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1           BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

2

3       IN THE MATTER OF:

4       Petition for Ford Motor Company       )  
      (Chicago Assembly Plant)               ) AS-00-6  
5       Adjusted Standard from 35 Ill       ) (Adjusted St  
      Adm Code Section 218.986               )

andard.)

6

7                       The following is a transcript of

the

8       proceedings held in the above-entitled matter ta

ken

9       stenographically before TERRY A. STRONER, CSR, a

10       notary public within and for the County of Cook

and

11       State of Illinois, taken before, Amy Muran Felto

n,

12       Hearing Officer, at 100 West Randolph Street,

13       Chicago, Illinois, on the 27th day of January, A

.D.,

14       2000, scheduled to commence at 1:30 o'clock p.m.

,

15       commencing at 1:35 o'clock p.m.

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1 A P P E A R A N C E S:

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HEARING TAKEN BEFORE:

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ILLINOIS POLLUTION CONTROL BOARD,  
100 West Randolph Street  
Suite 11-500  
Chicago, Illinois 60601  
(312) 814-4925

6

7

8

BY: MS. AMY MURAN FELTON  
HEARING OFFICER

9  
10 SCHIFF, HARDIN & WAITE,  
11 7200 Sears Tower  
12 Chicago, Illinois 60606  
13 (312) 876-1000  
14 BY: MR. SHELDON A. ZABEL

15  
16 Appeared on behalf of Ford  
17 Motor Company,

18  
19 ILLINOIS ENVIRONMENTAL PROTECTION AGENCY,  
20 1021 North Grand Avenue East  
21 P.O. Box 19276  
22 Springfield, Illinois 62794  
23 (217) 782-5544  
24 BY: MS. DEBORAH J. WILLIAMS

Appeared on behalf of the Illinois  
Environmental Protection Agency.

20  
21 ALSO PRESENT:  
22 Robert A. Harsh  
23 John C. Baguzis  
24 Christopher Romaine  
Karl Karg

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11	NO EXHIBITS WERE MARKED
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1 HEARING OFFICER FELTON: Good afternoon and  
2 welcome. I am Amy Muran Felton and I am a heari  
3 officer with the Illinois Pollution Control Boar  
4 I have been assigned to preside over this hearin  
5 today in the matter of petition of Ford Motor  
6 Company, Chicago assembly plant, for an adjusted  
7 standard from 35 Illinois Administrative Code  
8 218.986 documented by the Board as AS 00-6.

9 Today is Thursday, January 27th, 2000,  
10 it is approximately 1:30 p.m. I note that aside  
11 from the parties and their representatives there  
12 not appear to be any members of the public prese

ng

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and

do

nt

13 with us today at this time.

14           The hearing was scheduled and noticed  
15 pursuant to Sections 106.506 and 102.162 of the  
16 Board's procedural rules. This hearing will be  
17 governed in accordance with the Illinois  
18 Environmental Protection Act and the Board's  
19 procedural rules, specifically, Sections 101.220  
,  
20 101.221 and 102 point -- Subpart J of the Board'  
s  
21 procedural rules regarding hearings will apply t  
o  
22 these proceedings.

23           This hearing is intended to develop a  
24 record for review of this adjusted standard

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rd.  
1 proceeding by the Illinois Pollution Control Boa

is  
2 I will remind you that I will not be deciding th  
3 case. Rather, it is the Pollution Control Board  
4 that will be making the decision upon review of  
the  
5 complete record in this matter.

6 My job is strictly to ensure that an  
7 orderly hearing and a clear record is establishe  
d so  
8 that the Board can have all the necessary  
9 information before it prior to rendering a decis  
ion  
10 in this case.

11 After the hearing, the parties will ha  
ve  
12 an opportunity to submit posthearing briefs. We  
13 will also establish a public comment period. Th  
ese  
14 particular posthearing filings will be also  
15 considered by the Board prior to rendering its  
16 decision. All witnesses will be sworn and subje  
ct  
17 to cross-examination. The parties may ask a  
18 question of any witness.

19 Any questions asked by the hearing off  
icer

20 or anyone else present with us today are not  
21 intended to express any preconceived notions or  
22 bias, but are only to build a complete record fo  
23 review by the Pollution Control Board.

24 Before we begin with the hearing today

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1 would like to just begin with the introduction o  
2 the parties. If you please could start first wi  
3 the petitioner and then with the interested part  
4 that's here with us today.

5 MR. ZABEL: I'm Sheldon Zabel, with the law  
6 firm of Schiff, Hardin & Waite representing Ford  
7 Motor Company. Do you want me to introduce the  
8 gentlemen with me?



9 HEARING OFFICER FELTON: Please.

10 MR. ZABEL: To my far right is John Baguzis

, an

11 environmental control engineer at Ford's

xt

12 environmental quality office in Michigan, and ne

the

13 to me is Rob Harsh, an environmental engineer at

14 Chicago assembly plant.

h

15 HEARING OFFICER FELTON: Now proceeding wit

16 the interested party that's with us today.

and

17 MS. WILLIAMS: My name is Deborah Williams

18 I'm assistant counsel representing the Illinois

19 Environmental Protection Agency.

ork

20 MR. ROMAINE: I'm Christopher Romaine. I w

e

21 for the Illinois EPA in the permit section. I've

've

22 also worked extensively in VOC rule making and I

23 dealt with Ford Motor Company.

very

24 HEARING OFFICER FELTON: Great, thank you,

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ing

1 much. Now, I would like to address any outstand  
2 or prehearing motions. To my knowledge, there's  
3 only one outstanding motion, and that is the  
4 Illinois Environmental Protection Agency's motio  
5 for leave to file instanter the Agency's  
6 recommendation which was filed with the Board  
7 December 3, 1999.

n

8 MR. ZABEL: No objections.

be

9 HEARING OFFICER FELTON: As there appear to  
10 no objections to the Agency's request to file th  
11 recommendation instanter, the Agency's motion is  
12 granted.

eir

13 Are there any other outstanding motion  
14 prehearing matters that we need to discuss?

s or

15 MR. ZABEL: Nothing that I'm aware of.

16 MS. WILLIAMS: I have none.

ing  
w is  
of  
ar  
e  
17 HEARING OFFICER FELTON: Okay. Great. See  
18 as there are none, what I thought we would do no  
19 proceed first with opening statements on behalf  
20 the parties, and then we'll go through the regul  
21 routine of the hearing. First, starting with th  
22 petitioner, if you have an opening statement.

23 MR. ZABEL: I'll make a brief opening  
24 statement. Thank you, madam hearing officer.

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sent  
of  
ly  
1 As I said, I'm Sheldon Zabel. I repre  
2 Ford Motor Company. We're here on the petition  
3 Ford Motor Company concerning the Chicago assemb

m  
e  
4 plant, the petition for an adjusted standard fro  
5 the VOM regulations in 35 Illinois Administrativ  
6 Code 218.986.

7 The assembly plant, which was first in  
8 operation in 1924, is located on Torrence Avenue  
in  
9 the city of Chicago. It employs approximately 2  
700  
10 people. As the name implies, it assembles  
11 automobiles and in the process of doing so, a nu  
mber  
12 of the processes in that -- in assembling an  
13 automobile will involve the use of paints, solve  
nts,  
14 et cetera.

15 The particular matter of concern here  
are  
16 emissions of volatile organic materials or VOMs  
from  
17 nine solvent cleaning operations, which as their  
18 name implies, are the clean-up processes used at  
the  
19 plant. For example, cleaning up spilt paint fro  
m  
20 the painting operations.

21                   The existing regulatory requirement,  
22   218.986, which applies to VOM emissions from, as  
it  
23   says, other emission sources would be applicable  
to  
24   these operations. Other emission limitations fo  
r

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9  
1   VOMs also apply at the plant and the company is  
in  
2   compliance with all of those emission limitation  
s.  
3                   218.986 provided so far, as the assemb  
ly  
4   plant was concerned, two possible alternative me  
ans  
5   of compliance for these clean-up operations when  
it  
6   was determined that they applied to the clean-up  
7   operations. Based on Ford's investigation and a  
s

d  
8 demonstrated in the materials in the petition an  
Ford  
9 accompanying the petition, it was determined by  
10 that those two alternatives in 218.986 were not  
11 technically feasible or economically reasonable.

It

12 was also determined in that investigation that  
13 the --

e  
14 HEARING OFFICER FELTON: Could we go off th  
15 record just for a second?

16 MR. ZABEL: Sure.

ion  
17 (Whereupon, a discuss  
18 was had off the reco  
rd.)

d  
19 MR. ZABEL: As I was saying, Ford determine  
20 that the two alternate standards that were avail  
able  
21 to it under 218.986 were not economically feasib  
le  
22 or technically reasonable, and also determined t  
hat  
23 when that regulation was promulgated, the kinds  
of  
24 clean-up operations involved in Ford's petition  
here

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1 had not been considered in the adoption of the r  
ule.  
2 I suspect they hadn't even thought of it at the  
time  
3 that rule was adopted. As a result, Ford determ  
ined  
4 to proceed under Section 28.1 of the Illinois  
te  
5 Environmental Protection Act and seek an alterna  
6 standard to the ones in 218.986, and that is the  
7 purpose of the petition here, which was filed on  
8 October 6th, 1999, docketed as AS 00-6.  
9 October 18th, according to the Board's  
10 rules, notice of the petition was published in t  
he  
11 Chicago Tribune and the certificate of publicati  
on  
12 was filed with the Board on October 21st. I'm n

ot

13 going to reiterate the specific alternate standa  
rd,  
14 as it's detailed and complex, necessarily so bec  
ause  
15 we're dealing primarily with work standards for  
16 controlling the VOMs from these, what are somewh  
at,  
17 sporadic operations of clean-up. They are set f  
orth  
18 from pages 11 to 13 in the petition. They deal  
with  
19 limiting those VOM emissions, monitoring the  
20 compliance with a limitation so that the Agency  
will  
21 have the information to determine the compliance  
as  
22 being met.

23 On a related track, the same issue has  
24 been raised and dealt with before the United Sta  
tes

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trol  
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or

1 Illinois Environmental Protection Agency. Throu  
2 it's enforcement authority, Ford Motor Company a  
3 USEPA reached an agreement, which was reflected  
4 consent decree entered in federal court here in  
5 Chicago in February of 1997. The requirements o  
6 that federal decree are identical to the alterna  
7 standard proposed to the Board here. The  
8 fundamental affect of the alternate standard her  
9 will, of course, be pollution prevention and con  
10 of the VOM emissions from these clean-up sources

11 In addition, unlike the existing rule,  
12 from which an alternate standard is sought, the  
13 proposed alternate standard sets an annual cap f  
14 the facility on emissions of VOM.

15 Finally, these emissions are virtually  
16 non-discernible in their impact on the air quali  
ty

17 in the area. If we took the 81 percent rule, wh  
ich  
18 is one of the alternatives in 218.986, the initi  
al  
19 difference would be something on the order of  
20 seven-tenths of one percent of the VOM emissions  
in  
21 the Chicago region.  
22 I would note that the Illinois EPA fil  
ed a  
23 recommendation favoring the grant of this, which  
has  
24 not been allowed to be filed as of this morning.

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1 My -- we have no objections and no problems with  
the  
2 recommendation with one slight qualification. T  
here  
3 is a related pending permit appeal and we would  
4 withdraw that permit appeal as suggested by the

w  
5 Agency, but we would prefer to do it once the ne  
6 permit is granted rather than merely when --  
7 assuming the Board grants the adjusted standard  
as  
8 suggested by the Agency. It simply leaves a gap  
in  
9 the coverage if we withdraw it upon the grant of  
an  
10 adjusted standard, but not with a new permit in  
11 hand.

12 I think that will conclude my opening  
13 remarks. The extensive evidence that was submit  
ted  
14 with the petition was submitted under oath by  
15 Mr. Baguzis, who is with us today, so I don't in  
tend  
16 to have to tender him -- I will tender him as a  
17 witness if anyone has questions for him. I woul  
d be  
18 happy to do that, but I think it would be  
19 unnecessary to clutter the Board's records simpl  
y  
20 reiterating what has already been submitted unde  
r  
21 oath, and with that I have nothing further, mada  
m  
22 hearing officer.

23 HEARING OFFICER FELTON: Thank you very muc  
h,

24 Mr. Zabel. I just note for the record that one

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1 member of the public has joined us during  
2 Mr. Zabel's opening statement and he is Karl Kar  
g of  
3 the United States Environmental Protection Agenc  
y.

4 Now we'll proceed with the IEPA's open  
ing  
5 statement if they have any.

6 MS. WILLIAMS: Yes. I just have a few brie  
f  
7 remarks for the administrative record. My name  
is  
8 Debbie Williams and I'm assistant counsel for th  
e  
9 Bureau of Air at the Illinois EPA, and today I'm  
10 representing the Agency in this matter -- in the

11 matter of petition of Ford Motor Company for an  
12 adjusted standard from 35 Illinois Administrativ  
13 Code 218.986.

14 The Board's procedural rules require t  
15 Agency to file a response to each adjusted stand  
16 petition that's presented to the Board. This  
17 process enables the Agency to present the Board  
18 the technical information necessary to facilitat  
19 the Board's rendering of a final determination.

20 my left is Chris Romaine of the permit section o  
21 the Bureau of Air and the Agency has brought  
22 Mr. Romaine today as our technical witness to  
23 provide a brief statement in support of our resp  
24 and to answer any lingering questions the Board

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rd  
1 have regarding this petition for adjusted standa  
2 and the Agency's response.

ord  
3 As the Agency's response states, we  
4 recommend that the Board grant the petition of F  
5 Motor Company for an adjusted standard for its  
6 solvent cleaning operations, which are subject t  
o 35  
7 Illinois Administrative Code 218.986, subject to  
8 certain conditions, which have been agreed to by  
the  
9 parties.

the  
10 There is one additional condition that  
11 Agency included in its response and that is that  
the  
12 Board conditioned the effectiveness of any adjus  
ted  
13 standard granted in this case in a withdrawal by  
the  
14 petitioner of its permit appeal in -- permit app  
eal  
15 docketed as PCB 93-32.

16 In developing its response, which was  
17 officially filed today, the Agency applied the  
18 factors contained in Section 28.1 of the  
19 Environmental Protection Act to determine whethe  
20 adjusted standard is warranted in this case.

r an

21 The first two of those factors looked  
22 whether the factors related to the petitioner ar  
23 substantially or significantly different from th  
24 contemplated by the Board, and whether these fac

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1 justify an adjusted standard.

2 The record demonstrates that there is

no

3 specific control technology guideline rule which

4 applies to Ford's solvent cleaning operations, a

nd

5 therefore, these processes are subject to Subpar  
t  
6 TT, Part 218, which applies to other emission ne  
eds.

7 From a technical standpoint, the Agen  
cy  
8 has stated that it agrees with the petitioner's  
9 contention that the solvent cleaning processes  
10 conducted by Ford were not contemplated by the B  
oard  
11 in adoption of this general miscellaneous provis  
ion.

12 With regards to the third factor of  
13 environmental harm and whether this was the type  
14 contemplated by the Board in developing the gene  
ral  
15 rule as stated by the petitioner, Subpart TT  
16 requires 81 percent overall efficiency in reduct  
ion  
17 of VOMs.

18 The record shows that Ford is unable t  
o  
19 meet this overall reduction in a technically  
20 feasible way. However, Subpart TT only requires  
81  
21 percent reduction from total emissions with no



22 limitation on how high the total emissions can r  
ise  
23 to. Whereas, in the petition for adjusted stand  
ard,  
24 Ford has voluntarily agreed to a cap on its

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1 emissions of 390 tons of VOM per year from its  
2 solvent cleaning processes.

3 The Agency feels this cap will protect  
4 against future environmental harm in the Chicago  
5 zone not retained in areas beyond that provided  
by  
6 law.

7 And finally, today's hearing is necess  
ary  
8 to fulfill the fourth requirement of 28.1 of the  
9 Act, which is that this adjusted standard be  
10 consistent with federal law.

11                   In order to be consistent with federal  
12 law, this adjusted standard must be approved by  
13 USEPA as a revision to the state implementation  
plan  
14 for Illinois or also known as SIP.

15                   Section 110 of the Clean Air Act requi  
res  
16 that a properly noticed public hearing be conduc  
ted  
17 on all SIP revisions.

18                   As the adjusted standard language in  
19 Ford's proposal closely tracks the language in a  
20 consent decree agreed to by Ford and USEPA, it i  
s  
21 likely that USEPA will approve a similar adjuste  
d  
22 standard when submitted by the Illinois EPA.

23                   In conclusion, the Illinois EPA recomm  
ends  
24 that the Board grant Ford an adjusted standard f  
rom

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s at  
1 35 Illinois Administrative Code 218.986 to Ford  
2 Motor Company for its solvent cleaning operation  
3 its Chicago assembly plant with the conditions  
4 stated. Thank you.

5 HEARING OFFICER FELTON: Thank you.

6 Mr. Karg, did you have any opening  
7 statement or anything you wanted to present?

8 MR. KARG: I don't have any remarks at all.

9 Thank you.

10 HEARING OFFICER FELTON: Okay. That's fine

11 Thank you very much.

for  
12 Now, we will just proceed with -- just  
13 the sake of formality here with -- back to the  
14 petitioner, is there any other additional commen  
ts  
15 or testimony they would like to present?

16 MR. ZABEL: Just to be clear, we don't obje  
ct  
17 to the additional condition on the dismissal of  
the

We 18 permit appeal. It was only a question of time.

19 certainly intend to do that once the -- if the  
20 standard is granted and a new permit is issued  
21 reflecting the standard. I have nothing else.

very 22 HEARING OFFICER FELTON: Great. Thank you

23 much.

If 24 Now we'll proceed back to the Agency.

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mony 1 they have any other additional comments or testi  
2 they would like to present in regards to this  
3 particular adjusted standard petition.

d 4 MS. WILLIAMS: I believe Chris Romaine woul  
5 like to make a brief statement.

6 HEARING OFFICER FELTON: Thank you. Please  
7 proceed, Mr. Romaine.

8 (Witness sworn.)

9 MR. ROMAINE: Good afternoon. My name is  
10 Christopher Romaine. I work for the Illinois EP  
11 the air permit section. Even though I work in t  
12 permit section, I was involved in Illinois' rule  
13 making for volatile organic material emissions i  
14 the late '80s and early 1990s. This included th  
15 Illinois EPA's oversight of USEPA's development  
16 its federal implementation plan for the Chicago  
17 area. This federal implementation plant or FIP  
18 the foundation in Illinois' subsequent adoption  
19 Part 218, Subpart TT, which is the rule that we  
20 discussing today.

21 Subpart TT is certainly the newest of  
22 Illinois' generic rules for volatile organic  
23 material emissions that establishes reasonably  
24 available control technology. We have other rul

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1 in operations and categories specific, but Subpa  
2 TT is generic in that it is sort of a catchall f  
3 everything that is not otherwise subject to  
4 requirements for reasonably available control  
5 technology.

6 As applied to Ford Motor Company's sol  
7 clean-up operations, I am not aware personally o  
8 any specific consideration that was given to its  
9 operations when Subpart TT was developed.

10 Accordingly, I think it would be  
11 reasonable to adopt an adjusted standard which  
12 specifically considers the nature of Ford's  
13 operations when establishing what reasonably  
14 available control technology is, and in addition

al  
if  
irst  
15 Ford clean-up operations volatile organic materi  
16 emissions are best minimized by work practices,  
17 those are feasible and effective, to prevent  
18 emissions of volatile organic materials in the f  
19 place.

er  
for  
h.  
20 For that background, I am here to answ  
21 further questions that might be made as a basis  
22 the Agency's recommendation. Thank you very muc

h,  
23 HEARING OFFICER FELTON: Thank you very muc  
24 Mr. Romaine.

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1 Does anyone have any questions for  
2 Mr. Romaine?  
3 MR. ZABEL: No questions.

you.

4 HEARING OFFICER FELTON: All right. Thank  
5 That concludes, I presume, your comments on beha  
6 of the Agency. Thank you very much, Mr. Romaine

lf

.

t

nt

7 Now we will proceed with whether or no  
8 anyone has any other additional comments they wa  
9 to make with regard to this adjusted standard  
10 petition, and if not --

can

nt

11 MS. WILLIAMS: Maybe just for the record I  
12 ask Sheldon, I think you had said that the conse  
13 decree was entered into in February, 1997?

e

14 MR. ZABEL: February 10th, 1997, is when th  
15 judge signed the order. I think it's -- it is  
16 actually pending --

ybe

17 MS. WILLIAMS: I was wondering if really ma  
18 that was an error and it's February, '98?

19 MR. ZABEL: No, I think --

in

20 MR. BAGUZIS: There was a typo in there --



was  
t  
ge,  
21 the order. It was -- there was some stuff that  
22 signed in '97, earlier in the year like in August  
23 and put -- by the time it finally got to the judge,  
24 it was '98. I believe you're correct.

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--  
1 MR. ZABEL: Yeah, that is correct past the  
2 you're quite right. Thank you.

3 HEARING OFFICER FELTON: So the date is  
4 February --

5 MR. ZABEL: Tenth, 1998. It had been left  
6 blank, as you can imagine forms are, and it had  
7 been filled in, but the year had been typed.

8 HEARING OFFICER FELTON: Okay. Great. Thank  
9 nk  
10 you for that clarification.

10 Any other comments that anyone else would

uld

ng

t

ard

dard

11 like to make with regard to this petition? Seei  
12 as there are none, we will actually proceed with  
13 closing statements, but before we do that, I jus  
14 thought I'd inquire whether or not there are any  
15 other motions, any other matters you want the Bo  
16 to consider when deliberating this adjusted stan  
17 petition?

18 MR. ZABEL: Nothing for Ford.

19 HEARING OFFICER FELTON: Okay.

20 MS. WILLIAMS: The Agency has nothing else  
21 either.

22 HEARING OFFICER FELTON: All right. If the  
23 parties would like to make closing statements?

24 MR. ZABEL: I think I'll waive closing

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s on

1 statements. I said all I think we need to say i  
2 the record.

As

3 HEARING OFFICER FELTON: Great. Thank you.  
4 well for the Agency, they will waive?

5 MS. WILLIAMS: Same here.

to

6 HEARING OFFICER FELTON: Good. That seems  
7 me -- unless anyone else has any other comments  
--

8 we're going off the record just for a second.

ion

9 (Whereupon, a discuss

rd.)

10 was had off the reco

he

11 HEARING OFFICER FELTON: We'll go back on t

12 record. The transcript in this matter will be

13 available on or about February 8th, 2000. It

o me

14 appears from what the parties have represented t

ed

15 while we were off the record that they have waiv

16 their posthearing briefing schedule or formal

17 posthearing briefing schedule in this matter.

18 Accordingly, I will establish a brief

19 public comment period of 14 days after the

20 availability of the transcript. Therefore, the

21 record in this matter will close on February 22n

d,

22 2000.

23 The transcript in this matter will be

24 available on February 8th, 2000, as I mentioned

and

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23

1 will also be accessible by way of our Board's we

b

2 site at [www.ipcb.state.il.us](http://www.ipcb.state.il.us).

3 The parties here are not precluded fro

m

4 filing any comments as well during that time fra

me

5 if they decide that they wish to do so.

6 The mailbox rule as set forth at 35

.144

7 Illinois Administrative Code 101.102 (d) and 101  
8 (c) will apply to all posthearing filings. All  
9 posthearing comments must be filed in accordance  
10 with Section 102.320 of the Board's procedural  
11 rules.

12 Again, I state that the record in this  
13 matter will close on February 22nd, 2000. Okay.

ess

14 Any other matters that we have to addr  
15 with regard to this petition?

16 MR. ZABEL: None that I'm aware of.

17 MS. WILLIAMS: No.

e, I

18 HEARING OFFICER FELTON: Great. Seeing non  
19 thank all of you for your participation and  
20 attendance today. Have a great day.

21 MR. ZABEL: Thank you.

22 HEARING OFFICER FELTON: Thank you.

23 MS. WILLIAMS: Thank you.

24 (No further proceedings were had.)

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1 STATE OF ILLINOIS )  
 2 ) SS.  
 3 COUNTY OF C O O K )

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5

6 I, TERRY A. STRONER, CSR, do  
 7 hereby state that I am a court reporter doing  
 8 business in the City of Chicago, County of Cook,

and

9 State of Illinois; that I reported by means of  
 10 machine shorthand the proceedings held in the  
 11 foregoing cause, and that the foregoing is a tru

e

12 and correct transcript of my shorthand notes so  
 13 taken as aforesaid.

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Terry A. Stroner, CSR

18  
, Illinois

Notary Public, Cook County

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