
15 for ourselves.
16 You can tell the good projects. They
17 are the ones that are still in operation even after
18 many years. The plant built a hydrotracker in 1971.
19 That was a new plant back then. And I was young.
20 (Laughter) Some may not know that.
21 We built a low-pressure reformer in
22 1983 at a cost of \$135 million. Both of those
23 projects were technically sound and economically
24 robust. These were selected by the refinery. They

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1 were leading-edge but not leading-edge technology.
2 The poor projects are gone, those projects that were
3 imposed upon us either by corporations -- we built a
4 methanol unit in the same year that we built the
5 reformer. That was \$110 million. That was
6 bulldozed to the ground, and it no longer exists.
7 And the jobs that that plant supported are gone.
8 We built two plants, an MTVE and a
9 TAME plant, TAME. Those were heater units. They
10 were built to supply oxygenates as mandated by EPA
11 regulations. 1994 to 2004, that was their lifespan.
12 They are now gone. Rest in peace. And that was by
13 regulatory decree.
14 The coke acifier is a classic example
15 of how to shoot oneself in the foot. (Laughter)
16 Okay? It came out on line in 19 -- in 2000, and now
17 it's resting in peace in 2009. The total investment
18 there was \$330 million. It was built to replace the
19 aging and high-maintenance stack gas scrubber on the
20 power saver. This was both a compliance and an
21 economically driven project from corporate. It was
22 one of the major leading causes that the plant shut
23 down, a reliability nightmare that led to economic
24 disaster for the employees and the community.

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1 So these four projects have cost the
2 past owners \$530 million. Our goal is not to repeat
3 the past performance. That's unacceptable. My job,
4 our job in the engineering community, is to provide
5 engineering solutions that have sound, proven
6 technical basis and are economically viable, which,
7 in the instance of meeting regulatory compliance
8 means, they must not threaten the long-term economic
9 health of the business, either through capital
10 costs, raw operating costs, or excessive maintenance
11 upkeep.
12 As I reviewed the synopsis of the
13 Clean Water Act, it was heartening to see that seven
14 alternatives were actually offered to operators to
15 comply with this complex rule, finally in
16 recognition that one size does not fit all or is
17 appropriate for any specific given facility.
18 The plant is installing one of the
19 choices from the list. I can tell you that many
20 good process improvements, ones that would improve
21 the financial health of the facility, have been made
22 to wait in line for money that is being spent early
23 and, I view, in the spirit of good corporate
24 citizenship.

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1 Please implement the rule as the EPA
2 intended. Let the refinery comply using an approved
3 choice. I'll bet it will be one of those good
4 projects that I spoke about. Thank you.
5 (Loud applause)
6 **MR. HAYNES:** Ian O'Reily after Maya
7 Van Rossum.
8 **MS. VAN ROSSUM:** Good evening. My
9 name is Maya Van Rossum. I'm from the Delaware
10 Riverkeeper, and I'm here speaking on behalf of the
11 members of the Delaware Riverkeeper Network. And
12 I'm here to oppose the 315(b) provisions included in
13 the draft permit that is at issue this evening.
14 There are over 53 species of fish
15 that are needlessly killed as a result of the
16 refinery's cooling operations. Among those killed
17 are about 7.7 percent of all weakfish, 20 percent --
18 27 percent of all the striped bass, and 19 percent
19 of the Bay Anchovy that are in the Delaware Estuary,
20 and that's just a sampling of the species that are
21 killed by these operations.
22 These fish are important
23 ecologically, and they are important economically.
24 In fact, fishing in the State of Delaware by

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1 commercial and recreational fisherfolk result in
2 over \$16 million and over 1,600 jobs a year in the
3 State of Delaware alone.
4 The draft NPDES permit issued by
5 DNREC gives the Delaware City Refinery four and a
6 half years to study ways to reduce fish entrainment
7 at the facility, only requiring action perhaps in
8 five years.
9 But in June of 2011, DNREC already
10 made the determination that the Best Technology
11 Available for addressing entrainment at the refinery
12 is close-cycled cooling. Its analysis included a
13 determination that close-cycled cooling was both
14 technically and economically feasible for the
15 refinery. Four and a half years of additional study
16 is simply not needed.
17 The permit issued for the Delaware
18 City Refinery should mandate the installation of
19 closed-cycle cooling which will reduce the
20 facility's fish kills by over 90 percent. Anything
21 less, we would deem unacceptable.
22 On March 18 of 2015, the National
23 Marine Fisheries Service submitted 11 pages of
24 comments regarding this draft permit in which they

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1 raise significant concerns about the draft permit
2 and its impact on endangered species. Among the
3 species that are at issue are the Delaware River's
4 genetically unique population of Atlantic Sturgeon.
5 There are less than 300 spawning adults of this
6 genetically unique line of Atlantic Sturgeon, and we
7 cannot afford to be approving the ongoing and
8 needless kills inflicted by the Delaware City
9 Refinery.
10 We have an obligation to the species;
11 we have an obligation to ourselves; and we have an
12 obligation to the generations yet to come to protect
13 the Atlantic Sturgeon of the Delaware River from
14 being wiped from the face of the earth by facilities
15 like this refinery.
16 The failure of DNREC to get the
17 National Marine Fisheries Service's review and
18 comment prior to issuing this draft permit is both
19 an error of procedure and an error in judgment.
20 On December 4, 2014, just ten days
21 prior to its issuance of the draft permit at issue
22 tonight, DNREC signed a settlement agreement which
23 bound and binds the agency to a pre-determined
24 outcome for the Delaware City Refinery's NPDES

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1 permit. As a result, DNREC has clearly compromised
2 its ability to be an independent arbiter over this
3 matter. DNREC needs to step back and request that
4 the Environmental Protection Agency take lead
5 authority over this permit in order to remove both
6 the actual and the appearance of both bias and
7 impropriety. This sweetheart deal needs independent
8 agency review. And given the process that has
9 brought us to this point, it is clear we are unable
10 to get that from DNREC.
11 Any new permit that is ultimately
12 issued for the Delaware City Refinery should not
13 only reflect the Best Technology Available, which
14 clearly is closed-cycle cooling, but it should
15 include mitigation and restoration obligations to
16 make up for the years of illegally and needlessly
17 inflicting harm on the fish populations of the
18 Delaware Estuary, the Delaware River, and all of us
19 who depend upon them and appreciate them.
20 In other words, we need to stop the
21 fish kills moving forward, and we need to undertake
22 significant -- we need the refinery to undertake
23 significant environmental restoration actions to
24 make up for all the needless damage that it has

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1 inflicted to date.
2 I'm not talking about the past. I'm
3 talking about the present, and I'm talking about how
4 we move forward into the future. And that's what we
5 must do to serve generations who are here today and
6 the generations yet to come. Thank you.
7 (Applause)
8 **MR. HAYNES:** Did you give it to the
9 court reporter?
10 **MS. VAN ROSSUM:** I have already
11 submitted a written comment.
12 **MR. HAYNES:** Thank you. Ian O'Reily.
13 **MR. O'REILY:** My name is Ian O'Reily.
14 I'm a Delaware resident. I'm a member of Local 74
15 Pipefitters and Plumbers Union. I'm an employee of
16 (inaudible) Construction Company. I am a proud
17 United States Marine Corps veteran. I'm a proud
18 Delaware resident.
19 I'm here today to speak to you, the
20 board, about the NPDES permit, and I would like to
21 let you know that I feel it's my obligation
22 personally to come up here as a guy that is an
23 average guy.
24 I carry my lunchbox to work every

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1 day, and I have the privilege to work at the
2 Delaware City Refinery every day, unlike some of my
3 brothers and sisters that have to travel long
4 distances away from their families, day in and day
5 out, because there is not enough work in America.
6 The current plan that is proposed to
7 renew this permit is of the best technology
8 currently. I believe that, speaking from personal
9 experience at the refinery, I hold the position of
10 the routine maintenance superintendent, and I
11 execute daily, every day, day in and day out, the
12 requests of the people that I work for at the
13 refinery.
14 My men and women that work with me
15 that execute those jobs day in and day out are held
16 to the most extreme safety and adherence to
17 environmental regulations daily.
18 For the opposition to readily attack
19 the refinery, the building trades people that work
20 at the refinery every day, to take food away from
21 all of our families is wrong.
22 I lived the nightmare in 2009 that I
23 thought would never happen. I would have bet my
24 house that DCR would have never closed. I remember

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1 that day, because I went home and my little girl
2 asked me what we were going to do. And I didn't
3 have an answer for her, just like a lot of my
4 brothers and sisters out here in this audience right
5 here.
6 I am appealing to the board that they
7 allow the renewal of the NPDES permit, because
8 everybody in this room with this blue hat on depends
9 on that refinery day in and day out.
10 And, again, I will repeat that I am
11 involved in the daily activity of the routine
12 maintenance at that refinery, and the rules are
13 stringent, they are followed, and there is people
14 there that care about what happens at that refinery,
15 unlike the opposition who thinks that we are
16 carelessly damaging the environment.
17 I'm an avid fisherman. I'm an avid
18 hunter. And I will never forget the day that my
19 daughter caught her first striped bass.
20 Thank you for your time, and please
21 consider allowing the permit process to go forward
22 and accepting an NPDES. Thank you.
23 (Loud applause)
24 **MR. HAYNES:** Michael Lech. Followed

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1 by Amy Roe.
2 **MS. ROE:** Present. Thank you.
3 **MR. HAYNES:** Okay. I see you.
4 **MR. LECH:** Good evening. Thanks for
5 the opportunity to speak. It seems like this permit
6 is about one thing, and that's fish. However, there
7 is allegations of a lot of fish kills within the
8 Delaware City Refinery, but no one presented any
9 data to support this. None whatsoever. So very
10 briefly I want to run through a report. And upon
11 completion of that, I will let everyone know where
12 it came from.
13 But in 2009 biologists conducted a
14 survey on Delaware River fish. 56 percent of all
15 fish caught were less than a year in age, indicating
16 equal balance of young and mature fish, which is
17 equivalent to a healthy fish population.
18 All water quality parameters in 2009
19 were within normal range. And this report indicated
20 that 2009 was a successful year for fishing the
21 Delaware River.
22 2010, the same report was done by a
23 team of biologists. 51 percent of the fish that
24 were caught were less than a year old, again

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1 indicating a healthy fish population. Also in 2010,
2 several species yielded higher-than-normal rate
3 catches. All water-quality parameters in 2010 were
4 within normal range.
5 Again in 2011, the same biologists
6 did a study in the Delaware River. In 2011, it was
7 the seventh-most abundant fish catch in the history;
8 55 percent of all fish caught were less than a year
9 old, again indicating the equal balance and a
10 healthy fish population.
11 All water-quality parameters in 2011
12 were within normal range.
13 In 2012, the same team of biologists
14 conducted a study of the Delaware River. 57 percent
15 of all fish caught were less than a year old, again
16 indicating a healthy fish population.
17 Even in that report it did say it's
18 encouraging to see a strong fish catch class of fish
19 for that year. All water-quality parameters were
20 within normal range.
21 In 2013, a team of biologists, the
22 same team of biologists, did the same study.
23 55 percent of fish were less than a year old. And
24 it actually quoted, "This is a positive reflection

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1 of the spawning process of the species in the
2 Delaware River."
3 Air-quality parameters were met in
4 2013 and were within normal range.
5 But, unfortunately, there is a
6 downside to this, folks. I did not get this report
7 from the Wilmington News Journal. (Laughter) It
8 was reported by the New Jersey Department of Natural
9 Resources, Division of Fish and Wildlife, Bureau of
10 Marine Fisheries. Thank you.
11 (Loud applause. People yelling, "Whoa!")
12 **MR. HAYNES:** After Amy Roe is Nick
13 Wasilesly.
14 **MR. WASILESLY:** I had ceded my time
15 to Mr. Moyer.
16 **MR. HAYNES:** That's right. Then it
17 will be Bernie August.
18 **MS. ROE:** Good evening. My name is
19 Amy Roe. I'm the Conservation Chair of the Delaware
20 Chapter of the Sierra Club.
21 I would like to thank DNREC for
22 conducting this public hearing. I would like to
23 thank DNREC for choosing this specific location.
24 And I sat in the front, but I have turned around a

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1 few times, and there have always been available
2 seats, so I'm very grateful that you selected a
3 location that could accommodate such a large crowd.
4 I would like to thank DNREC for
5 meeting with me and communicating with me regularly
6 on my questions and comments. It seems clear that a
7 lot of people that have attended this hearing and
8 have spoken so far tonight have not read the permit,
9 have not read the 316(b) rule, have not read the
10 thousands of pages of documentation, scientific
11 documentation in some cases conducted by the
12 refinery about the fish kills. I have read every
13 page, and I am very grateful that DNREC could answer
14 questions in a timely manner as they arise.
15 I'm very grateful for the comments by
16 the refinery. And I would like to take a look at
17 the screen, if that sample is going to be available
18 afterwards. I would like to see those firsthand.
19 And I would also like to ask the
20 hearing officer if the refinery's comment which
21 Mr. Godlewski indicated -- if I'm not pronouncing
22 that right, I'm sorry. My maiden name is Waslieski,
23 so I'm very sensitive to the pronunciation. If
24 those could be made available to me by e-mail, I

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1 would appreciate that.
2 I will be submitting comments in
3 writing, since the comment period for this has been
4 extended by 30 days. And, to be frank, I appreciate
5 the extra time. I appreciate giving my eyes a
6 little bit of rest.
7 I do have some concerns, though,
8 which I will mention now. One, on March 18, 2015,
9 the National Marine Fisheries Service asked for
10 consultation with the Environmental Protection
11 Agency over the Endangered Species Act implications
12 of the permit.
13 And I would like to have a copy of
14 any response the hearing officer receives. I would
15 like to have an opportunity to review those comments
16 prior to the close of the public comment period,
17 because this issue is very important and we cannot
18 afford to get this wrong.
19 I would like 30 days after DNREC
20 provides me with a copy of the EPA's response to the
21 National Marine Fisheries Service consultation.
22 Second, I'm concerned when our
23 chapter office was notified that people tried to
24 submit comments using the e-mail address provided in

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1 the original public notice and that that e-mail was
2 dead, didn't work.
3 And I also attempted to use that
4 e-mail, and it didn't work for me either. And I
5 understand and I'm very thankful that that is the
6 reason why the public comment period was extended to
7 April 24th. But I also would like to ask the
8 hearing officer to consider that, because this is a
9 federal permit and not just a state permit, the
10 State of Delaware is required to follow Delaware law
11 -- or federal law. And Title 40, Code of Federal
12 Regulations, Part 78 provides very clear direction
13 on how to conduct a hearing notice and the public
14 comments notice.
15 And my concern is that the 30 days
16 that have been provided cannot account for sending
17 people to a dead e-mail address. So I would like to
18 ask the hearing officer to re-notice that according
19 to all of the notices that are required by law,
20 which include publication in a newspaper, and that
21 the public comment period be extended 30 days from
22 publication of the newspaper date.
23 Again, this is a very important
24 permit. This has been in the works for a long time.

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1 Our chapter has filed legal action against the State
2 to ensure that we get to a permitting process. We
3 can't afford to mess up because of procedural
4 issues. So if you could please accommodate those
5 requests, I would be very thankful. Thank you.
6 (Some applause)
7 **MR. HAYNES:** Thank you. I will not
8 rule on those requests. Once information is
9 received, to the extent that there is an interest in
10 seeking more time towards the end of this extended
11 public comment period, I will entertain making a
12 decision then. But right now I will not be making a
13 decision on that. So we will follow-up at that
14 time.
15 **MR. AUGUST:** I would like to also say
16 Mr. David Chandler did arrive. He was mentioned
17 earlier that he was given the opportunity to speak.
18 My name is Bernard August. I live at
19 101 Cardiff Court West, Newark, Delaware. I am a
20 member of the Sierra Club. I am a member of the
21 Audubon Society. And I am chairman of the Committee
22 Against Plutonium Economics, which is related to
23 nuclear issues. I was an intervener at the nuclear
24 plant over at Salem, Three-Mile Island, and other

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1 administrative law issues.
2 One of the reasons I intervened and
3 became familiar with all of this was because of the
4 once-through pulling system that is now in operation
5 at the Salem one and two nuclear plants.
6 The Salem one and two nuclear plants
7 have a similar fish impingement systems that are
8 going to be installed at this refinery that they are
9 trying to do now. They had been in utter failure.
10 Regardless of the reports about fish
11 populations increasing, it is a declining value.
12 The thermal pollution alone from those plants suck
13 in the entire Delaware Bay twice a day. I really am
14 surprised that there was that many fish with the
15 intakes at the refinery here to count, to be frank
16 with you.
17 So this permit, to me, must be
18 followed through according to federal guidelines of
19 Best Available Technology. The only way this plant
20 can operate is through a closed-loop cooling system.
21 And I don't understand why the union,
22 AFLCIO, is against giving their own members jobs
23 building this plant. But, of course, I can tell you
24 why: Because they are not making any more money at

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1 that plant. Right now, every company that is
2 involved with pumping out the debanket oil under
3 bonds that they sold can't make their bills, and
4 they are closing up and laying off thousands of
5 people right now.
6 The supply of oil for this plant,
7 it's only a matter of time before this plant and the
8 workers here who are being whipsawed against
9 themselves because of the oil market. Two, the fact
10 stamped with themselves that the oil market is an
11 open market. It has nothing to do with American
12 jobs. That's why they are trying to build these
13 ports to ship off liquid natural gas abroad.
14 It has nothing to do with our
15 independence here. It has nothing to do with our
16 freedom of energy and being self sufficient. This
17 is a matter of profiteering. So they continue on
18 like this with this plant, which is equivalent to
19 putting lipstick on a pig, as far as I'm concerned.
20 They should have never been opened in the first
21 place.
22 The refinery's (inaudible) intake was
23 built in the fifties. It's out of date. DNREC
24 needs to require the refinery to install the proven

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1 modern technology.
2 The Delaware City cooling (inaudible)
3 intake structure sucks in 3.3 million gallons a day
4 from the Delaware River and kills over 30 million
5 fish a year. Putting in these screens is not going
6 to stop that.
7 As a matter of fact, I looked at the
8 screens when Mr. Godlewski showed them, and it's
9 similar to the screen they tried to apply in Salem,
10 and they're still plugging up the problem with the
11 plant over there. And you know what happens when
12 you don't get cooling water to a nuclear plant.
13 Forty-seven species of aquatic life
14 have been identified as being caught in the water
15 intake here alone. And now they're bragging about,
16 "Oh, they're one year old." That's a declining
17 value.
18 And if you notice in the paper how
19 the whales and the dolphins have been coming into
20 shore, that's because they are being forced to
21 because there is no fish in the ocean because we're
22 killing them up here in the bay.
23 **MR. HAYNES:** You're going to need to
24 wrap up.

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1 **MR. AUGUST:** So I suggest that DNREC
2 will please follow the federal rules and not give
3 this permit and follow the procedures along the time
4 and the commentary that Mrs. Roe and the other
5 professionals here asked for. Thank you very much.
6 **MR. HAYNES:** Thank you.
7 (People are booing; some applause)
8 **MR. HAYNES:** Mike Hufford followed by
9 David Babou.
10 **MR. HUFFORD:** Good evening. My name
11 is Mike Hufford, H-U-F-F-O-R-D. I am the Site
12 Manager for Brand Energy Services, a maintenance
13 contractor providing scaffold, insulation, and
14 coating services at the Delaware City Refinery.
15 Since the refinery restart in June of
16 2010, I've had the good fortune to be able to
17 oversee 1 million manhours of work performed by the
18 members of painters, insulators, and carpenters
19 unions, the last of which I am a member myself.
20 The reopening of this refinery
21 brought not just jobs, but good jobs, at a time when
22 it was so desperately needed. A job at the Delaware
23 City Refinery is a good job that pays a living wage
24 that can support a family. It's a job that has

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1 health insurance. It's a job that --
2 **MR. HAYNES:** Can you speak into the
3 microphone?
4 **MR. HUFFORD:** I'm sorry. I said a
5 job at Delaware City Refinery is a good job that
6 pays a living wage that can support a family. It's
7 a job that has health insurance. It's a job that
8 allows members a secure retirement.
9 It's a job that allows workers to
10 support themselves and their families without having
11 to turn to the state for assistance.
12 So, personally, I am thankful for the
13 opportunities that Delaware City Refinery has
14 afforded me, and I'm proud to say that I work there.
15 I support Delaware City Refinery, and I ask that you
16 help the refinery remain viable so it can continue
17 to bring good jobs to the area. Thank you.
18 (Loud applause)
19 **MR. HAYNES:** The next speaker will be
20 Charles Cory.
21 **MR. BABOU:** Hello. My name is David
22 Babou. I would like to thank DNREC for the
23 opportunity to be here tonight. By the seeing of
24 blue in the crowd tonight, it makes me proud to be

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1 part of an organization that cares so much and that
2 can provide such a turnout like this.
3 I have lived within 10 miles of the
4 Delaware City Refinery my whole life. Because of
5 this refinery, my family and I are able to enjoy the
6 Delaware River.
7 In the summers we fish, crab, water
8 ski, and enjoy fireworks on the river. In the
9 winter my boys and I hunt along the riverbanks.
10 For the past 20 years, the Delaware
11 River has become a much cleaner river, thanks in
12 part to the refinery's commitment to operate at or
13 above increasingly strict guidelines imposed by
14 state and federal agencies.
15 So, as a resident of the state, I ask
16 you to please approve the permit for water discharge
17 to the Delaware City Refinery. Thank you.
18 (Loud applause)
19 **MR. HAYNES:** Charles Cory? Are you
20 here? Okay. Gail Heath, are you here? Gail Heath?
21 Tricia Herron? Des Kahn, are you here? You will be
22 followed by Simeon Hahn.
23 **MR. KAHN:** Thank you. My name is
24 Desmond Kahn. I live in Newark. I worked for the

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1 Fisheries Section of DNREC for 20 years.
2 I would like to preface my comments
3 by saying that I think the refinery is a source of
4 really high-quality employment for a lot of people,
5 including my next-door neighbor, who is a
6 pipefitter. He had been unemployed for months until
7 the refinery reopened, and he was able to get work
8 reopening that.
9 And I believe a lot of the people
10 here who said this company is more conscientious
11 than previous owners, and that they are
12 conscientious and they are working to reduce the
13 pollution that refineries can produce. That's all
14 good. I think the refinery management has been
15 successful. They have got a going concern. They
16 seem to be profitable.
17 And I think that what's been lost,
18 however, is reduction in the fish kills that I
19 studied when I worked for DNREC. Myself and other
20 workers were able to estimate that to replace the
21 sum of fish killed every year with hatchery
22 production would cost about \$600,000 a year.
23 Okay. That seems to be small
24 potatoes for a refinery like this, but it hasn't

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1 been required by DNREC. In fact, virtually nothing
2 has been required. The refinery has been operating
3 for 50 years, and there has been almost nothing done
4 to reduce the fish kill impact, which is significant
5 in terms of tens of thousands of adult fish like
6 striped bass, weakfish, over a million smaller fish
7 like bay anchovies, tens of thousands of white
8 perch.
9 And these kind of mortalities do have
10 an affect, because we have people who make their
11 living fishing in the State of Delaware. We also
12 have a tradition which is known as the public trust
13 doctrine. And what that comes down from the romans
14 through magna carte in American law which says that
15 fish in waterways belong to the people and that the
16 government has a responsibility to protect those for
17 the people. And I don't think that's being done by
18 DNREC. And I think that to require something like a
19 closed-cycle cooling system, which has been
20 estimated to be approximately \$100 million -- we
21 have heard tonight that the refinery has spent
22 \$400 million twice over for some air improvement,
23 air pollution reduction equipment; so it seems to me
24 that it's reasonable to require the refinery to

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1 install this closed-cycle system which would provide
2 work and which would reduce this very large kill.
3 You know, I was able to estimate that
4 in one of the two years we have data for, 27 percent
5 of the striped bass born in the river were killed by
6 this refinery, which was surprising. It was
7 surprisingly high.
8 So I think we have a real problem
9 here, and I would like to see this be dealt with
10 sooner than the, you know, five to ten years down
11 the road that the permit proposes. Thank you.
12 (Some applause)
13 **MR. HAYNES:** Simeon Hahn followed
14 with James Lee. James Lee? Coralee Pride. She
15 will be followed by John Deemer.
16 **MS. PRIDE:** I'm Coralee Pride, and
17 I'm speaking as just a concerned private citizen.
18 I would like to take my comments in a
19 little bit of a different direction. We understand
20 that DNREC wants to give them a permit for the
21 modified traveling screens, because that is now
22 considered by the EPA to be a Best Technology
23 Available.
24 If we accept that, what I would like

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1 to know is what can we expect in the way of
2 improvements on fish impingement and entrainment of
3 smaller fishes and organisms into the cooling
4 system? First, I have a few questions for DCRC. On
5 what basis was the Hydrolox screen chosen instead of
6 some of the other screens that have been out there
7 for, you know, several decades and have more
8 information available about how well they work in
9 different cases? Particularly, how do they work on
10 impingement? And also, how do they work on
11 entrainment, which sounds like it may be the larger
12 problem here.
13 I haven't really considered this
14 problem before, but a couple of hours of Googling
15 things, and I came up with quite a few articles that
16 have been published in the past 35 or more years
17 about the modified traveling screens and the steps
18 that can be taken to really maximize their
19 performance.
20 And it sounds like a lot of studies
21 are available there that show both quite a lot to be
22 done about impingement but also improvements that
23 have been made in entrainment. And a lot of things
24 can be done like changing the mesh size that the

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1 screen starts with, plugging a lot of holes between
2 the parts of the traveling screen so that things
3 don't slip through. I also saw references to things
4 like putting these screens further out in the inlet
5 to keep fish from approaching the area for the water
6 intake. Things can be done manipulating the
7 currents or sending air bubbles up that might
8 discourage some organisms from going into that area
9 so not to be disturbing to the environment in
10 general.
11 So I'm sure that there are employees
12 at DNREC who understand a lot more about traveling
13 fish screens than I could ever do. But I would like
14 to know is -- I think that DNREC needs to tell us
15 exactly what they expect to occur when these
16 traveling fish screens are put in place. You know,
17 what kind of improvement can we expect reasonably
18 based on the data? You know, I would've, in looking
19 at the permit and the fact sheet, I didn't see what
20 I wanted to see about, well, what kind of
21 improvement will be seen? Are there minimum numbers
22 for improvements that will be considered required?
23 It just sounded like whatever happens, well, that's
24 what the screens do and we'll accept that.

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1 Basically, I found it disturbing that
2 DNREC didn't really tell us what they expected
3 screens to do. I didn't get the slightest hint of
4 what the improvement would be. And in terms of both
5 fish mortality and the entrainment of smaller
6 organisms, how will the screens compare with the
7 closed system? Will DNREC enforce any kind of
8 minimum requirements? Will DNREC do anything to
9 protect the endangered sturgeon? I just didn't see
10 the answers to this.
11 I think the public needs and deserves
12 to know about what went into these decisions that
13 were made about granting this permit or at least
14 putting it up for public review. And it's only
15 after we know more facts about this that we, the
16 public, can make kind of an informed decision about
17 our feelings about this and make more comments on
18 it. Thank you. (Some applause)
19 **MR. HAYNES:** Thank you. As part of
20 the procedures, as part of the requirement for a
21 draft permit are receiving public comments, and
22 public comments and your questions address the
23 (inaudible)
24 **MR. DEEMER:** Good evening. I'm John

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1 Deemer, D-E-E-M-E-R, and I'm the HFC manager for the
2 Delaware City Refinery. On behalf of the Delaware
3 City Refining Company, its employees, and our
4 business partners, I would like to state that we are
5 committed to the protection of the environment for
6 our neighbors, the surrounding community, and the
7 State of Delaware.

8 I would like to thank DNREC and Mr.
9 Haynes, tonight's hearing officer, for giving me the
10 opportunity to make some remarks.

11 As an example of our commitment to
12 the environment, we have already reduced our
13 allowable cooling water intake by 30 percent. We
14 are the first owner of the refinery to reduce our
15 allowable cooling water intake.

16 Another example of our commitment is
17 the reduction in NOx emissions that we have
18 achieved. By the end of 2015, we will have reduced
19 the facility NOx emissions by more than 400 tons per
20 year. That represents a reduction of over
21 19 percent from the first full year of operations
22 following the restart of the refinery.

23 I also want to point out that we do
24 have energy-efficient operations. An earlier

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1 speaker was asking us to install technology to
2 recover energy. And we do. We use a lot of steam
3 in the refinery. We produce it to heat up our
4 products and used in our processes, and we do
5 recover the energy from that using efficient turbine
6 generators.

7 We also generate electricity at the
8 refinery to support the refinery operations. So we
9 do implement energy efficiency into our operations.

10 The purpose of tonight's hearing is
11 to provide comments on the draft NPDES permit. And
12 one of the key aspects of this permit is the
13 implementation of Best Technology Available for
14 impingement/entrainment of aquatic organisms. The
15 Delaware City Refinery has selected modified
16 traveling screens as BTA for impingement mortality.
17 This is one of the seven options provided by EPA in
18 the final 316(b) rule which was published on
19 August 15, 2014.

20 In the supporting documentation for
21 the 316(b) rule, EPA states that modified traveling
22 screens with the fishery turn-in handling system is
23 the technology basis for impingement mortality
24 performance standards. The manufacturer of the

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1 modified traveling screens that we have selected,
2 Hydrolox, was specifically identified by EPA in the
3 supporting documentation for the rule.

4 EPA has stated that following a
5 performance optimization study, they expect that
6 modified traveling screens will not only meet the
7 impingement standards but will also result in
8 facilities achieving the best possible performance.
9 And we are going make sure that that happens,
10 because we are going to be conducting a two-year
11 study in accordance with the EPA rules mandated in
12 the 316(b) rule.

13 We have already commenced the
14 installation of the first set of screens and will
15 complete the installation over the next two years.
16 The environmental benefits of these screens will be
17 realized well in advance of our obligations under
18 the 316(b) rule.

19 There has been a lot of discussion
20 regarding the installation of closed-loop cooling
21 towers, the closed-loop cooling system that would
22 incorporate cooling towers.

23 The installation of cooling towers
24 would require substantial modification to the

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1 refinery cooling water system and likely would take
2 five to ten years. There has been some discussion
3 of the cost of implementing a closed-loop cooling
4 water system, and the BTA document published by
5 DNREC advertised that cost at \$75 million. But let
6 me set the record straight: The cost of that
7 project would be \$300 million or more, whereas the
8 modified traveling screens can be installed at a
9 cost of \$15 million.

10 Is cost a consideration? Absolutely,
11 it's a consideration. We have 450 employees and an
12 equal number of contractors that rely on us for
13 employment and the benefits that we provide. We
14 want to continue operating in a responsible manner.
15 We produce clean, high-quality motor vehicle fuels
16 for the state and the region, and we have made and
17 continue to make investments to produce clean fuels.

18 Following the installation of the
19 traveling screens, we will be conducting
20 EPA-mandated studies. The last studies were
21 performed well over 15 years ago. And because of
22 the changes in the final rule, not all the studies
23 mandated by EPA have been conducted.

24 In addition to evaluation of source

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1 water physical data and biological characterization,
2 Best Technology Available evaluation involves the
3 evaluation of other criteria, including technical
4 feasibility and cost studies and non-water
5 environmental impacts, some of those Tom talked
6 about earlier.
7 For example, the non-water
8 environmental impacts include the evaluation of
9 additional electric generation needs that is
10 necessary to power up the cooling towers that we
11 will be using. There is also associated emission
12 impacts from that additional electric generation.
13 There is also flying particulate matter that is
14 released from the drift of the cooling towers; so
15 that's certainly a consideration with ambient air
16 quality standards for PM2.5.
17 All the mandated studies are required
18 to be reviewed by EPA-approved peer reviewers.
19 DNREC also will be participating in that peer review
20 process.
21 The studies will fully evaluate the
22 implementation of the modified traveling screens
23 which we'll installing, along with the 30 percent
24 reduction in allowable cooling water withdrawals.

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1 The final decision for the BTA for entrainment
2 should not be made until after the mandated studies
3 are completed and submitted to DNREC in a structured
4 permit review prior to the renewal of the permit.
5 Thank you.
6 **MR. HAYNES:** Thank you.
7 (Loud applause)
8 **MR. HAYNES:** That concludes the list
9 of speakers who indicated they wanted to speak. Is
10 there anybody who would like to speak at this point?
11 State your name.
12 **MR. SANDLER:** I'm David Sandler. I
13 did sign up.
14 **MR. HAYNES:** Okay. You did sign up.
15 **MR. SANDLER:** So, first, I will
16 state --
17 **MR. HAYNES:** Please use the
18 microphone.
19 **MR. SANDLER:** My late wife worked
20 over 30 years at the Newark --
21 **MR. HAYNES:** You're still not
22 speaking into it. It's not coming through.
23 **MR. SANDLER:** My late wife worked for
24 forever over 30 years at the Newark Chrysler

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1 assembly line. Last year I ran for treasurer of the
2 State of Delaware, so I thank anybody who might have
3 voted for me last year.
4 I want to speak up for the Delaware
5 River, which is more important than any of us in
6 this room. So the Delaware River, when the refinery
7 was first built, was much more polluted than it is
8 today and had a lot of sewage in it.
9 Back in the seventies they wanted to
10 build a dam near the Delaware Water Gap, and we
11 stopped that. So now the two biggest remaining
12 problems with the Delaware River and the life in it
13 are the Delaware Refinery cooling intake and the
14 Salem cooling intake.
15 So the best solution to the Salem 1
16 and Salem 2 right now would be to shut those plants
17 down. The best solution for the Delaware City
18 Refinery would be to build these cooling towers and
19 put through the closed-loop cooling system.
20 Right now, because we've heard
21 millions of fish larvae get sucked into the system
22 and cooked and killed, because there is like zero
23 percent survival rate from that; whereas, if we have
24 a closed-loop system, the requirements to draw water

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1 would be much less and we could save these fish and
2 have a much healthier river. So thank you. Thank
3 you, Mr. Haynes, for the opportunity to speak.
4 **MR. HAYNES:** Thank you. All right.
5 With that, anyone else tonight who wishes to speak?
6 State your name, please.
7 **MR. MURRAY:** Tim Murray. I'll be
8 quick. I don't have any fancy numbers or figures,
9 but I don't want my job shipped overseas with that
10 natural gas. (Laughter) (Applause)
11 My name is Tim Murray. I'm a
12 third-generation Local 13 boilermaker. I have been
13 here at DCR with (inaudible) going on five years.
14 When I came here in August of 2010,
15 my intention was not to stay long term. At that
16 point Delaware City was just another place I could
17 collect a paycheck. And at that time it was a
18 much-needed paycheck. Work being slow was an
19 understatement.
20 Since then, this refinery has become
21 much more to me and my family than just a paycheck.
22 It has become my second home, my second family. I
23 drive an hour plus to work every day, and people
24 often ask me why I don't get a job closer to home.

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1 It's an easy question to answer: There isn't
2 another workplace, refinery, or powerhouse out there
3 that means what this place does to me. It's a
4 pleasure every day to come to work, a pleasure to be
5 on a first-name basis with the people that we rely
6 on with our lives every day, a pleasure to be a part
7 of the success that this refinery has had in the
8 last five years, and a pleasure to be a part of the
9 daily safety culture and constant desire to make
10 this a better place to work.
11 This is the best job and safest place
12 to work I have come across in 15 years, and I'm very
13 proud to be a part of that. And they still give me
14 a paycheck. So thank you.
15 (Loud applause and people yelling "Yay!")
16 **MR. DUNN:** Bill Dunn, D-U-N-N. I
17 can't say that I'm an authority on what's being
18 discussed this evening, but I am familiar with some
19 of the stuff.
20 And, gentlemen, I worked in the
21 chemical industry, so I can relate with the
22 limitations in the industry that you guys have seen,
23 and some of you ended up working here as opposed to
24 other places.

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1 The other thing, being involved in
2 civic organizations and environmental groups and
3 numerous -- and working in the chemical industry all
4 seem to have counter interests at hand. It kind of
5 puts me in a unique situation amongst the people
6 that are sitting here.
7 The thing that I find challenging is
8 that you gentlemen, I mean, have spent your time or
9 your careers in the petroleum industry, and you have
10 seen up and down the East Coast that a half dozen to
11 a dozen different refineries have all shut down;
12 yet, only one of them has reopened, and it's the one
13 that you guys are working at right now.
14 Do you know why? Because it's the
15 only one that can handle high sulfur fuel or crude
16 oil. That is not going to change on the East Coast.
17 Is there a chance that there could be some
18 limitation as to the amount of people that are
19 employed? Yeah, probably. But, definitively, the
20 jobs aren't going completely away.
21 How long did this place shut down?
22 It was a matter of weeks before there was a deal in
23 the works and months before it was back up and
24 running again.

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1 (People are yelling, "No, a couple of
2 years!" and booing.)
3 **MR. DUNN:** Please bear with me.
4 **MR. HAYNES:** Please --
5 **MR. DUNN:** Two speakers ago, somebody
6 spoke about the present proposal or the one that the
7 company is most interested in is a \$15 million
8 investment, where a closed-loop system would be a
9 \$300 million investment.
10 Well, there's two ways to look at
11 that. One, I think the 300 is a pretty high
12 estimation as to what the costs are. And, two, if
13 you went that route, if I was a carpenter that did
14 framing for concrete work or whatnot, it would seem
15 to me that I would have a job for the next ten
16 years. And there would probably be a whole mess of
17 other people that would get work out of it, as well.
18 So if you are interested in labor
19 interests, it sounds like the way to do it is the
20 closed-loop system. Because I don't think this one
21 is going away. I think your job is pretty secure.
22 (People are yelling)
23 What I ask DNREC to do -- and that's
24 the main part of this hearing and I would rather

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1 focus on that at this point -- there is limited
2 interests in certain circles and probably in
3 political circles for the closed-loop system
4 happening in the near future. I don't know that
5 that's the best solution.
6 Frankly, I think the best solution is
7 a closed-loop system. But, having said that, and
8 knowing the possibility that that will actually come
9 to fruition, to look at seven different things, to
10 guarantee that you pick the best of the seven
11 opportunities or seven other systems that might be
12 applied is something that you guys should actually
13 make the largest effort to do. And if it costs a
14 couple more than 15 million to make it the system
15 that is going to provide the best return to
16 everybody in New Castle County, Delaware, up and
17 down the Delaware River, that's the one that you
18 should be going with. Thank you.
19 **MR. HAYNES:** Thank you. That
20 concludes the public comments at this public hearing.
21 And thank you all for coming. I would like to thank
22 the school for hosting this.
23 (Concluded at 9:00 p.m.)
24

<p>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>	<p style="text-align: center;">CERTIFICATE</p> <p>I, Lorena J. Hartnett, a Notary Public and Registered Professional Reporter, do hereby certify that the foregoing is an accurate and complete transcription of the proceeding held at the time and place stated herein, and that the said proceeding was recorded by me and then reduced to typewriting under my direction, and constitutes a true record of the testimony given by said witnesses.</p> <p>I further certify that I am not a relative, employee, or attorney of any of the parties or a relative or employee of either counsel, and that I am in no way interested directly or indirectly in this action.</p> <p>IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal of office on this 13th day of April 2015.</p> <p style="text-align: center;"> _____ Lorena J. Hartnett Registered Professional Reporter</p>
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