

BEFORE THE ILLINOIS POLLUTION CONTROL BOARD

WHITE CAP, INC.,)
)
 Petitioner,)
)
 vs) PCB96-191
)
ILLINOIS ENVIRONMENTAL)
PROTECTION AGENCY,)
)
 Respondent.)

The following is a transcript of a hearing held in the above-entitled matter, taken stenographically by LORI ANN ASAUSKAS, CSR, RPR, a notary public within and for the County of Cook and State of Illinois, before Michael L. Wallace, Chief Hearing Officer, at 100 West Randolph Street, Room 11-500, Chicago, Illinois, on the 17th day of July, 1996, A.D., commencing at the hour of 10:30 a.m.

1 HEARING TAKEN BEFORE:

2 ILLINOIS POLLUTION CONTROL BOARD,
3 600 South Second Street
4 Suite 402
5 Springfield, Illinois 62704
6 (217) 524-8507
7 BY: MR. MICHAEL L. WALLACE,
8 CHIEF HEARING OFFICER,

9 APPEARANCES:

10 GARDNER, CARTON & DOUGLAS,
11 Quaker Tower
12 321 North Clark Street
13 Suite 3100
14 Chicago, Illinois 60610-4795
15 (312) 644-3000
16 BY: MS. TRACEY L. MIHELIC,

17 Appearing on behalf of the Petitioner,
18

19 ILLINOIS POLLUTION CONTROL BOARD,
20 Division of Legal Counsel - Assistant Counsel
21 Bureau of Air
22 2200 Churchill Road
23 P.O. Box 19276
24 Springfield, Illinois 62794-9276
(217) 524-3333
BY: MS. CHRISTINA L. ARCHER,

Appearing on behalf of the Respondent.

ALSO PRESENT:

19 Mr. Ralph L. Fasano, White Cap, Inc.
20 Mr. Gary Beckstead, Illinois Environmental
21 Protection Agency
22 Mr. Kevin Matteson, Illinois Environmental
23 Protection Agency
24 Ms. K.C. Poulos

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1 THE HEARING OFFICER: Pursuant to
2 the direction of the Illinois Pollution Control
3 Board, I now call Docket PCB96-191. This is
4 the petition of White Cap, Inc. versus Illinois
5 Environmental Protection Agency seeking a
6 variance.

7 May I have appearances for
8 the record, please, for the Petitioner?

9 MS. MIHELIC: The petitioner is
10 Tracey Mihelic appearing for White Cap Inc.,
11 from Gardner, Carton & Douglas, and Ralph Fasano,
12 manager of Environmental Affairs for White Cap,
13 Inc.

14 THE HEARING OFFICER: For the agency?

15 MS. ARCHER: I am Christina Archer,
16 assistant counsel for the Bureau of Air for the
17 respondent, IEPA. With me is Kevin Matteson,
18 environmental protection engineer from the agency,
19 and Mr. Gary Beckstead from the agency.

20 MR. BECKSTEAD: I'm from the air
21 quality planning section, environmental engineer.

22 THE HEARING OFFICER: All right.
23 Thank you.

24 Let the record reflect there

1 are no other appearances at today's hearing and
2 there are no members of the public present.

3 Are there any preliminary
4 matters, Ms. Mihelic?

5 MS. MIHELIC: Not at this time.

6 MS. ARCHER: I do have an oral
7 motion to amend the agency's recommendation,
8 which is just a minor change.

9 THE HEARING OFFICER: All right.

10 MS. ARCHER: In Paragraph 17 of
11 the agency's recommendation, we reported that
12 White Cap had 236 tons per year of VOM in its
13 1995 annual emission report. That number should
14 be 127 tons per year. The 236 tons per year was
15 from 1994.

16 THE HEARING OFFICER: Any objection
17 to that?

18 MS. MIHELIC: No objection.

19 THE HEARING OFFICER: All right.
20 Paragraph 17 will be amended to show -- you said
21 127 tons per year?

22 MS. ARCHER: Correct.

23 THE HEARING OFFICER: All right.

24 Any other preliminary matters?

1 MS. ARCHER: No.

2 (Ms. Poulos entered
3 the proceedings.)

4 THE HEARING OFFICER: Witnesses?

5 Yes. Okay.

6 MS. MIHELIC: I'm going to -- before
7 we swear in the witnesses, I'm going to give a
8 brief opening as to what we are objecting to under
9 the agency's recommendation.

10 It's my understanding they
11 were to make a motion at this point that the
12 only outstanding dilemma between the agency and
13 White Cap is the date of termination of the
14 variance. All of the underlying facts have
15 been agreed to except for, right at this point,
16 the date of the termination of the variance
17 and that's all we will be discussing at this
18 point in time.

19 THE HEARING OFFICER: Only the date
20 of termination?

21 MS. MIHELIC: Yes.

22 THE HEARING OFFICER: Okay.

23 MS. ARCHER: That's correct.

24 THE HEARING OFFICER: Okay.

1 MS. ARCHER: And some brief testimony
2 for the board's benefit of the background.

3 THE HEARING OFFICER: All right.
4 If you wish to make an opening statement, please
5 proceed.

6 O P E N I N G S T A T E M E N T

7 by Ms. Mihelic

8 White Cap, Inc. is a coats/metal
9 closures for jars company. White Cap, Inc.
10 initially applied for variance several years
11 ago. White Cap, Inc. is requesting an extension
12 of a previous variance; specifically, PCB94-93.
13 The same facts set forth in the previous variances
14 and the board's order granting those variances
15 apply.

16 White Cap simply cannot comply
17 with the capture efficiency test methods set forth
18 in Sections 218.207, 218.105, and 218.105(b) and
19 (c)(2), specifically.

20 Since the last variance was
21 granted, U.S.EPA has approved new test methods
22 for capture efficiency. Specifically, in February
23 of 1995, John Seitz issued a guidance memorandum
24 setting forth revisions to the current temporary

1 total enclosure contract on capture efficiency
2 methods and issuing guidance on the approval
3 by the state of two alternative test methods;
4 specifically, the data quality objective test
5 method, which is referred to as a DQO test
6 method, and the LCL test method, which is the
7 lower competence level test method.

8 These two specific alternative
9 test methods do not require the temporary total
10 enclosures of the coating lines during the test
11 methods or the use of rooms as temporary total
12 and permanent total enclosures.

13 On Page 4 of the guidance
14 memorandum, EPA does refer to minor revisions
15 of the temporary total enclosure test methods
16 previously issued and incorporated into the
17 Illinois raptures, but it does identify the
18 two new methods; the DQO and LCL alternative
19 test methods.

20 Because there are new test
21 methods available, White Cap is requesting,
22 in this variance, a variance from the current
23 regulations until there is a SIP revision
24 incorporated into the alternative test methods.

1 Any SIP revision must be approved obviously by
2 the U.S.EPA.

3 White Cap could use the
4 alternative test efficiency test methods to
5 demonstrate compliance on its existing lines
6 that are not permanently totally enclosed.

7 Since the last variance
8 was entered, White Cap has modified some of
9 its coating lines so that four of the lines
10 are now removed and they have been replaced
11 with two permanently totally enclosed lines.
12 Ralph Fasano will testify to that later on
13 in this hearing.

14 White Cap has -- since
15 the variance hearing, White Cap has also
16 entered into a consent agreement with the
17 U.S.EPA on December 5th of 1995. That consent
18 agreement is attached as an exhibit from the
19 petitioner.

20 White Cap negotiated in good
21 faith the conditions of that consent agreement.
22 The consent agreement requires White Cap to
23 conduct capture efficiency tests pursuant to
24 Illinois' rules or pursuant to alternative

1 methods approved in Illinois' SIP.

2 Specifically, we're referring
3 to the alternative methods set forth in the
4 guidance memorandum of February 7, 1995, and
5 conduct these tests by November of 1998.

6 Basically, White Cap is
7 inquiring today that the variance, therefore,
8 from the current Illinois regulations extend
9 to November of 1998.

10 White Cap is saying that
11 U.S.EPA -- basically, IEPA has relied upon
12 U.S.EPA's guidance in promulgating past test
13 methods and current test methods and is
14 requesting that IEPA continue to rely upon
15 U.S.EPA's guidance regarding the amount of
16 time necessary for White Cap to conduct these
17 tests.

18 White Cap today is especially
19 requesting the board to defer to U.S.EPA's
20 guidance as set forth in the consent agreement
21 regarding the amount of time necessary for
22 White Cap to come into compliance under the SIP
23 revision using the alternative DQO or LCL test
24 methods and that time frame being November of

1 1998.

2 The time frame set forth in
3 the consent agreement is reasonable, the November
4 1998 deadline for White Cap to conduct the tests,
5 because the test methods first must be approved
6 as a SIP revision to Illinois' regulations.

7 Second, we have no control
8 over the approval of that as a SIP revision
9 and the time frame that it will take. Typically,
10 in the past, these have taken between one to one
11 and a half years to obtain approval of the SIP
12 revision. It is our understanding that the
13 agency intends to submit the variance as a SIP
14 revision to the U.S.EPA.

15 Again, we have no control
16 over as to when the agency will submit that
17 variance as a SIP revision or when it will
18 be approved.

19 Accordingly, the schedule
20 set forth in the SIP revision is reasonable
21 assuming that you obtain approval of the test
22 methods within the next year or year and a
23 half as a SIP revision that allows White Cap
24 sufficient amount of time to conduct the tests

1 and then submit the test results to the agency
2 for their review approximately anywhere from
3 nine months to one year.

4 The basic dilemma there is
5 that -- the basic dilemma with the agency today
6 is regarding the interpretation of whether or
7 not the alternative test methods must be
8 incorporated in a SIP revision. Specifically,
9 Section 218.108(b) of Illinois' air pollution
10 regulations provide for exemptions, variations,
11 and alternative means of control or compliance
12 with the previous rules set forth in Section
13 218.

14 There is a three -- specifically
15 referring to 218.108, as set forth in the board's
16 recommendation, the agency has stated that it may
17 allow the use of the alternative test methods if
18 they are set forth either in the SIP revision or
19 in a federally enforceable permit.

20 It is White Cap's position
21 that the use of a federally enforceable permit
22 is not sufficient to satisfy the requirements
23 of Section 218.105, which sets forth the tests --
24 capture efficiency test requirements.

1 Specifically, 218.108(b)
2 requires in order for a company to use an
3 alternative means of control or compliance
4 determination, the agency must approve the
5 alternative test methods. It is our understanding
6 today that the agency, in their recommendation,
7 has approved the use of the alternative test
8 methods. That prong is met.

9 The second prong is that the
10 rules allow for the use of an alternative method.
11 So in that sense, we would be referred back to
12 Section 218.105(c)(2), which sets forth the
13 capture efficiency test methods for the coating
14 lines at White Cap's facilities.

15 Section 218.105(c)(2) only
16 allows for the use of alternative methods if
17 they are contained in a SIP revision. There
18 is no inclusion in Section 218.105 for the use
19 of an alternative method if it's incorporated
20 into a federally enforceable permit.

21 Accordingly, it is White
22 Cap's position that in order to use the alternative
23 test methods, those alternative test methods must
24 be incorporated in a SIP revision at the time

1 that White Cap conducts its tests.

2 Accordingly, White Cap needs
3 a SIP revision allowing the use of the alternative
4 capture efficiency control methods at the time
5 that it conducts the actual tests and additional
6 time to allow for agency review of those tests
7 results.

8 So White Cap is saying that
9 although the agency is submitting the variance
10 added SIP revision, the variance needs to extend
11 for a sufficient amount of time to allow for the
12 approval of the revision, the testing of the
13 coating lines that exist at that time, which do
14 not have permanent total enclosures, and time
15 for IEPA to review the test results.

16 As we stated earlier, during
17 good faith negotiations with U.S.EPA, U.S.EPA
18 believed that a reasonable amount of time to
19 conduct such tests, obtain the SIP revision,
20 conduct such tests, and submit them for review
21 and approval would be November of 1998.

22 In addition, Ralph Fasano
23 is going to get into this today, White Cap is
24 undergoing a modernization program at its

1 facility in Chicago, Illinois. Specifically,
2 it is replacing, as we have stated in our
3 petition, its coating lines that exist today
4 which do not have permanent and total enclosures
5 with coating lines that have permanent and total
6 enclosures.

7 The modernization program is,
8 in essence, to enhance the efficiency of White
9 Cap's operations. White Cap has already begun
10 the modernization program by taking out four
11 lines and, as Ralph will testify, a number of
12 oxidizers. We intend at this time to complete
13 that modernization program by November of 1998
14 barring any other problems encountered with the
15 addition of the lines or the approval by the
16 company of continuing the modernization program.

17 Accordingly, if the variance
18 is extended until November of 1998, it may not
19 be necessary for White Cap to expend a considerable
20 amount of money conducting capture efficiency
21 tests.

22 In addition, the emissions
23 from White Cap's facility with this modernization
24 program will significantly decrease, as Ralph

1 Fasano will go into later.

2 Accordingly, at this time
 3 White Cap is requesting that the board respectfully
 4 defer back to U.S.EPA's consent agreement, grant
 5 an extension of current variance, which requires
 6 White Cap basically -- requires an exemption from
 7 the current control test methods, granting the
 8 variance allowing White Cap to use the alternative
 9 test methods and conduct such tests as long as
 10 there is a SIP revision approved by the U.S.EPA
 11 approving this test method by November of 1998.

12 In the alternative, White Cap
 13 requests that the board grant this variance until
 14 it meets the schedule, which is subsequently set
 15 forth in a Title V permit or a Clean Air Act Permit
 16 Program permit for which White Cap has submitted
 17 an application and complies with the schedule set
 18 forth in that permit for conducting such tests
 19 and allowing time for agency review, whichever
 20 time period is earlier.

21 White Cap is also requesting
 22 today the board to interpret Section 218.108(b)
 23 as applied to Section 218.105(c)(2) after any
 24 subsequent agreement between the agency and White

1 Cap with respect to these provisions.

2 Accordingly, that dilemma goes
3 back to whether or not a SIP revision is needed
4 or it will be sufficient to have these requirements
5 set forth in a federally enforceable operating
6 permit. At this time, Ralph Fasano will speak on
7 the modernization program and the decrease in
8 emissions based on his modernization program.

9 THE HEARING OFFICER: I think before
10 we get into that, Ms. Archer, do you have an opening
11 statement?

12 MS. ARCHER: Yes, I do.

13 THE HEARING OFFICER: Okay.

14 O P E N I N G S T A T E M E N T

15 by Ms. Archer

16 Ms. Mihelic and Mr. Hearing
17 Officer, as is well realized by now, the purpose
18 of a variance is to get a source into compliance.
19 It's the agency's duty and obligation to see
20 that this is done as soon as possible.

21 White Cap is a major source
22 of air pollution in the Chicago non-attainment
23 area. White Cap is requesting an extension of
24 its variance that was granted in PCB94-93 until

1 November 10, 1998.

2 By way of short background,
3 as Ms. Mihelic has already gone into a little
4 bit, U.S.EPA placed a moritorium on capture
5 efficiency testing on March 20, 1992, so it can
6 re-evaluate the test methods of temporary total
7 enclosure as a way to measure the effectiveness
8 of VOM control devices.

9 These methods had previously
10 been incorporated into the Chicago Federal
11 Implementation Plan and also the Illinois State
12 Implementation Plan.

13 Specifically, in PCB94-93,
14 the board did find for White Cap that there
15 was an arbitrary or an unreasonable hardship
16 to perform the capture efficiency testing based
17 upon the test methods that were on the books
18 already because these methods were under review
19 by the U.S.EPA.

20 The agency agrees that the
21 current design of the facility of White Cap
22 also would make it a hardship for White Cap
23 to perform capture efficiency testing based
24 on the then existing test methods.

1 On February 10, 1995, U.S.EPA
2 lifted this moratorium and proposed seven revised
3 test methods for temporary total enclosure.
4 These really are not new test methods. They
5 are just revised from the seven procedures
6 that are already contained in the Illinois SIP.

7 The U.S.EPA also proposed two
8 new alternative methods, which were the DQO and
9 the LCL, as Ms. Mihelic referred to. It's the
10 agency's understanding that White Cap does want
11 to use these alternative methods unless they
12 modernize their facility, that it is still not
13 feasible for White Cap to use revised TTE methods.
14 In fact, White Cap has worked closely with U.S.EPA
15 in developing alternatives.

16 On December 5, 1995, White
17 Cap entered into a consent agreement with U.S.EPA
18 to resolve issues related to the theft with regards
19 to capture efficiency testing. Under that consent
20 agreement, U.S.EPA gave White Cap until November 5,
21 1998, to perform capture efficiency testing on
22 those applicable lines.

23 Under Illinois' rules currently --
24 well, U.S.EPA stated that White Cap would have

1 until November 10, 1998, to perform the testing
2 or a SIP revision would be necessary for Illinois'
3 rules, whichever came first, under the testing
4 that would be allowed in Illinois' rules.

5 Under Illinois' rules, there
6 is no need to have the SIP revision. It's the
7 agency's position that these alternative methods,
8 the DQO and the LCL, are already provided for in
9 Illinois' rule Section 218.108(b).

10 There are two options under
11 218.108(b). One is the SIP revision, which is
12 what White Cap is arguing is necessary. The other
13 is part of the federally enforceable permit, which
14 is the agency's position, and no SIP revision would
15 be needed.

16 The agency's position is that
17 Section 218.108(b) supersedes and is more specific
18 than the requirements in Section 218.105(c)(2)
19 because language in Section 218.108(b) specifically
20 states notwithstanding any other provision of this
21 part.

22 The variance will be submitted
23 as a SIP revision to U.S.EPA. That will be enough
24 to satisfy White Cap's concerns with the SIP

1 revision. That's what the agency believes.

2 A SIP revision would be much
3 more work for the agency and for the board to do,
4 whereas White Cap would be -- this variance would
5 be the first step to get White Cap into compliance
6 to get their federally enforceable permit, which
7 in White Cap's case, is a Clean Air Act Permit
8 Program permit.

9 White Cap did apply for its
10 cap on January 7th. Actually, I think it was
11 December 7, 1995. The agency found this
12 application to be complete on January 12, 1996.

13 Once the capture efficiency
14 methods are contained in the federally enforceable
15 permit, White Cap may use alternate testing. It
16 would just be a matter of doing the testing
17 pursuant to the permit.

18 Like I said before, the
19 variance would be the first step to get White
20 Cap into compliance. It would be a means to get
21 White Cap their federally enforceable permit
22 and then White Cap would do testing pursuant
23 to the permit.

24 It's the agency's commitment

1 to issue White Cap its Title V permit by August
2 15, 1997, which is consistent with the agency's
3 original position in this matter. That's well
4 over a year from now. The agency has already
5 been actively reviewing White Cap's permits.
6 I'm sure negotiations will be starting soon on
7 that.

8 There is insufficient
9 justification for White Cap to wait until
10 November 1998, due to the capture efficiency
11 testing. In fact, nothing in the consent decree
12 prohibits White Cap from doing this testing much
13 sooner.

14 Specifically, Paragraph 25
15 of the consent decree states that the consent
16 decree does not prohibit White Cap -- in effect,
17 White Cap has to comply with all of their state,
18 local, and federal rules.

19 Section 218.108(b) is a state
20 rule. It's been adopted by the board and there
21 is no need for a SIP revision when this variance
22 will last only until White Cap's Title V permit
23 is issued. However, understanding that today,
24 the agency realizes that there is an arbitrary

1 or unreasonable hardship and this would only
2 last until White Cap's Title V is issued.

3 Like I said, the agency is
4 going to expedite White Cap's Title V permit
5 and get that done by August 15, 1997. The agency
6 believes there is minimal environmental impact
7 by the granting of this variance. White Cap has
8 already taken many steps to minimize the impact
9 already. It has replaced four of its lines with
10 two new lines that are using permanent total
11 enclosure and they do anticipate to replace
12 the rest of their lines.

13 This variance would be consistent
14 with federal law. The SIP approval is proceeding on
15 track pursuant to Section 218.108(b). The agency
16 anticipates no problems with this. It has been fully
17 approved by the U.S.EPA.

18 So it's the agency's position
19 that Section 218.108(b) would allow White Cap to
20 obtain its federally enforceable permit and allow
21 for the capture efficiency testing under this permit.
22 This agency believes that this can be done by August
23 15, 1997.

24 The agency will submit this

1 variance as a SIP revision and White Cap will do
2 the testing under the cap permit. The testing --
3 if there are any applicable lines remaining at
4 that time, the testing should be done way before
5 November of 1998.

6 Mr. Matteson will testify that
7 a generous time frame, once the cap is issued,
8 would be 90 days to do the testing. So the agency
9 anticipates if everything proceeds on schedule,
10 the capture efficiency testing on any applicable
11 lines could be completed by December 1997, almost
12 a year before what U.S.EPA is giving White Cap.

13 There is no need for the board
14 to defer to U.S.EPA when under the board's rules
15 currently, White Cap can do the testing much sooner.

16 Thank you.

17 THE HEARING OFFICER: Okay. Are
18 you ready with your witness?

19 MS. MIHELIC: Yes.

20 THE HEARING OFFICER: Will you raise
21 your right hand?

22 MR. FASANO: Yes.

23 (Witness sworn.)

24 THE HEARING OFFICER: You may proceed.

1 MS. MIHELIC: I will not be asking
2 direct questions to the witness. He is simply
3 going to be giving a prepared summary of his
4 testimony.

5 THE HEARING OFFICER: All right.
6 Now, will he at least -- well, does he have a
7 statement prepared?

8 MS. MIHELIC: No. He does not have
9 a statement prepared.

10 THE HEARING OFFICER: All right.
11 Please proceed.

12 MR. FASANO: Thank you.

13 WHEREUPON:

14 R A L P H L. F A S A N O ,
15 having been first duly sworn, deposeth and testifies
16 under oath as follows:

17 D I R E C T E X A M I N A T I O N

18 By Ralph Fasano

19 My name is Ralph Fasano. I'm the
20 manager of environmental affairs for White Cap.

21 THE HEARING OFFICER: Spell your last
22 name, please.

23 MR. FASANO: F--as in Frank--a-s--as in
24 Sam--a-n-o.

1 THE HEARING OFFICER: Thank you.

2 MR. FASANO: What I would like to
3 talk about is basically the manufacturing
4 modernization program that we are doing regarding
5 our litho operation in Chicago. It's something
6 I have been working on for many years with my
7 company to get approval toward.

8 In the past, we have been making
9 improvements on our control devices and improving
10 our emission control. As of the last couple of
11 years, we have also varied this program with a
12 production modernization program where we can
13 increase our efficiencies to be more effective
14 and cost effective for the company.

15 In so doing, we are planning
16 and are embarking on a program to completely
17 replace all equipment, all coating and printing
18 lines in the Chicago operation. We started back
19 in 1994.

20 We had what I will call twelve
21 lines; four print lines and eight coating lines
22 and seven catalytic oxidizers that controlled the
23 VOM emissions from those lines.

24 At the end of 1995, in November,

1 we removed four coating lines or one print line
2 and four coating lines. We replaced those with
3 two brand-new LTG coating lines. One actually
4 is a double print line and the other one is a
5 coating line.

6 Those two lines -- those two
7 new lines have permanent total enclosures and
8 enclosures of those lines. Those enclosures
9 will meet the EPA requirements for permanent
10 total enclosures, which will definitely mean
11 that capture efficiency testing will not be
12 required if it meets the requirements of the
13 TTE, meaning they have 100 percent capture.
14 We are working towards the design and completion
15 of those lines.

16 At the same time, we also
17 replaced four older oxidizers, four older lines,
18 and put in an ABB regenerative thermal oxidizer.
19 That oxidizer is supposed to get anywhere from
20 98 percent guarantee and I am anticipating
21 hopefully even more than that.

22 The program is approved.
23 It is part of our manufacturing strategy for
24 the next so many years; three, four or five

1 years. The replacement of these lines is
2 scheduled to happen and be complete in 1998.

3 We plan on removing four
4 more lines at the end of this year, if not
5 at the end, right there or maybe right in
6 the beginning of next year. As far as a
7 schedule, it looks like it's still on schedule
8 for the end of the year and then replacing
9 that with one more large line and then we
10 would have four lines left. The plans are
11 to try to remove those, remove two, add a
12 new one, remove two more, add a new one.

13 Like I said, we would
14 like to have this all completed by mid-1998.
15 We are still on schedule. We still have our
16 upper management -- the president and VPs
17 of manufacturing are still in favor of this
18 program. Our owners, SLW out of Germany,
19 have approved this modernization program.
20 It's part of a major example of a modernization
21 program. It's been approved, like I said.
22 Nothing has changed that yet. We are moving
23 forward.

24 My point here that I would

1 like to make is that in listening to the
2 attorneys discussing back and forth the
3 legalities of the SIP revision and everything,
4 to me, it becomes a moot point on capture
5 efficiency testing when looking at what we
6 are trying to do.

7 With this modernization program,
8 once completed, there will be no need for capture
9 efficiency testing on those existing lines because
10 they won't be there.

11 The idea of the modernization
12 program is not to -- not to try to have to
13 do capture efficiency testing. The modernization
14 program is two-fold in its purpose. It's for
15 the efficiency of our production so we can stay
16 effective and stay in Illinois; and stay a viable
17 company. Also, the emissions reduction and
18 environmental friendliness of these new lines
19 is going to be dramatic.

20 We are looking at approximately
21 an 80 percent reduction over the levels that we
22 have seen and maybe even more if we go back to
23 '94 and '93, maybe even higher than that. That's
24 based on my calculations, which I could work with

1 the -- any agency to discuss how those came about.

2 If anything, I think in talking
3 to the agency, if they disagree with some kind of
4 calculation and wanted it to be more later on -- I
5 mean, years ago, the emissions were higher. That
6 even makes this program a little bit more dramatic
7 because we have 100 percent capture. We have
8 modernized oxidizers, brand-new thermal oxidizers,
9 which then the net result is even possibly greater
10 than 98 percent reduction of emissions.

11 So from my standpoint as
12 environmental manager for the company, I have
13 spent a lot of time trying to convince my
14 organization in making changes. I also married
15 it with a production modernization program. We
16 realize that this has to be done. We realize
17 that environmentally, we have to do it correctly.
18 We have submitted our construction permit. We
19 realize it has to be a permanent condition. It
20 has to be permanent total enclosure. We understand
21 that. I mean, that's the way we want to do it.

22 We feel that we are moving
23 very well in trying to do things ahead of schedule
24 or that are not required at this point to reduce

1 emissions. We feel we were doing it ahead of the
2 game. When the VOM trading program comes down and
3 things are finalized in that area, White Cap feels
4 it will be able to meet all of those requirements
5 for all of those emission tests. In fact, we already
6 have met all of those.

7 When it gets to a point of
8 debate on SIP revision versus date versus should
9 we test or shouldn't we test, when I talk to
10 people in production, we talk about time and
11 costly capture efficiency testing, that could
12 be disruptive to production. There's a
13 possibility when interpreting these regulations
14 that we would have to shut the lines down to
15 do proper testing because we have multiple lines
16 feeding into single oxidizers.

17 It's not as clear-cut as one
18 line, one oxidizer. You have to test accordingly.
19 You can add a lot of screening on production and
20 you may lose time on other lines. It's not cost
21 effective. We are spending millions as it is to
22 improve these -- to change these lines out and
23 put in new controls.

24 For me to tell production we

1 have to do this and these lines are going to be
2 replaced within a short period of time, but it's
3 just a debate on when we should test on capture,
4 which to me, means nothing because in the future,
5 these lines will be gone.

6 If for some reason something
7 changes on this program and we still have an
8 existing line or two left, we will do that capture
9 efficiency testing. We are not trying to skirt
10 the issue of what we have to do. To me, it gets
11 to be a moot point on what we are trying to do
12 and the benefits we are doing environmentally to
13 get into a contest on worrying about a time of
14 having to do capture efficiency testing on lines
15 that will be replaced.

16 If the board can at least
17 keep that in mind in reviewing both sides of
18 this testimony on the legal side, I would
19 appreciate it.

20 Thank you.

21 THE HEARING OFFICER: Does that conclude
22 your statement?

23 MR. FASANO: Yes

24 THE HEARING OFFICER: Ms. Archer, do you

1 have any questions?

2 MS. ARCHER: I just have a few quick
3 questions of Mr. Fasano.

4 THE HEARING OFFICER: All right. You
5 may proceed.

6 C R O S S - E X A M I N A T I O N

7 by Ms. Archer

8 Q. Mr. Fasano, when did White Cap replace
9 the four old lines with the two new lines?

10 A. We started removing the lines, I
11 think, in November of 1995. It was last year.
12 The new lines are being installed in phases.
13 We are actually qualifying one of the lines.

14 Q. Okay. What is the status of those
15 lines now?

16 A. The coating line is operational.
17 The printing line is where we are running it,
18 but we still haven't qualified it with the
19 supplier, the vendor.

20 Q. When do you anticipate that the coating
21 line will be fully operational?

22 A. The print line?

23 Q. The print line. I'm sorry.

24 When do you anticipate that the

1 coating line will be fully operational?

2 A. We're hoping, but they have been
3 unsuccessful themselves, but we're hoping August,
4 next month, hopefully. I can't -- I'm not involved
5 in that aspect of it.

6 Q. Has White Cap performed construction
7 testing on the two new lines yet?

8 A. On that new oxidizer?

9 Q. Yes.

10 A. The reason being -- can I add something
11 on that?

12 Q. Sure.

13 A. The construction permit gives us 180
14 days from operation. Also, it was the Illinois
15 EPA's request that we wait until both lines are
16 operational to do this construction testing. We
17 have been doing that. I have been ready to try
18 and do construction testing, both in trying to
19 get the lines operational and the TTE's proper.

20 TTE's are proper from an EPA
21 standpoint. We are trying to get them
22 operator-friendly from an exposure standpoint, you
23 know, having people work it in, doing that, making
24 those modifications. Things are looking very

1 well. We have put back the destruction testing
2 schedule to accommodate problems we have been
3 having on those lines.

4 The oxidizers have been ready
5 to test, but trying to get the TTE verification
6 at the same time and redo an oxidizer test for
7 additional expense for no reason.

8 Q. You anticipate this will be later this
9 fall, September perhaps?

10 A. For?

11 Q. For everything, for the destruction
12 testing, for the oxidizer.

13 THE HEARING OFFICER: Wait for
14 her to finish the question before you
15 start.

16 BY MS. ARCHER:

17 Q. When do you anticipate to have the
18 testing completed on everything?

19 A. The destruction testing of the oxidizer,
20 the new oxidizer?

21 Q. Yes.

22 A. I'm hoping -- we are still trying
23 to target the end of this month, July 30th, unless
24 production demands are something changes. We may

1 have to move it a little bit into August, but it
2 looks like we are finally zeroing in on having
3 the correction of the lines ready. The oxidizer
4 has been running fine.

5 Q. Do you know once this testing is
6 done, the lines are fully operational, once you
7 get approval from the agency.

8 Is that how that works?

9 MS. MIHELIC: I object to the
10 vagueness of that.

11 MS. ARCHER: I'll try and
12 rephrase.

13 BY MS. ARCHER:

14 Q. Once you perform the destruction
15 testing, do the results go to agency for approval?

16 A. They go to the agency and to the
17 U.S.EPA.

18 Q. And at that point the lines are fully
19 operational?

20 A. There is a possibility that we may
21 still not even qualify the print line if they
22 have problems. The qualification of the print
23 line may not even be completed. We will be
24 running it, but it won't be meeting qualifications

1 on what the vendor said it could perform at such a
2 level of production. That is a different issue,
3 but we will be running that line. It will be
4 operational from, I believe, an agency standpoint
5 in that regard. But yes, the destruction testing
6 will be completed and the lines would be in
7 operation, yes.

8 Q. Okay. Now, when do you anticipate
9 that the printing line will meet the qualifications?

10 A. I'm hoping within a month or two.
11 It should be right now, but it's very hard to say.

12 Q. All right.

13 A. That's merely a production.

14 Q. Right.

15 MS. MIHELIC: I would like to
16 qualify or have the witness clarify
17 for the record that the qualification --

18 THE COURT: Wait. Do it on
19 redirect.

20 Finish up your questions.

21 BY MS. ARCHER:

22 Q. All right. You also testified that
23 White Cap plans to replace its remaining eight
24 lines, correct?

1 A. Yes.

2 Q. Your hope is this will be done by
3 1998, correct?

4 A. If I said hope, yes. I guess, yes.
5 I plan on it being done by 1998.

6 Q. Right. And four of the lines are
7 on schedule to be completed by the end of 1997?

8 A. Yes, or in 1997, yes.

9 Q. Then I don't think you stated time
10 frames for when the next two lines will be replaced
11 with one line, but would that be approximately
12 early 1998? That's the second stage, I guess it
13 would be.

14 A. The way the program is right now, we
15 would be removing four more lines at the very end
16 of this year and replacing those with one more --
17 one new line in, say, the first quarter of 1997.
18 In the last quarter of '97, we would remove two
19 more lines and start replacing with another fourth
20 new line.

21 The first quarter of '98 or
22 into that maybe even it spills a little bit over
23 into the second quarter, the way the schedule
24 is set right now, we wanted to go back-to-back.

1 So in the first quarter of
2 '98, we would remove the last two lines and
3 then start installing the final fifth brand-new line.

4 Q. So when everything is completed with
5 the permanent total enclosures, there will be five
6 new lines as compared to the twelve old lines?

7 A. Right. We have additional space so
8 that if we have to put in the sixth line, we have
9 that in case we needed it for future production
10 demands.

11 Q. Do you --

12 A. With all of this, we are not
13 anticipating any increased production. With
14 these new lines, we anticipate the same amount
15 of production or less. We expect no increase
16 in production.

17 Q. Given that, it's taken close to a
18 year to finalize everything with the four new
19 lines that are currently in place at White Cap.
20 Do you anticipate that you will run into the
21 same kind of problems with replacing the remaining
22 eight lines?

23 MS. MIHELIC: I object to the
24 question simply based upon your asking

1 for presumption. He is not able to
2 answer that.

3 THE HEARING OFFICER: Overruled.

4 BY THE WITNESS:

5 A. Okay. The reason we are having some
6 problems with these brand-new lines is because we
7 are working with the vendor to get these lines
8 performing the way they should be.

9 I do not feel there is any
10 problem getting to that point. Once we have
11 these first two lines running effectively,
12 the next lines will be much easier because
13 we will have already corrected all of the
14 problems and answered all of the questions.

15 So if anything, the third,
16 fourth and fifth lines will go much smoother
17 from a production operational standpoint.
18 They will come up online faster. Any
19 modifications we have had to tweak will be
20 made.

21 BY MS. ARCHER:

22 Q. So you anticipate that these were
23 just initial startup problems and that the
24 subsequent lines should run smoothly?

1 A. Subsequent lines will run better
2 than these as far as the startup.

3 Q. Do you know if the production levels
4 at White Cap have been consistent over the last
5 several years?

6 A. Pretty much except for 1995. Last
7 year, there was a lockout situation with the
8 union, the printers' union and White Cap, which
9 affected things. Actually, it was for most of
10 the year. So we did ship some materials out.
11 We had our coating and printing and litho
12 operations -- basically, some printing and some
13 coating done outside.

14 We had a contract with U.S.
15 Can for some of our other litho operations.
16 We had them to do that. So in 1995, you would
17 see what was produced in Chicago White Cap, it
18 was lower than some of the other years. Otherwise,
19 if you add what we sent outside into that, it's
20 fairly consistent.

21 Q. You anticipate future years to be
22 consistent also?

23 A. Consistent or, if anything, maybe
24 less because we are always trying to improve

1 our coatings to have less coating passes. If
2 anything, we would say that our levels, say,
3 1994 levels of total VOM's into the system,
4 from that point or maybe even below that. If
5 anything, I don't see any increase.

6 Q. Okay. Thank you.

7 THE HEARING OFFICER: Redirect?

8 R E D I R E C T E X A M I N A T I O N

9 by Ms. Mihelic

10 Q. When you talked earlier about qualifying
11 the printing line, you were talking about the
12 vendor qualifying the printing line and not
13 the IEPA qualifying the printing line, correct?

14 A. Correct.

15 Q. When you are talking about production
16 levels or when the agency refers to production
17 levels, did you interpret that to mean that you
18 would produce the same amount of closures or
19 perhaps the amount of coatings would be less?

20 A. Can you explain that exactly?

21 Q. You talked earlier in your previous
22 response that you anticipated production to be
23 the same and then you talked about decreases in
24 emissions because of less pass-throughs for

1 coatings.

2 Do you anticipate your production
3 to be the same because customer demand remains the
4 same, but there may be a decrease in emissions due
5 to efficiency of coating enclosures?

6 A. By production levels, what I meant
7 was the amount of sheets going through. In other
8 words, production levels meaning the amount of
9 caps we would be making at White Cap. We will
10 have some efficiencies with maybe some reduced
11 sheet passes based on new coating technologies.

12 The majority of our emissions
13 reductions will be based on the type of equipment,
14 permanent and total enclosures, the new regenerative
15 thermal oxidizer, which has a better efficiency,
16 and the improvements that we did back in 1993 or
17 1994. I'm talking about the improvements on the
18 two -- or three -- existing catalytic oxidizers that
19 we have.

20 The majority of emissions
21 reduction is not going to be related to any
22 production levels. The majority of the emissions
23 reduction is related to the equipment and changes
24 in the modernization program that we soon are

1 doing.

2 Q. Barring any decrease in customer
3 demand, the fact that you intend to go from
4 twelve lines to five lines, is not withstanding
5 a decrease of production at White Cap?

6 A. There might be a slight downturn in
7 production. That's why we have the additional
8 space for a sixth line if we have to come back
9 up.

10 We are anticipating a slight
11 downturn in the demand in the Chicago operation,
12 but I think I have done some calculations that
13 these lines could, if we get the efficiency
14 levels up -- again, now, this is production
15 efficiency.

16 If we get those up to where
17 we would like them, I feel that we can get those
18 five lines equal to those twelve lines and where
19 we were at over the years.

20 I'm sort of answering it both
21 ways. There may be a downturn, you know, we may
22 reduce our demand, but I think our capacity
23 should handle it once we have this finalized.

24 Q. When you say that you have this as

1 your plan of action for modernization, has this
2 plan been approved by the owners of White Cap?

3 A. Yes, it has.

4 Q. So White Cap intends to go forward
5 with this plan of action barring any problems
6 either at White Cap's facility, customer demands,
7 or with some problems with the lines?

8 A. Correct. We actually view it as
9 being critical for being on a production or
10 an efficiency side or the cost side of the
11 business. We feel that it's critical to reduce
12 costs in our operation to stay competitive.
13 So it's critical to our surviving or one of
14 the critical issues.

15 MS. MIHELIC: I have no
16 further questions at this point.

17 THE HEARING OFFICER: Do you have
18 any recross?

19 MS. ARCHER: No.

20 E X A M I N A T I O N

21 By Hearing Officer Wallace

22 Q. Mr. Fasano, what was your title again?

23 A. Manager of environmental affairs.

24 Q. And your address?

1 Where are you located?

2 A. 1819 North Major Avenue in Chicago.

3 Q. Real briefly, if you could, describe
4 the White Cap facility for the record, please, so
5 it will be in there.

6 A. Okay.

7 Q. And describe what White Cap does.

8 A. White Cap, Inc. is a manufacturer
9 of metal closures, metal closures being what
10 we term as caps, baby food caps, food and
11 beverage closures for pickles, preserves, juices,
12 for example, Snapple, your iced teas, your Nesteas,
13 those kind of things.

14 We are the largest manufacturer
15 of vacuum closures and metal closures in the food
16 industry in the United States. Our largest
17 facility -- manufacturing facility is in Chicago
18 at 1819 North Major.

19 We have other facilities --
20 two other manufacturing facilities in the States;
21 Hazleton, Pennsylvania and Hayward, California.
22 Our headquarters are split between Chicago at 1819
23 and also Downers Grove.

24 At our other headquarters'

1 location, we have our research and development
2 at that facility or technical center out there.

3 Back to the Chicago location,
4 we start by -- we receive raw materials inhouse.
5 We actually receive large coils of steel, which
6 weighs anywhere from 20,000 to 25,000 pounds at
7 a maximum.

8 Coils are cut into sheets.
9 Sheets can vary from approximately, say, three
10 feet by three feet. Sheets are stacked into
11 what we call a load, a pallet load, a skid
12 load.

13 Those sheets are then sent
14 over to what we call our litho department.
15 That's where we do our coating and printing
16 on the sheets, both sides, multiple passes.

17 In other words, a sheet of
18 steel may get three to four passes on the face,
19 which is the top side of the cap or sheet,
20 and maybe two or three on the reverse.

21 There are many different
22 types of coatings and different systems depending
23 on a customer's product. We have enclosures for
24 products like pickles, ketchup, meat and baby food

1 packages, for example, versus cold packs like
2 certain juices and tomato-based products.

3 Different types of products
4 require different systems and requires different
5 technologies as far as how our coatings apply.

6 The printing side is more
7 decorative. For example, with your Tostito caps,
8 you will see them with many, many different colors.
9 It's very decorative. There's a lot of competition
10 there. They are trying to meet market demand and
11 be attractive on the shelves. That's where we get
12 involved in the printing side of it.

13 After the caps are -- sheets
14 are fully decorated in our litho department, they
15 are sent over to the other side where we actually
16 have our cap manufacturing process lines. There,
17 we take the sheets and cut them into strips. The
18 strips are basically then fed into our cap process
19 manufacturing lines.

20 The press is actually the
21 starting point of that line. Strips are fed into
22 a dye. The shells are punched out. The shells
23 are then manufactured. The process is a long one.
24 We work with the gasket, raw material basically,

1 form the cap, send it through the process of
2 forming the gasket inside, inspection, packaging
3 and putting them into the cartons, shipping them
4 to the warehouse, and from that, out to our
5 customers.

6 That's a very quick -- we also
7 make the gasket material inhouse. So raw materials
8 are steel, litho materials, coatings and inks,
9 solvents related to that printing process, compound
10 raw materials to make our gaskets for the caps
11 and cartons to ship them.

12 Q. All right. Thank you very much. How
13 many employees are at White Cap?

14 A. Approximately 500. That would be a
15 good number. That would be manufacturing people.
16 Aside from that, we probably have maybe 150, if you
17 take office people from our other corporate
18 facilities, accounting, I.T., different groups,
19 engineering.

20 Q. What's I.T.?

21 A. Information technologies. It was called
22 data processing years ago.

23 Q. I have two quick follow-ups. You
24 mentioned a German parent. I didn't get the name of

1 that.

2 A. I used the acronym SLW. It stands for
3 Schmalbach-Lubeca and something. I can't remember.
4 I don't know how to spell that for you.

5 Q. Then, you used another abbreviation,
6 LPG, I think. What is that?

7 A. LPG is a German company that supplies
8 the brand-new lines. They make ovens and they are
9 also -- they purchased a company called Mylander,
10 which makes coaters and presses, so to speak.

11 Q. LPG is the name of a German company and
12 then your parent is SLW?

13 A. SLW, which is also a German company.

14 Q. Okay. All right. Thank you very much.

15 A. You're welcome.

16 THE HEARING OFFICER: Do you have
17 anything further, Ms. Mihelic?

18 MS. MIHELIC: No.

19 THE HEARING OFFICER: Ms. Archer,
20 do you want to call your witnesses?

21 MS. ARCHER: Yes, I am. I will
22 call Gary Beckstead and Kevin Matteson.

23 THE COURT: Gentlemen, would you
24 raise your right hands, please?

1 (Gary Beckstead sworn.)

2 (Kevin Matteson sworn.)

3 MS. ARCHER: At this time, the
4 agency would call Mr. Gary Beckstead.

5 THE HEARING OFFICER: Would you
6 just turn around and come up here so
7 she can hear you?

8 MR. BECKSTEAD: Sure. My name is
9 Gary Beckstead.

10 MS. ARCHER: Wait a minute. I'll
11 be asking you questions.

12 WHEREUPON:

13 G A R Y B E C K S T E A D ,

14 Having been first duly sworn, depose and testifies
15 under oath as follows:

16 D I R E C T E X A M I N A T I O N

17 by Ms. Archer

18 Q. Would you please state your name for the
19 record?

20 A. My name is Gary Beckstead.

21 Q. Would you spell your last name for the
22 court reporter, please?

23 A. B-e-c-k-s-t-e-a-d.

24 Q. And what is your current occupation,

1 Mr. Beckstead?

2 A. I'm employed by the Illinois
3 Environmental Protection Agency. I have been
4 employed there since 1991 as an environmental
5 protection engineer in the Air Quality Planning
6 Section of the Division of Air Pollution Control
7 and the Bureau of Air.

8 Q. Since 1991?

9 A. 1991.

10 Q. Okay. What are some of your job duties,
11 Mr. Beckstead?

12 A. In general, I'm involved in the review
13 of emission inventory and the preparation of
14 technical support for proposed ozone regulations
15 affecting stationary points.

16 In addition, I have the
17 responsibility for quality control and quality
18 assurance, both in inventory and evaluation of
19 emissions.

20 Other duties I have include
21 the technical review of petitions for variances,
22 adjusting standards as well as any proposed
23 U.S.EPA changes to existing test methods and
24 procedures.

1 Q. Okay. Are you -- do you deal with
2 capture efficiency in your job?

3 A. Yes.

4 Q. Are you familiar with the state
5 regulations regarding capture efficiency?

6 A. I certainly am.

7 Q. Could you describe just real generally
8 what those require?

9 A. Let me get my notes here. I didn't
10 know I was going to do all of this talking.

11 Okay. The existing capture
12 efficiency test methods and protocols are presented
13 in 218.105 and 218, Appendix B for a source located
14 in the Chicago non-attainment area such as White
15 Cap. Another area that gives a source capability
16 of using alternative methodologies is housed in
17 218.108(b).

18 Q. Are you familiar with U.S.EPA guidance
19 concerning capture efficiency?

20 A. Yes. In April of 1990, U.S.EPA,
21 after an extensive seven-year study, promulgated the
22 regulations that were later codified in the June 29,
23 1990, federal implementation plan for Chicago.

24 Q. All right. Were these test methods

1 later changed?

2 A. Well, in a memorandum of February 7,
3 1995, John Seitz, the director of OAQPS for the
4 U.S.EPA, issued a guidance document which had
5 not only two alternative methods available, but
6 also that there would be minor revisions to the
7 existing seven methods.

8 Q. Let me go back to the capture efficiency
9 methods proposed in April of 1990 by U.S.EPA. Were
10 those subsequently codified into Illinois' SIP?

11 A. Yes. That's exactly what we have at
12 218, Appendix B, and 218.105. Those are the same
13 regulations.

14 Q. Okay. Mr. Beckstead, what is your
15 understanding of the two new alternative test methods
16 that U.S.EPA proposed in this document dated February
17 7, 1995, generally?

18 A. In my review of the guidance document,
19 these methods, the DQO, the data quality objective,
20 and the LCL, the lower competence limit, are
21 basically statistical approaches. They are not
22 test methods, per se. They are a way of qualifying
23 data as to reliability.

24 In fact, with the issuance of

1 DQO or LCL, a firm has considerable flexibility in
2 using these options as long as they can satisfy
3 the statistical requirements and the competence
4 levels prescribed in these two alternatives.

5 Q. And does U.S.EPA consider these
6 alternative test methods as equivalent alternatives?

7 A. Yes, they do.

8 Q. Are those found in Illinois' rules?

9 A. DQO and LCL?

10 Q. Yes.

11 A. Not per se, but in 218.108(b), we
12 have -- unlike a lot of states, we have taken
13 the step of allowing some SIP flexibility, that
14 equivalent alternatives, if approved in either
15 a SIP revision or a FESOP, a Federally Enforceable
16 State Operating Permit, can be used by a source.

17 Q. Okay. Mr. Beckstead, have you heard
18 Ms. Mihelic refer to Page 4 of the guidance document
19 where the states that have already adopted the TTE
20 methods into their rules should revise their SIPs
21 accordingly.

22 Do you recall that?

23 A. Yes, I do.

24 Q. Okay. And do you -- what is your

1 opinion as to if Illinois needs to revise its
2 SIP with regards to the alternative test methods?

3 A. You have to appreciate that that
4 guidance document went out to all states. Not to
5 be bragging on the state of Illinois, but we are
6 a little ahead of the game in a lot of our
7 rule-making.

8 I think Seitz was referring
9 to if you don't have this SIP flexibility, this
10 equivalent alternative option in your present SIP,
11 you will have to do that. If you haven't adopted
12 testing -- capture efficiency testing protocols,
13 which a lot of states have, you have to revise
14 your SIP for that. Illinois has done both. So
15 we're a little bit ahead of the game in what Seitz
16 is requesting here in that memorandum.

17 Q. So in your opinion, Section 218.108(b)
18 provides this source as an option?

19 A. That was specifically why we put it in
20 there. It was presented as an equivalent alternative
21 or a key test method procedure that are presently in
22 the rules that we've adopted. If they can prove and
23 if we accept that it is an equivalent alternative,
24 it's acceptable.

1 Q. In your opinion, do you think that the
2 state rules need to be revised to be consistent with
3 U.S.EPA guidance as a SIP?

4 A. No. I think we have done what we are
5 supposed to do.

6 Q. Mr. Beckstead, have you reviewed White
7 Cap's petition for variance?

8 A. Yes, I have.

9 Q. All right. Are you familiar with that
10 petition?

11 A. Yes, I am.

12 Q. And are you familiar with the facility?

13 A. Yes, I am.

14 Q. Okay. Do you know if White Cap has --
15 what kind of source is White Cap?

16 A. Oh, as the gentleman has said,
17 they are basically a metal closure and stamping
18 operation. They have some coating going on using
19 add-on controls. My understanding is that they
20 cannot do temporary total enclosures because of
21 geometrics primarily. There is not a way to get
22 around the existing lines.

23 Q. Do you know if White Cap has applied for
24 Title V or Clean Air Act Permit Program permit?

1 A. My understanding is they have.

2 Q. And is that permit a federally
3 enforceable permit?

4 A. Yes, it is.

5 Q. What would a source such as White
6 Cap have to do, in your opinion, to utilize these
7 alternative methods as specified in the guidance
8 of U.S.EPA?

9 A. My understanding -- and I'm no expert
10 in permits -- but my understanding is that there
11 would have to be a change in the compliance schedule
12 as well as a proposal as to what process parameters
13 they would need to make as far as applying this DQO
14 OR LCL methodology. It is my understanding the DQO
15 would comply with the existing regulations on the
16 books.

17 Q. Are you familiar with Illinois' Cap
18 Program?

19 A. Yes, I am.

20 Q. In your opinion, what would be a
21 reasonable time frame for the agency to issue
22 a cap?

23 A. To issue a cap?

24 Q. Right.

1 A. I think we are required by the Clean
2 Air Act to issue within two years of the date of
3 completion of the application.

4 Q. If a source such as White Cap who did
5 submit their cap in December of 1995 was found to
6 be completed in January of 1996, would you think
7 that a time frame of late 1997 would be appropriate
8 to issue a cap?

9 A. I have discussed this with Don Sutton,
10 who is the head of our permit section. I have no
11 reason to doubt his timing. He has assured us that
12 August of '97 would be a reasonable time frame to
13 complete that task.

14 Q. All right. In your opinion,
15 Mr. Beckstead, do you feel that the granting of
16 this variance would have any environmental impact?

17 A. Well, we are always concerned from
18 the air quality planning section side of major
19 sources whether they are in compliance or not. I
20 have done a preliminary calculation based on the
21 1994 emissions and at that time was 236 tons per
22 year.

23 If, in fact, White Cap is
24 misjudging their capture efficiency by ten percent,

1 you are talking about an additional 56 tons of
2 emission going into the air.

3 Appreciate the major sources
4 in the Chicago non-attainment area. The major
5 sources contribute well in excess of 80 percent
6 of all the emissions that are emitted into that
7 non-attainment. Now, appreciate that 236 tons
8 may be a small number in the total, but it's
9 still a major source. Naturally, we have concern
10 whether this major source is in compliance or not.

11 The memorandum issued by Seitz
12 said that as of February 15, 1995, we should start
13 capture efficiency testing again and we were way
14 past that date. That's for sure.

15 Q. Mr. Beckstead, in your opinion, have
16 the steps that White Cap has already taken minimized
17 impact on the environment? By that, I mean replacing
18 four old lines with two new lines.

19 A. From the testimony I have heard today,
20 the impact to the environment is pretty much the
21 same. They are emitting the same volume of VOM's
22 to the environment. That's if I understand the
23 testimony presented here today.

24 Q. That's all I have. Thank you,

1 Mr. Beckstead.

2 THE HEARING OFFICER: Do you have
3 any cross-examination?

4 MS. MIHELIC: Yes.

5 THE HEARING OFFICER: You may
6 proceed.

7 C R O S S - E X A M I N A T I O N
8 by Ms. Mihelic

9 Q. Does Section 218.105 allow for
10 use of methods -- test methods other than
11 those identified in 218.105 or Appendix B?

12 A. I would have to look through that
13 section because basically the test methods and
14 procedures that one should follow should comply
15 with our regulations on the books.

16 Q. I believe you testified previously
17 that that is the section that sets forth the
18 capture efficiency test methods identified for
19 coating operations?

20 A. Okay.

21 Q. If I could hand you what is
22 identified --

23 MS. ARCHER: I have it.

24 BY MS. MIHELIC:

1 Q. She's got it. The agency is handing
2 you Section 218.105, Test Methods and Procedures.
3 I will refer this to you specifically since this
4 is the type of discussion that capture system
5 efficiency test protocols identified in 218.105(c).

6 In that section, are there
7 any methods that are available to be used other
8 than those identified in that section by a source
9 wishing to demonstrate capture efficiency
10 compliance?

11 A. Well, the alternatives are allowed
12 under 218.108.

13 Q. In 218.105(c), are there any alternative
14 methods allowed to be used other than those specified
15 in Section 218.105?

16 A. I would have to review that and see
17 what is exactly in here.

18 Q. Could you review it?

19 THE HEARING OFFICER: Let's
20 go off the record a minute. Let's
21 take a break.

22

23

24

1 (Whereupon, after a short
2 break was had, the
3 following proceedings
4 were held accordingly.)

5 THE HEARING OFFICER: We're
6 back on the record. You may continue
7 or there might have been a question
8 pending.

9 Are you ready to answer
10 the question?

11 THE WITNESS: Yes.

12 THE HEARING OFFICER: Please
13 proceed.

14 BY THE WITNESS:

15 A. I think the question was is there
16 the option of using an alternative if the protocols
17 of the existing regulations cannot be met?

18 I am quoting from 218.105(c)(2).
19 It states that the capture efficiency of emission
20 units shall be measured using one of the four
21 protocols given. If these techniques are not
22 suitable for a particular process, then, an
23 alternative capture efficiency protocol may
24 be used. So yes, there is an availability

1 of using an alternative.

2 BY MS. MIHELIC:

3 Q. In Section 218.105(c)(2), does it
4 not continue on to say provided that the alternative
5 protocol is approved by the agency and approved
6 by the U.S.EPA SIP revision?

7 A. As I referred to, 218.108(b) allows
8 that flexibility. This was put into our SIP in
9 1990, June 29, 1990. Since then, the FESOP has
10 been -- has become available and the SIP flexibility
11 process which is when 218.108(b) superseded this
12 section. This actually should be clarified a little
13 bit. A SIP revision for a FESOP should be added in
14 that section, but it's not.

15 Q. So 218.105(c)(2) should be clarified
16 and provided for or in a FESOP in addition to
17 U.S.EPA's --

18 A. I think it's all right just the way
19 it is, but I guess you can get into the legalities
20 of it all.

21 Q. But 218.105(c)(2) does not provide
22 that an alternative capture efficiency protocol
23 may be used if it is put forth in a FESOP?

24 A. Not per se, no.

1 Q. Has the 218.105 regulation been approved
2 by U.S.EPA in Illinois' SIP?

3 A. Yes, it has.

4 Q. And when was that approval?

5 A. I don't know. You have me there. I
6 would have to review the exact date on that.

7 Q. Okay.

8 A. It was codified in the FIP on June
9 29, 1990, but as far as going into the SIP, an
10 exact date on that, I would have to look at that.

11 THE HEARING OFFICER: I'm sorry.

12 Mr. Beckstead, I didn't hear you.

13 THE WITNESS: An exact date as
14 to when it went from the FIP to the
15 SIP, I would have to look at that.

16 BY MS. MIHELIC:

17 Q. But is it not true that the FIP set
18 forth the regulations and 218.105 became effective
19 on September 27, 1993?

20 A. I have no idea if that's true or not.

21 Q. Are you aware as to whether or not
22 the regulations set forth in 218.105(c)(2) have
23 been codified into Illinois' SIP and approved by
24 U.S.EPA as a part of Illinois' SIP?

1 A. I am not too sure if they have actually
2 total approval. There is no question in the reviews
3 that I have seen on this section.

4 Q. You're not aware as to whether or not
5 U.S.EPA has actually approved these regulations as a
6 part of Illinois' SIP?

7 A. No, I have not.

8 Q. You previously referred to the February
9 7, 1995, memo from John Seitz, which was attached as
10 an exhibit to the original petition for an extension
11 of this variance in this case.

12 Where in this memo -- and if you
13 need a copy, I can provide one for you.

14 A. I have one.

15 Q. Strike that.

16 Is it only your interpretation
17 that this guidance document allows states which
18 don't -- which already have implemented regulations
19 incorporating TTE test requirements and incorporated
20 provisions allowing for alternative test methods to
21 be used not to modify -- do not need to therefore
22 revise their SIPs?

23 A. Yes, it is.

24 Q. Can you tell me anywhere within the

1 memo that John Seitz has indicated that statement
2 that states which have already enacted TTE test
3 requirements and have alternatives set forth in
4 their regulations allowing alternative test methods,
5 you do not need to incorporate --

6 A. I don't think he said that verbatim,
7 but we have what he is speaking about. What he is
8 speaking to, we have those in place in our
9 regulations.

10 Q. Have you ever spoken with John Seitz
11 about this issue?

12 A. Not directly, no. I have talked to
13 Candace Sorrell and Gary McAlister and Terry Harrison
14 who were instrumental in the development of the
15 guidance of those rules.

16 Q. Okay. And did Candace Sorrell ever
17 specifically tell you that since Illinois has
18 218.108, it does not need to revise Illinois' SIP?

19 A. Well, Candace is not familiar with
20 our regulations, but I did mention that we have
21 those on the books and she felt there were no
22 other changes necessary.

23 Q. So Candace Sorrell told you that there
24 were no other changes necessary for Illinois' SIP

1 to incorporate the revised test methods set forth
2 in the guidance document in order for sources to
3 use those test methods in order to demonstrate
4 compliance?

5 A. Candace Sorrell is responsible for
6 the proposed methods. The proposed methods have
7 not be approved by U.S.EPA. They have not been
8 promulgated. They are not even available.

9 The DQO and LCL in Mr. Seitz's
10 memorandum, he said, in effect, these are acceptable
11 to U.S.EPA. You can use LCL and DQO. Those are
12 alternatives that we have on the books, the protocol
13 and methods from the FIP. We can use -- I feel we
14 have everything in place for White Cap to use the DQO
15 and LCL.

16 Q. When you say you have everything in
17 place, what do you mean by everything in place?

18 A. The rules and regulations --

19 THE HEARING OFFICER: Excuse me.

20 You must wait for the question.

21 BY MS. MIHELIC:

22 Q. Could White Cap go ahead today and
23 conduct a capture efficiency test using DQO and
24 LCL testing methods?

1 A. Within 30 days, I believe.

2 Q. Why would they have to wait 30 days?

3 A. Well, there are preparations for them
4 to get set up, but to answer your question, yes,
5 they could.

6 Q. They don't need a federally enforceable
7 permit providing for these alternative test methods?

8 A. Well, I guess you are right there. They
9 would need a FESOP.

10 Q. And that is because Section 218.108
11 allows for that?

12 A. Yes.

13 Q. But no one from U.S.EPA has stated that
14 because Illinois has 218.108 regulations that it does
15 not have to revise its SIP to incorporate the
16 alternative test methods?

17 A. I don't recall that I have ever proposed
18 such a question to anybody down there, per se. I
19 was more interested in the changes they were
20 proposing and the revisions of the existing methods
21 and protocol.

22 Q. Have you --

23 A. SIP flexibility is a separate issue.
24 That is a separate program altogether.

1 Q. Have you reviewed White Cap's permit
2 application under its Clean Air Act Permit Program?

3 A. No.

4 Q. Are you aware as to whether or not
5 White Cap has set forth in that application a
6 schedule of compliance by which it might conduct
7 capture efficiency tests?

8 A. I haven't seen it per se, no.

9 Q. You stated earlier that the agency has
10 up to two years from the date of completion of a
11 Title V application to issue a Title V permit.
12 For the record, I'm saying Title V also as a Clean
13 Air Act Permit Program permit.

14 Is it not true that the agency has
15 up until January 1998 to issue that permit?

16 A. By Clean Air Act regulations, I would
17 guess so.

18 Q. And those are Illinois Clean Air Act
19 regulations, correct?

20 A. No. That's from the Federal Clean Air
21 Act.

22 Q. Under Illinois' regulations, does the
23 agency have up to --

24 A. I would imagine it's the same time

1 frame. I can't say. I'm no expert on permits and
2 scheduling of permits. That's not my area of
3 expertise.

4 Q. Have you ever been out to White Cap's
5 facility in Chicago?

6 A. No, I haven't.

7 Q. You stated earlier that you reviewed
8 the 1994 emissions data and that if White Cap had
9 miscalculated its capture efficiency by ten percent,
10 it would cause an increase in production of
11 approximately 56 tons.

12 Do you know what emissions are
13 allowed by the rules for White Cap to emit?

14 A. They are allowed 140 tons.

15 Q. When you say they are allowed 140 tons,
16 where is it set forth that they are allowed to emit
17 140 tons?

18 A. Probably in the permit. It's allowed
19 in the permit.

20 Q. All right. Are you aware of any permit
21 that is in existence for White Cap that limits it to
22 140 tons of emissions per year?

23 A. I went by what was in our emissions
24 inventory data and it said that the allowable for

1 White Cap is 140 tons per year.

2 Q. What data are you looking at when you
3 are referring to emission inventory data?

4 A. January of 1996 data that we have
5 standing inventory -- emissions inventory.

6 Q. Do you have a copy of what data you
7 reviewed with you today?

8 A. Yes. You should have a copy.

9 MS. ARCHER: I did not bring one,
10 Tracey.

11 BY MS. MIHELIC:

12 Q. She did not bring one. However,
13 are you saying that there is no allowable
14 limit at White Cap and that it is only allowed
15 to emit 140 tons of emissions per year?

16 A. That's what the inventory said.

17 Q. That's what the inventory said that
18 you reviewed that you are referring to?

19 A. Yes.

20 Q. Could you give me that SIP date for
21 whatever this inventory is, the actual title of
22 the document that you reviewed?

23 A. Well, it's updated daily. I have
24 a fiche, which is issued every quarter. So I

1 was looking at the first quarter of 1996. That
2 is what I was looking at.

3 Q. When you are looking at data, you
4 are looking at inventory of actual emissions.
5 So you are looking at 1994's actual emissions
6 and not necessarily the permit of emissions?

7 A. No.

8 Q. You've never seen one of White Cap's
9 permits to determine the amount of emissions that
10 it's allowed to emit?

11 A. Well, generally, that's what that EIS
12 is supposed to be. When we say allowed, we assume
13 that that's from the permit.

14 Q. Has the agency ever brought an
15 enforcement action against White Cap for emitting
16 236 tons of emission when it was only allowed to
17 emit 140 tons?

18 A. Well, during the moratorium, we could
19 not enforce capture efficiency. It could not be
20 tested.

21 Q. In fact, when you are saying that
22 White Cap -- if it was off by 10 percent, it
23 emits 56 tons more of emissions. But if White
24 Cap's capture efficiency is actually greater

1 than that required by the law, it could actually
2 be over-controlling its emissions?

3 A. It's possible.

4 Q. And what is the capture efficiency
5 required at White Cap?

6 A. I just use my -- I used the number 81
7 percent, but from discussion today, it was probably
8 a less number of capture of overall control in that
9 90 percent destruction. It ranges from 60 to 65
10 percent. I don't know which exact regulation it
11 would be subject to.

12 But I used 81 percent and I
13 said that's 90 and 90, 90 percent capture and 90
14 percent destruction and then I'm moving down to
15 suppose it was 90 percent destruction and 80 percent
16 capture. What would that do?

17 Q. And when you are saying that, they are
18 required to 60 to 65 percent?

19 A. I think so, yes.

20 Q. Actually, what rule are you referring
21 to?

22 A. Flexographic regulation.

23 Q. Isn't White Cap -- when you
24 say you're familiar with their site, isn't White

1 Cap a coating operation for miscellaneous --

2 A. Well, there is printing going on there.

3 THE HEARING OFFICER: Please,
4 Mr. Beckstead, wait for her to finish
5 the question before you start your
6 answer.

7 BY MS. MIHELIC:

8 Q. You stated earlier that you are familiar
9 with White Cap's site.

10 A. Uh-huh.

11 Q. Is White Cap a miscellaneous metal
12 coating operation or a plexigraphic printing
13 operation?

14 A. Well, I have heard they are doing
15 both. That is what I have heard today. I'm not
16 intimately familiar with them. From the petition,
17 I saw miscellaneous metal and under miscellaneous
18 metal coating, generally, it's 90/90. That's why
19 I used those numbers in my original calculation.

20 Q. So if it's a miscellaneous metal
21 coating operation, you're saying there's 90 percent
22 destruction efficiency and 90 percent capture
23 efficiency?

24 A. If we're using add-on controls.

1 Q. I'll refer you to Section 218.207 of
2 Illinois' regulations. Do these regulations not
3 allow alternative add-on control methodology
4 specifically in 218.207(b)?

5 A. Uh-huh.

6 THE HEARING OFFICER: Is that yes?

7 BY THE WITNESS:

8 A. Yes.

9 BY MS. MIHELIC:

10 Q. Does this section not provide that a
11 coating line equipped with or is demonstrated to
12 have an overall efficiency so that the VOM emissions
13 can be no more than what is allowed under Section
14 218.204 of this subpart?

15 A. Uh-huh

16 THE HEARING OFFICER: Is that yes?

17 BY THE WITNESS:

18 A. Yes.

19 BY MS. MIHELIC:

20 Q. Is that not what the agency often
21 referred to as the equivalency rule?

22 A. Yes, it is.

23 Q. So therefore, White Cap would only
24 have capture sufficient to demonstrate overall

1 efficiency to that which would be emitted if
2 it applied compliant coatings?

3 A. Yes.

4 Q. Are you aware as to what the capture
5 efficiency would be necessary at White Cap's facility
6 in order for it to meet compliance with Section
7 218.207(b)?

8 A. (b)(2) or (b)(1) --

9 Q. Two.

10 A. -- because (b)1 is 81 percent.

11 Q. Eighty-one percent, which is -- it's not
12 a 90/90 figure. It's an 81 percent overall control
13 figure, is it not?

14 A. But then it says control device must
15 always have 90 percent efficiency, which would mean
16 that you have to have 90 percent capture.

17 Q. That means that you would have to --
18 the control device has to have a 90 percent capture
19 efficiency?

20 A. The control device must have a 90
21 percent efficiency. So if you have an overall
22 capture system and control device at 81 percent,
23 you would then have to have 90 percent capture.

24 Q. Could you not have a 90 percent

1 destruction efficiency?

2 A. You have 95 percent, yes.

3 Q. So you could have a 99 percent
4 destruction efficiency and a 69 percent capture
5 efficiency?

6 A. Yes.

7 Q. And to meet the equivalency
8 demonstration, are you aware as to what White
9 Cap's capture efficiency needs to be in order
10 to meet --

11 A. No, I do not.

12 Q. Can I finish my question?

13 THE HEARING OFFICER: Would you
14 please let her finish her question?

15 BY MS. MIHELIC:

16 Q. (Continuing) -- to meet compliance with
17 Section 218.207(b)(2)?

18 A. No, I'm not familiar with the exact
19 numbers.

20 Q. Are you aware as to whether or not
21 White Cap needs anywhere from 35 percent to 65
22 percent capture efficiency --

23 A. I would --

24 THE HEARING OFFICER: Please

1 wait for the question.

2 BY MS. MIHELIC:

3 Q. (Continuing) -- to meet compliance
4 with Section 218.207(b)?

5 A. It would be strictly speculation. I
6 have no feeling for that.

7 Q. So you are not aware at this time
8 that White Cap over controls its emissions from
9 its facilities?

10 MS. ARCHER: I guess I would
11 object to this whole line of questioning
12 for a couple reasons.

13 First, it's really beyond
14 the scope. I think it's also irrelevant
15 to what the issue is in this variance
16 proceeding regarding the timing of the
17 variance.

18 I know Mr. Beckstead, on
19 direct, has gone into this on a little
20 bit and Ms. Mihelic can explore this,
21 but these issues really are irrelevant.

22 MS. MIHELIC: On direct, he went
23 into --

24 THE HEARING OFFICER: Please wait.

1 Were you finished?

2 MS. ARCHER: Yes. I'm done.

3 MS. MIHELIC: On direct, he went
4 into the fact that there may be an
5 environmental impact if they cannot
6 demonstrate capture and control
7 efficiency required by the regulations.

8 There may be a significant
9 environmental impact if they are choosing
10 to under control of their emissions.

11 I am asking Mr. Beckstead
12 questions as to whether or not he is
13 aware as to what the control is needed
14 at White Cap's facilities and to what
15 the requirements are for White Cap and
16 if they are in compliance with those
17 regulations or not at this time.

18 THE HEARING OFFICER: Objection,
19 overruled.

20 MS. MIHELIC: Can we go back
21 to the previous question and have it
22 read back?

23 THE HEARING OFFICER: No. Just
24 repeat your question.

1 MS. MIHELIC: I really don't
2 remember the question at this time.

3 THE HEARING OFFICER: No. Go
4 on. We're not going to have her
5 read that. Ask another question.

6 BY MS. MIHELIC:

7 Q. Okay. You aware at this time then
8 whether or not White Cap over controls emissions
9 from its facility?

10 A. I'm not aware of it.

11 Q. You stated earlier that you believed
12 that after White Cap has completed its modernization
13 program, that the VOM emissions at the facility would
14 be the same as those currently being emitted. Were
15 you present during Mr. Fasano's testimony?

16 A. Yes.

17 Q. Did you not hear Mr. Fasano state that
18 emissions at -- VOM emissions from the operations
19 after the modernization were going to completely
20 be reduced by up to 80 percent?

21 A. I missed that. I thought he said they
22 would be equal or slightly less. I must not have
23 heard that statement correctly.

24 Q. I have no further questions at this

1 time.

2 THE HEARING OFFICER: Redirect?

3 MS. ARCHER: Just a few. Thank you.

4 R E D I R E C T E X A M I N A T I O N

5 by Ms. Archer

6 Q. Mr. Beckstead, do you have Section
7 218.105 in front of you?

8 A. Yes, I have.

9 Q. All right. On Section 218.105(c), it
10 does state that alternative capture efficiency
11 protocols may be used, correct?

12 A. Yes.

13 Q. All right. Section 218.108(b) specifies
14 the concept of an equivalent alternative test method,
15 is that right?

16 A. That's correct.

17 Q. Could you explain the difference between
18 the two concepts of an alternative in Section 218.105
19 and an equivalent alternative in 218.108?

20 A. Well, let me start with the more
21 general. Section 218.108 is a flexibility
22 policy to allow this sort of a thing that is being
23 referenced in 218.105(c), that if a firm cannot
24 use what we have existing on the books to prove

1 compliance, yet has an alternative that they feel
2 is equivalent, if they submit that to us and we
3 approve it with U.S.EPA, we can either put it in
4 FESOP or put it as a SIP revision, we will accept
5 that as being equivalent to what our test methods
6 reference in this particular case in 218.105(c)(2).

7 Does that clarify what you
8 wanted?

9 Q. Somewhat.

10 In Section 218.108(b), doesn't
11 that specify that notwithstanding any other section
12 of this part?

13 A. Yes.

14 Q. So in your opinion, would Section
15 218.108 supersede 218.105?

16 A. Definitely.

17 Q. And the alternatives as contained
18 in the capture efficiency guidance memorandum
19 by John Seitz, are those considered equivalent
20 alternatives?

21 A. Yes, they are.

22 Q. And not just alternatives?

23 A. Right.

24 Q. Mr. Beckstead, are you aware that

1 Section 218.108(b) is still pending full U.S.EPA
2 approval for this test?

3 A. It was on a direct final status and
4 was removed to normal processing because of some
5 adverse comments not to do with the regulation,
6 not to do with 218.108, but something back in
7 the generic section.

8 Those adverse comments were
9 not adverse and got removed. But anyway, it's
10 on a normal SIP approval schedule, which may
11 take a little bit longer, but it should be
12 occurring sometime this summer, I would imagine.

13 Q. And you have no reason to doubt
14 that will be fully approved?

15 A. No. There have been no objections
16 from U.S.EPA on that section.

17 Q. You don't know whether Section 218.105
18 has full SIP approval or not yet?

19 A. I would think that it would have, but
20 I can't verify that definitely. I mean, it's been
21 around since June 29th of 1990. I think it's
22 been approved, but sometimes I lose track of
23 U.S.EPA approvals.

24 Q. You also stated on cross that you

1 thought that initially White Cap could test using
2 alternative methods within 30 days?

3 A. Yes.

4 Q. But then you clarified that. Wouldn't
5 White Cap need a federally enforceable permit first
6 before they could test?

7 A. Well, I'm not too sure about the
8 legalities. In fact, when I reviewed this variance,
9 I said it looks like to me they want to prove
10 compliance. Let's allow them to prove compliance.
11 As far as timing as to when you should do those
12 tests, I think the tests should be done immediately.
13 Whether it be through a FESOP or whatever you are
14 needing that enters into it, that's the legal side
15 of that. I'm not an expert on that at all.

16 Q. That's your understanding of why Section
17 218.108(b) is necessary?

18 A. Yes.

19 Q. Could you clarify this emission
20 inventory data?

21 Could you explain what it is for
22 the board?

23 A. It basically is a listing of all sources
24 statewide, whether in the attainment area or the

1 non-attainment area. It is named the Emission
2 Inventory System and it does just that.

3 It keeps track of reported
4 emissions. A permit analyst goes in and changes
5 that data upon receipt or issues of new permits.
6 We have a more up-to-date system called Cares,
7 but presently, it is still intact. It is still
8 used.

9 As I say, I have not an
10 electronic version, but a fiche at my desk. I
11 view the source and see what 1994 or 1995 emissions
12 data would be for the particular sources that I'm
13 interested in.

14 Q. And who maintains this EIS?

15 A. The permit people.

16 Q. So it is the agency?

17 A. The agency, yes, sure.

18 Q. And they receive this data from the
19 sources directly?

20 A. Yes, yes.

21 Q. Okay. And someone inputs it into the
22 computer?

23 A. Yes.

24 Q. And you just pull it up on your

1 microfiche?

2 A. Yes.

3 Q. And that's updated how?

4 A. Quarterly.

5 Q. From that EIS, that's what indicated

6 to you White Cap's emissions from 1994 and 1995?

7 A. Yes.

8 Q. Is there any reason to doubt its

9 accuracy?

10 A. I have no reason to doubt it.

11 Q. You also testified that you thought

12 even with the addition of the replacement equipment

13 at White Cap's facility that the VOM emissions would

14 be the same?

15 A. (Witness nodded.)

16 THE HEARING OFFICER: I'm sorry.

17 I didn't hear your answer.

18 BY THE WITNESS:

19 A. Yes.

20 BY MS. ARCHER:

21 Q. Do you mean that to be production levels

22 or VOM emissions?

23 A. Well, I obviously misunderstood what

24 the gentleman has testified. He evidently was

1 talking -- saying production levels and I was hearing
2 emission levels.

3 Q. Would you anticipate with replacement
4 lines using TTE that the VOM emissions would be less
5 at the facility?

6 A. That's difficult to say. It depends
7 on the destruction devices and what the efficiency --
8 you can capture 100 percent of it and if you don't
9 have good destruction efficiency, you can end up with
10 more emissions than previously. I would hope with
11 new equipment that their emission reductions could go
12 down.

13 Q. Thank you. That's all that I have.

14 THE HEARING OFFICER: All right.

15 Do you have any recross?

16 MS. MIHELIC: Yes.

17 R E C R O S S E X A M I N A T I O N

18 by Ms. Mihelic

19 Q. When you talk about this emissions
20 inventory system, could you explain to me what --
21 I'm a little confused as to exactly what this
22 emissions inventory system is. You said received
23 data from the sources, correct?

24 A. Yes.

1 Q. If the data from that source is
2 inaccurate, the data in the emissions inventory
3 system is also then inaccurate?

4 A. Yes. We trust the source to report
5 these things accurately, correct.

6 Q. Is it the agency's or has it been
7 the agency's position in the past few years or
8 until this year, the data in that emissions inventory
9 system may not be 100 percent accurate?

10 A. Oh, sure. There is always that
11 possibility.

12 Q. When you quote this emissions inventory
13 system, you say that it has allowable emissions. Do
14 you know where this allowable emissions data comes
15 from?

16 A. It comes from the permits that are
17 issued.

18 Q. Have you ever seen a permit issued to
19 White Cap?

20 A. I think I have seen one, yes, but I
21 didn't go into the details of it.

22 Q. You don't know what the VOM emissions
23 of White Cap are?

24 A. No.

1 Q. You're not aware if there are any
2 VOM emission limits currently set forth for White
3 Cap other than those set forth in the variance?

4 A. I looked in the annual emissions report.

5 MS. MIHELIC: I have no further
6 questions at this time.

7 THE HEARING OFFICER: Thank you,
8 Mr. Beckstead. You may now step down.

9 THE WITNESS: You're welcome.

10 THE HEARING OFFICER: Next witness,
11 please?

12 MS. ARCHER: Mr. Matteson, please.

13 WHEREUPON:

14 K E V I N M A T T E S O N ,
15 having been first duly sworn, deposeth and testifies
16 under oath as follows:

17 D I R E C T E X A M I N A T I O N

18 by Ms. Archer

19 Q. Would you please state your name for the
20 record?

21 A. Kevin Matteson.

22 Q. Would you spell your last name for the
23 court reporter?

24 A. M-a-t-t-e-s-o-n.

1 Q. What is your occupation, Mr. Matteson?

2 A. I work for the State of Illinois
3 Environmental Protection Agency in the first
4 monitoring unit and I basically deal with companies
5 when they are required to do a stack test.

6 Q. How long have you been so employed with
7 the agency?

8 A. Two years, nine months.

9 Q. Where were you employed before that?

10 A. In the private industry.

11 Q. Doing the same type of work?

12 A. No, I was not.

13 Q. You said you're a stack test specialist.
14 As part of your job duties, you review stack tests?

15 A. Correct.

16 Q. What kind of stack tests?

17 A. All types of stack tests throughout
18 the State of Illinois. Currently, I am the only
19 person to review and regulate stack testing.

20 Q. Are capture efficiency testing part of
21 the stack testing that you review?

22 A. Yes.

23 Q. Approximately how many capture
24 efficiency tests have you reviewed in your tenure

1 with the agency?

2 A. I can't think at this time. I mean,
3 this year, we have done over five for sure, but
4 I don't have an exact number for you.

5 Q. Do you know how many sources in Illinois
6 are required to do capture efficiency testing?

7 A. No, I do not. Basically, somebody in
8 printing operation is going to be subject to it.

9 Q. Are you familiar with the state rules
10 on capture efficiency?

11 A. I have read them.

12 Q. Are you familiar with U.S.EPA guidance
13 on capture efficiency?

14 A. I have those.

15 Q. I'm referring specifically to John
16 Seitz's 1995 memo?

17 A. Correct.

18 Q. Could you real briefly explain your
19 understanding of John Seitz's memo?

20 A. My understanding of John Seitz's memo
21 is that a moratorium was put on back in 1992 due
22 to possible lawsuits regarding the costs of stack
23 testing. Those capture efficiency regulations and
24 procedures are on Illinois' administration codes

1 and books.

2 Since the moratorium has been
3 lifted, Illinois is required to conduct stack
4 testing or has required companies to conduct stack
5 testing. The memo stated there was a guidance to
6 assist states in conducting these stack tests.

7 Unfortunately, Illinois is in
8 a predicament where we do have the old regulations
9 still on our books. In lieu of that, though, the
10 guidance -- there is guidance from U.S.EPA that
11 they have put out. Hence, Illinois has viewed
12 that if people would like to use those as guidelines,
13 we will accept them as capture efficiency.

14 Q. Okay. Now, you said predicament. What
15 do you mean by that?

16 A. We are required to conduct stack
17 testing. Right now, the way our regulations are
18 written, that is to use the capture efficiency
19 test methods that were put on the moratorium, the
20 three eight-hour tests or permanent total enclosure.

21 In lieu of this new guidance
22 coming out, they have lessened the time frame
23 and the intensity of the capture efficiency
24 testing. Now, we are stuck with -- we have

1 on our regulations requiring 24 hours of capture
2 efficiencies.

3 There was a new guideline
4 that came out from U.S.EPA stating nine hours of
5 testing is sufficient. We are required to enforce
6 our regulations and yet on the same token, U.S.EPA
7 has come out with guidance that is less stringent
8 than ours.

9 Q. Did guidance also suggest any new
10 testing that previously was not?

11 A. Yes, it did. It came up with a
12 statistical analysis of data to be used for
13 alternative test methods. They gave an example
14 of an alternative method, but that in no way,
15 shape or form is the only alternative there.

16 Alternatives are supposed
17 to be given to the agency and U.S.EPA for
18 approval prior to that. But once the alternative
19 method is done, the data that is collected has
20 to meet the data quality objective or lower
21 competence level.

22 Q. Which are the two new alternative
23 test methods?

24 A. Correct.

1 Q. Does any predicament exist with regards
2 to the two new alternatives between U.S.EPA guidance
3 and Illinois' rules?

4 A. I don't know understand the question.

5 Q. You stated earlier that a predicament
6 existed between the revised methods in the guidance
7 and was in Illinois' rules. Is there any such
8 similar predicament with the alternatives?

9 A. The predicament is according to the
10 way the regulations read, a federally enforceable
11 permit would be required in order to meet those
12 criteria.

13 THE HEARING OFFICER: I'm sorry.

14 You trailed off, Mr. Matteson.

15 BY THE WITNESS:

16 A. I'm sorry. A SIP revision or federally
17 enforceable permit would be required in order to meet
18 those criteria.

19 BY MS. ARCHER:

20 Q. All right. Do you know where those are
21 located?

22 A. So far, 218. I think we have been
23 discussing Parts 105, 108 and 207.

24 Q. So it's Illinois' rules?

1 A. Illinois' code, correct.

2 Q. It's your understanding, then, that
3 for a source in Illinois to use the alternative
4 methods as specified in the guidance, they would
5 have to follow either, have a SIP revision or a
6 federally enforceable permit?

7 A. Correct.

8 Q. Are you familiar with White Cap's
9 petition for variance?

10 A. I have read it.

11 Q. All right. What is your understanding
12 of their situation with regards to capture efficiency
13 testing?

14 A. My understanding to their predicament
15 as far as capture efficiency is back in 1994 when
16 they were first given the first variance was the fact
17 that it would be too costly to conduct testing with
18 their arrangement and that at the same token, the
19 moratorium was put on for capture efficiency.

20 At this time, the capture
21 efficiency moratorium was lifted. Hence, Illinois
22 was required to have companies conduct capture
23 efficiency testing in order to determine compliance
24 with the regulations.

1 Q. I would like to somewhat change
2 topics and ask you about permits and permit
3 conditions as far as how they relate to capture
4 efficiency testing.

5 If a company comes in and
6 wants to do capture efficiency testing, could
7 you go through those tests and what's required?

8 A. Okay. I'm not a permit analyst,
9 but typically, in a permit, there are special
10 conditions that require a stack test to be done.
11 In those special conditions, there are time
12 frames set for testing to be done.

13 Typically, that is a 30-day
14 notification prior to stack testing and along
15 with that for the company to submit protocol
16 for the agency's review and to approve the
17 proposed testing methods.

18 Q. Okay.

19 A. Upon that review, they will then
20 conduct the stack test. The agency has the option
21 of witnessing the stack test. Also, upon receipt
22 of the final report, we review those for the quality
23 of the data.

24 Q. Okay. Are you aware that White Cap

1 has submitted a Title V application to the agency?

2 A. Yes. I am aware of that.

3 Q. And would a source such as White Cap
4 have to do capture efficiency testing pursuant to
5 their Title V?

6 A. In most likelihood, in order to show
7 that White Cap is in compliance to our regulations,
8 a Title V permit would contain some type of testing
9 methodologies in there.

10 Q. In your experience, from the time your
11 permit is issued, how long would it take to complete
12 the steps you just described to complete capture
13 efficiency testing?

14 A. To complete the testing and have results
15 in-house, I think the lead-in time would be 90 days.

16 Q. Would this time frame vary depending
17 on what type of testing needed to be done?

18 A. The variation in timing would be
19 if alterations or procedures or alternatives or
20 proposals, we do not agree with. Hence,
21 conversations and meetings would have to be held
22 to rectify and clarify that situation.

23 Q. Usually, do meetings occur between
24 a source and the agency prior to a permit being

1 issued to resolve these issues possibly ahead of
2 time?

3 MS. MIHELIC: Objection. I
4 don't think he stated that the permit
5 would set forth any type of testing
6 requirement.

7 THE HEARING OFFICER: Rephrase
8 your question.

9 BY MS. ARCHER:

10 Q. Okay. Would a permit set forth the
11 applicable test methods that a source would have
12 to follow?

13 A. Typically, the stack -- the permit
14 will require stack testing in that requirement.
15 It does give guidance to the company of the
16 specific test methods to be used. A lot of times,
17 there is also a clause in there that says other
18 approved methods that are approved by the agency
19 may be used.

20 Q. I believe you did testify that these
21 differences -- strike that.

22 Would there be any differences
23 between using the test methods as specified currently
24 in Illinois' rules as compared to test methods -- the

1 alternative test methods as specified in U.S.EPA's
2 guidance?

3 A. The difference is in how Illinois would
4 conduct itself in review of the protocol. Is that
5 what you are asking?

6 Q. Yes.

7 A. No, it would be not.

8 Q. Once again, from the time a permit is
9 issued -- strike that.

10 Do you have any reason to doubt,
11 Mr. Matteson, that White Cap will have its Title V
12 issued by August 15, 1997?

13 A. Again, I'm not a permit person myself
14 such as Don Sutton who is a permit section manager.
15 He has indicated that to the agency. I have no
16 reason to disbelieve that date.

17 Q. According to your earlier testimony,
18 a time frame of early 1998 would not be unreasonable
19 for White Cap to have its capture efficiency testing
20 done if need be?

21 A. Correct.

22 Q. Thank you. I have nothing further.

23 THE HEARING OFFICER: Cross-examination?

24 MS. MIHELIC: Yes.

1 C R O S S - E X A M I N A T I O N

2 by Ms. Mihelic

3 Q. Now, when you stated earlier alternative
4 test methods allowed under Illinois' regulations have
5 to be contained in a federally enforceable permit or
6 a SIP revision, do you know if you are referring to
7 Section 218.108 or 218.105?

8 A. I'm not knowledgeable to the extent that
9 you are asking that question.

10 Q. You don't know whether or not 218.105
11 actually allowed for the use of the alternative
12 test methods set forth in the guidance if it's
13 set forth in a federally enforceable permit?

14 A. Correct.

15 Q. Are you aware as to whether it's
16 technically feasible or do you have a question
17 as to whether it's technically feasible for White
18 Cap to demonstrate compliance using the old
19 capture efficiency methods or do you have any
20 documentation to that effect?

21 A. I have not seen the facility
22 firsthand. I have not reviewed any of the past,
23 if there were any, protocols or tests at White
24 Cap before.

1 Q. Going on to this DQO and LCL test
2 methods, I would just like to clarify my
3 understanding and your understanding of exactly
4 what these test methods are.

5 You said that they are statistical
6 test methods, correct?

7 A. It is a statistical analysis of the data
8 collected from alternative methods.

9 Q. Okay. The alternative methods are not
10 specified anywhere in the guidance documents under
11 Illinois' regulations, are they?

12 A. A guidance method or guidance document,
13 I should say, did give reference to an example of a
14 liquid two-gas approach without a temporary total
15 enclosure.

16 Q. Is it the purpose, perhaps, of the DQO
17 and LCL test methods to allow a source to develop an
18 alternative test method which would then apply the
19 statistical analysis to determine whether or not
20 it's adequately met the capture efficiency test
21 requirements?

22 A. Correct. As long as those alternatives
23 are approved, those alternative methods are approved
24 by the agency and U.S.EPA.

1 Q. You said that you are not a permit
2 person?

3 A. Correct. I'm an environmental
4 protection engineer in the source monitoring
5 unit.

6 Q. So it's my understanding you don't
7 review permits or issue permits?

8 A. I do not issue permits. I do review
9 the permits that have been issued in order to
10 confirm that the proper testing methods are being
11 done.

12 Q. All right. So when you say you confirm
13 that proper testing methods are being done, is it in
14 the regular course of stack testing that a permit is
15 issued requiring stack testing be conducted at a
16 source?

17 A. Correct.

18 Q. Then once that permit is issued, the
19 source then submits a protocol for the actual test
20 to be conducted to you?

21 A. Correct.

22 Q. Or to your office?

23 A. Right.

24 Q. You then review that protocol and agree

1 with it or object to it and have discussions with
2 the sources regarding the procedure of the stack
3 tests?

4 A. Correct. We do that and we also, if
5 we do have questions or concerns, rectify them.
6 Hopefully, that will be done verbally over the
7 phone. If we need to, we have another protocol
8 sent to us.

9 Q. And it is not the usual in the course
10 of your business to see a permit that has set forth
11 the specific requirements that a protocol also sets
12 forth in a permit?

13 A. The agency does inquire of my expertise
14 in stack testing for difficult testing situations.
15 When the normal stack testing is not done, the permit
16 section does come to me for advice and consultation
17 on what the test methods achieve.

18 Q. Has there ever been a stack test
19 conducted -- strike that.

20 Have you ever conducted a DQO or
21 LCL test method or an alternative test method using
22 the DQO or LCL test method?

23 A. There is one company, I do know for
24 sure, that used a stack test as an alternative

1 method.

2 Q. Did you conduct that test?

3 A. We do not conduct stack testing.

4 Q. Have you ever been present when such a
5 test is being conducted?

6 A. Yes, I have.

7 Q. When was that?

8 A. Earlier this year or late last year. It
9 had to be early this year, this spring.

10 Q. You were present when a company was
11 doing DQO and LCL test methods?

12 A. Correct.

13 Q. Where was that?

14 A. In Chicago.

15 Q. Where in Chicago?

16 A. I don't know the exact street address.

17 Q. What was the name of the company which
18 was conducting the test?

19 A. Durco, D-u-r-c-o.

20 Q. All right. How many tests have you
21 been present at which there was capture efficiency
22 tests being conducted using the DQO and LCL test
23 methods?

24 A. They would be the only one.

1 Q. Are you aware of any other such tests
2 being conducted in Illinois?

3 A. There have been numerous conversations
4 with numerous testing companies and also companies
5 that have inquired about using the DQO and LCL as
6 part of an alternative, but I cannot recall any
7 other ones doing the actual testing to date.

8 Q. So have these companies actually
9 submitted protocols?

10 A. Not to my knowledge.

11 Q. They simply inquired as to whether or
12 not they could use these approaches to conduct such
13 capture efficiency testing?

14 A. To my knowledge, correct.

15 Q. Do you know how many tests have actually
16 been conducted, these capture efficiency tests, using
17 the DQO or LCL test methods within the United States?

18 A. I do not.

19 Q. Do you know whom consultants have
20 actually or stack test companies have actually
21 conducted such tests?

22 A. No, I do not.

23 Q. Are you aware as to whether or not there
24 is only one such consultant in the United States that

1 has conducted such tests?

2 A. I don't know that either, but I would
3 venture to say that there has been more than one DQO
4 and LCL test done.

5 Q. In Illinois, there is only one,
6 correct?

7 A. That I know of for sure, correct.

8 Q. Would there have been any other such
9 tests conducted that you wouldn't know of?

10 A. That is a possibility.

11 Q. All right. Would they have been
12 approved -- would those such tests have been approved
13 by the agency?

14 A. Not necessarily. You're looking at
15 the only person for the whole state of Illinois.

16 Q. Would you not have approved the protocol
17 for that kind of a test since you are the only person
18 reviewing these protocols?

19 A. If the permit did not require a protocol
20 to be submitted and they deny testing, my hands are
21 tied.

22 Q. You have, however, only reviewed the
23 results of one such test in Illinois?

24 A. No. I have not reviewed the results to

1 this date.

2 Q. They have not submitted those results?

3 A. The results are in the agency, correct,
4 but I have not reviewed them to this date.

5 Q. When was that test conducted?

6 A. Early this spring.

7 Q. When you say early this spring, would
8 that have been April, May, March?

9 A. Possibly April, May, maybe March.

10 Q. So when they conducted these tests in
11 March and April, yet you have not reviewed the test
12 results?

13 A. Correct.

14 Q. Okay. That's approximately -- since
15 it's midsummer -- three to four months?

16 A. Correct. That was when the test was
17 conducted. Then, you have to take into consideration
18 it does take them some time to get those results to
19 us.

20 Q. At this date, that test procedure and
21 the results from that test procedure have not been
22 approved by U.S.EPA demonstrating compliance for
23 that source with the capture efficiency requirements?

24 A. You said U.S.EPA.

1 Q. I'm sorry. I mean IEPA.

2 A. Okay. The protocol was approved to
3 allow them to do that, but the final analysis of the
4 results have not been verified as meeting the final
5 criteria.

6 Q. Do you know if a protocol was submitted
7 to IEPA to conduct this test? This one I'm talking
8 about is referring back to Durco.

9 A. I believe there was a protocol.
10 I don't recall exactly, but there were many
11 conversations with the testing company involved
12 in this. There were protocols, but I can't
13 recall if there were revisions -- written revisions
14 or not.

15 Q. Do you recall when the protocol was
16 first submitted to the agency?

17 A. I do not.

18 Q. Do you recall if it was this year or
19 last year?

20 A. If I had to make a guess, it would have
21 been after February 7th.

22 Q. Of this year?

23 A. Correct.

24 Q. But that's a guess, is it not?

1 A. Correct. I do not have a file in hand.

2 Q. And you are aware or you stated that
3 once a protocol was submitted, you didn't agree to
4 the protocol specifically as written, is that right?

5 A. That is correct.

6 Q. So you therefore had to then go back and
7 forth with the company conducting the tests?

8 A. We consulted the company and the
9 consultant itself to get proper capture efficiency
10 tests to be performed.

11 Q. It's been approximately five months
12 since the protocol was submitted and IEPA has not
13 yet made the determination regarding the results
14 of that test?

15 A. The final results, that's correct.

16 Q. At that company that submitted the
17 capture efficiency tests, how many lines did it
18 test?

19 A. One, for sure. There were multiple
20 lines there, but I don't know if they were required
21 to have the other ones tested for capture efficiency.

22 Q. As far as you are aware, there has been
23 one for sure tested, but you're not sure if more have
24 been tested?

1 A. Correct.

2 Q. When you say that they weren't required
3 to conduct more tests, is that -- they weren't
4 required to conduct tests on more lines. What do
5 you mean by it may not have been required?

6 A. Depending on what kind of ink and
7 solvents they were using, it could have been a
8 water-based solvent. Again, I was there a couple
9 hours to check on that.

10 Q. Is it true that even if these
11 alternative test methods, a source would have
12 to conduct a capture efficiency test for each
13 oxidizer or each control device at least one test
14 with one line with that control device to determine
15 capture efficiency of each control device or
16 could the source test one line at the facility
17 as a whole regardless of the number of lines or
18 control devices?

19 A. Each unit -- processing unit
20 would have to have a capture efficiency done
21 on a particular unit. If that particular
22 unit is going to a common control device,
23 I would speculate that the agency would allow
24 one destruction efficiency test, three one-hour

1 runs to be done and the destruction efficiency.

2 Q. On each line?

3 A. On each process unit, which would
4 be a line in White Cap's case.

5 Q. So that's considering they have eight
6 lines, they would have to conduct tests on each
7 of those current eight lines?

8 A. Correct.

9 Q. Is it not true in DQO and LCL
10 test methods, you may have to run numerous
11 capture efficiency tests on the alternative
12 proposal to meet the LCL and DQO stack test
13 statistical requirements?

14 A. That is a possibility.

15 THE HEARING OFFICER: I'm
16 sorry. Statistical what? I can't
17 hear you.

18 MS. MIHELIC: Requirement.

19 BY MS. MIHELIC:

20 Q. It has to meet a statistical requirement
21 under the DQO and LCL test methods and in order to
22 meet that type of requirement, what parameter has to
23 be used?

24 There may have to be multiple

1 tests, one on one lines, to meet the parameters set
2 forth in those test methods, correct?

3 A. Correct. A minimum of three runs
4 is required and with the alternatives in the
5 guidance document, that run can be as minimal as
6 20 minutes in length.

7 Q. Could it be longer than that?

8 A. It could be longer if you would
9 like it to be longer. But the minimum requirement
10 is three 20-minute test runs.

11 Q. But under the --

12 THE HEARING OFFICER: I'm sorry.
13 Three 20-minute what?

14 THE WITNESS: Test runs.

15 THE HEARING OFFICER: You
16 trail off at the end and I can't
17 hear you.

18 THE WITNESS: Okay. There
19 are three runs that are required.

20 THE HEARING OFFICER: No, no.
21 Just repeat your answer. You don't
22 need to explain it.

23 BY THE WITNESS:

24 A. Three 20-minute test runs.

1 BY MS. MIHELIC:

2 Q. That's required under the current
3 capture efficiency rule, correct?

4 A. That's in the guidance.

5 Q. That's in the guidance, but the current
6 capture efficiency test methods requiring TTE, it's
7 not set forth in the requirements under the DQO or
8 LCL test methods?

9 A. The guidance document states in the
10 alternative there is a minimum of three 20-minute
11 test runs.

12 Q. But with each line, there is at least
13 conducted a one-hour test on the line -- capture
14 efficiency test on the lines?

15 A. Three separate runs.

16 Q. Three separate runs.

17 A. At 20 minutes.

18 Q. Uh-huh.

19 A. If you want, that would be an hour.

20 Q. Typically, that would occur in an hour
21 or would it take longer?

22 A. It would take longer.

23 Q. Is it feasible with White Cap having
24 eight lines at its facility and with your knowledge

1 of the DQO and LCL test methods, that can take
2 several weeks to conduct these tests?

3 A. It could take a considerable amount
4 of time.

5 Q. Several weeks, a month?

6 A. I have no idea.

7 Q. Do you know when you may be reviewing
8 these test results from the capture efficiency test
9 using the DQO and LCL test methods, when you will be
10 reviewing those test results?

11 A. Are you referring to Durco?

12 Q. Yes.

13 A. I would hope in the near future.

14 Q. Next month?

15 A. I hope so.

16 Q. And once you review those test results,
17 approximately how long will it take for you to get
18 back to the company saying either that they have met
19 their requirements or they are not in compliance?

20 A. The typical procedure that I do is I
21 write my recommendations to the agency. The agency
22 will then issue or deny a permit maybe including my
23 reasons or other reasons of the agency.

24 Q. Overall, it could possibly be another

1 two months before the company finds out whether or
2 not that permit is going to be issued?

3 A. They would have up to 90 days once a
4 permit -- operating permit is requested. So within
5 90 days, pursuant to that, we have to issue a permit
6 unless the company requests an extension of time.

7 Q. Do you know when a permit application
8 was submitted for this company?

9 A. I do not.

10 Q. You don't know if you are beyond that
11 deadline?

12 A. Correct.

13 Q. And you don't know if you have an
14 additional period of time to review that?

15 A. Correct. I do not know that.

16 Q. But you are saying that you will
17 be reviewing it within the next month, which is
18 approximately five months after the protocol was
19 submitted, or an additional time period after
20 that before a permit is actually issued to that
21 company?

22 A. It could.

23 Q. So we're looking at a time period of
24 perhaps of anywhere then from five to seven months

1 from the time that the protocol was submitted
2 until that company determined whether or not they
3 met all of Illinois' requirements or that the
4 results therefore satisfied all of Illinois'
5 requirements?

6 A. The company should know that already
7 based on their consultant's analysis. Our review
8 as to a quality objective, if you will, is to insure
9 that the data they submitted to us we agree with.

10 So they should already know
11 right now whether or not they are in compliance
12 and whether more testing should have been done
13 or is required. But the agency has not granted
14 a permit or told them they accept the results
15 as of this time.

16 MS. MIHELIC: I have no further
17 questions.

18 THE HEARING OFFICER: Redirect?

19 MS. ARCHER: Can I have two
20 minutes?

21 THE HEARING OFFICER: (Nodding.)

22 MS. ARCHER: One minute?

23 THE HEARING OFFICER: Not to
24 talk to your witness.

1 MS. ARCHER: Oh, no, no. I
2 just need to take a quick break.

3 THE HEARING OFFICER: All right.
4 (Whereupon, after a short
5 break was had, the
6 following proceedings
7 were held accordingly.)

8 THE HEARING OFFICER: Okay. We're
9 back on the record. This is redirect.

10 MS. ARCHER: Thank you.

11 R E D I R E C T E X A M I N A T I O N

12 By Ms. Archer

13 Q. All right. Mr. Matteson, Ms. Mihelic
14 asked you about the DQO and LCL test methods and you
15 described those as statistical methods that gathered
16 the data from -- could you explain again what DQO
17 and LCL are?

18 A. DQO and LCL is the statistical analysis
19 of data that has been collected from alternatives.
20 You are basically analyzing whether or not the runs
21 in the emissions collected are consistent with one
22 another.

23 Q. You heard me ask Mr. Beckstead about
24 the differences between alternatives and equivalent

1 alternatives?

2 A. Yes, I did.

3 Q. Could you explain, in your opinion, what
4 the difference is?

5 A. I really haven't thought about it that
6 much. To me, they are one in the same.

7 Q. Do you consider the DQO and LCL
8 equivalent alternative capture efficiency testing
9 requirements?

10 A. Yes, I do.

11 Q. All right. Now, do you know
12 of any situation where the agency, meaning Illinois
13 Environmental Protection Agency, would not be
14 involved in stack testing?

15 A. If the company is doing it for its own
16 records, we need not be involved with that particular
17 test beforehand. The results of those are upon our
18 request should we request them.

19 Q. Would there be any situations where
20 U.S.EPA would be involved and not Illinois EPA in
21 stack testing?

22 A. There have been times when U.S.EPA
23 requested stack testing and Illinois was not aware
24 of it or not involved directly.

1 Q. Is it possible that U.S.EPA has
2 requested that a company in Illinois do a DQO or
3 LCL test run and that you would not be aware of
4 that?

5 A. That is possible.

6 Q. Is there any situation where that
7 would be possible other than the two you have just
8 described where a company would do it more for its
9 own benefit?

10 A. Not that I can foresee.

11 Q. You talked about this Durco company
12 who has done capture efficiency testing pursuant
13 to the DQO?

14 A. Yes.

15 Q. Why haven't you reviewed those test
16 results yet?

17 A. The permit section only within the last
18 month or so has requested for my review of that
19 information.

20 Q. Do you believe that the Durco situation
21 would be analogous to any capture efficiency testing
22 that White Cap would do?

23 MS. MIHELIC: Objection. He
24 said he is not familiar with White

1 Cap's operation and lines. He has
2 never been to the facility.

3 THE HEARING OFFICER: Overruled.
4 You may answer the question.

5 BY THE WITNESS:

6 A. When we are dealing with efficiency-type
7 of testing with the DQO and LCL, it should basically
8 be broad-based and used at multiple facilities.

9 THE HEARING OFFICER: I'm sorry.
10 What does that mean?

11 THE WITNESS: It's not source
12 specific. It can be used on print
13 lines, paper print lines, plastic
14 print lines. It does not specifically
15 entail this type of operation and can
16 only use DQO and LCL.

17 BY MS. ARCHER:

18 Q. If no revisions were necessary to
19 a test protocol that a company submitted, what
20 would you anticipate the time frame to be to have
21 the results back from a facility?

22 A. Are you asking for my review
23 of the protocol, when I get my review back to
24 them?

1 Q. I'm asking for the overall time
2 period if no revisions in the protocol were
3 necessary and stack testing went according to
4 schedule.

5 A. I would say within 90 days of a
6 request to conduct the stack test, all of the
7 information should be into the agency for our
8 review.

9 Q. Within 90 days, the information would
10 be into the agency for the review or would that be
11 when the company -- strike that.

12 I believe you have already
13 testified that you anticipate the agency to have
14 White Cap's Title V permit, but you would expect
15 the agency to have White Cap's Title V application
16 and permit issued by August of 1997?

17 A. I have no reason to disprove that.

18 Q. Okay. Even based on the results at
19 the Durco facility where it might take approximately
20 six months to have everything finalized with the
21 stack testing, if you apply that to White Cap's
22 situation, wouldn't everything still be completed
23 by early 1998?

24 A. Correct.

1 Q. And White Cap would still request until
2 November 1998 even though according to your schedule,
3 everything could be completed much sooner?

4 A. Right.

5 MS. MIHELIC: Objection. I'm
6 unclear to what you are asking.

7 THE HEARING OFFICER: Sustained.
8 Why don't you back up and rephrase
9 that question?

10 BY MS. ARCHER:

11 Q. All right. You testified you would
12 expect White Cap's permit to be issued by
13 August of 1997?

14 A. Correct.

15 Q. Based on the results of Durco, which
16 might take six months to have everything finalized
17 with regards to stack testing, would you then
18 anticipate that using that time frame, everything
19 would be revolved by White Cap by early 1998?

20 A. It could.

21 Q. That's all I have. Thank you,
22 Mr. Matteson.

23 THE HEARING OFFICER: Recross?

24 MS. MIHELIC: I have no further

1 questions at this time.

2 E X A M I N A T I O N

3 by Hearing Officer Wallace

4 Q. Mr. Matteson, I think we have it on
5 the record, but just so it's clear, DQO stands for
6 what?

7 A. Data quality objective.

8 Q. Data?

9 A. Quality objective.

10 Q. LCL stands for what?

11 A. Lower competency level.

12 Q. Would these go hand-in-hand or are these
13 separate independent tests?

14 A. Independent.

15 Q. Are they -- are both of them performed
16 when doing a stack test?

17 A. No. You can either use DQO or you can
18 use the LCL. The LCL cannot be used in enforcement,
19 I don't believe.

20 Q. Can a company use both or would there
21 be a reason to use both?

22 A. There would be no reason to use both.

23 Q. So in the protocol the company submits
24 what you review, one or the other would be selected

1 and approved?

2 A. Correct.

3 Q. Now, just so I'm clear, and I'm not
4 sure it's clearly relevant to this case, but the
5 test results that you have not reviewed yet, do
6 you know if other parts of the agency have been
7 waiting on your review?

8 A. The permit section has requested my
9 review, yes.

10 Q. And therefore, this Durco company is
11 still waiting for its permit?

12 A. To my knowledge, yes.

13 Q. Their permit application would have been
14 filed some time ago?

15 A. Correct.

16 Q. Are stack tests ever done for any other
17 reason other than a permit application?

18 A. Yes. They could be done for a consent
19 decree. They could be done pursuant to a request for
20 the field operations section if they are questioning
21 compliance with emissions. They could request a
22 stack test to be done.

23 Q. Does your agency enter into consent
24 decrees or is that the U.S.EPA?

1 A. My agency?

2 Q. Yes.

3 A. I do not enter into those.

4 Q. Illinois EPA does?

5 A. Uh-huh.

6 Q. Is that yes?

7 A. Yes.

8 Q. Backing up one more time, the stack
9 test -- was a stack test requested by the Illinois
10 EPA for Durco?

11 A. Yes.

12 Q. And did that cause Durco to grant an
13 extension of time for the issuance of the permit or
14 do you know the time frame?

15 A. I did not know the time frame.

16 Q. Okay. Thank you, Mr. Matteson.

17 THE HEARING OFFICER: Ms. Reporter,
18 do you need any spellings from Mr. Matteson?

19 MS. REPORTER: No, I don't. Thank
20 you.

21 THE HEARING OFFICER: You are excused
22 to leave.

23 THE HEARING OFFICER: Anything further,
24 Ms. Archer?

1 MS. ARCHER: No.

2 THE COURT: Anything further,
3 Ms. Mihelic?

4 MS. MIHELIC: Nothing further at
5 this point in time.

6 THE HEARING OFFICER: Do the parties
7 wish to file briefs?

8 MS. MIHELIC: Yes.

9 MS. ARCHER: Yes

10 THE HEARING OFFICER: Do you wish to
11 make closing statement?

12 MS. MIHELIC: Yes. I have a quick
13 closing statement.

14 MS. ARCHER: I'll do one too then.
15 Let's go off the record.

16 (Whereupon, a discussion
17 was had off the record.)

18 THE HEARING OFFICER: We have
19 had an off-the-record discussion regarding
20 the briefing schedule. I will summarize
21 that at the conclusion if you would like
22 to make a brief closing statement,
23 Ms. Mihelic?

24

1 C L O S I N G S T A T E M E N T

2 by Ms. Mihelic

3 Putting aside any legal
4 argument, the agency and White Cap are in agreement
5 that 99 percent of the issues raised in this
6 variance.

7 The agency and White Cap agree
8 that the variance is needed. The agency and White
9 Cap agree that minimal environmental impact will
10 occur by the granting of this variance.

11 The agency and White Cap agree
12 in order for White Cap to demonstrate compliance
13 with the current regulations, it must use an
14 alternative test method other than those set forth
15 in the current Illinois regulations.

16 The agency and White Cap
17 agree that requiring White Cap to comply with the
18 regulations currently set forth in Illinois' rules
19 would cause unreasonably and arbitrary hardship
20 upon White Cap.

21 White Cap and the agency agree
22 that the alternative test methods, specifically
23 the DQO and the LCL test methods, are methods
24 that are approved by both the IEPA and U.S.EPA.

1 The agency and White Cap agree
2 that the variance must be submitted as a SIP revision
3 in order for White Cap to use these alternative test
4 methods at this time.

5 The agency and White Cap agree
6 that White Cap cannot conduct the capture efficiency
7 tests without this variance and before the issuance
8 of a federally enforceable state operating permit.

9 All that White Cap and the
10 agency disagree on is when this variance should
11 expire and hence, when the SIP revision would
12 expire.

13 White Cap is simply seeking from
14 the board a time frame allotted by U.S.EPA in the
15 consent agreement in order to provide a sufficient
16 amount of time for a SIP revision to be approved,
17 conduct tests if it is necessary, and have the agency
18 approve the results of those tests.

19 In addition, White Cap also
20 seeks the additional time in order to complete
21 the modernization program it is currently
22 undertaking.

23 As testified by Ralph Fasano
24 today, White Cap on a voluntary basis is

1 significantly reducing VOM emissions in Illinois,
2 perhaps up to 80 percent of its past emissions,
3 using the 1994 data. That has been testified to
4 today. Assuming that is accurate, that would
5 mean 200 tons of emissions would be reduced by
6 one source alone by the Chicago non-attainment
7 area by November of 1998.

8 As Mr. Fasano testified,
9 White Cap intends to complete this modernization
10 plan by November 1998 barring any unforeseen
11 problems. If it does not complete this
12 modernization plan by November of 1998 as set
13 forth in the consent agreement, it agrees to
14 conduct the capture efficiency tests pursuant
15 to the alternative test methods, i.e., the DQO
16 or LCL test methods, by November of 1998.

17 If it is required to conduct
18 these test methods prior to the time that it
19 is able to complete its modernization program,
20 White Cap would simply be punished for a plan
21 basically of reducing emissions in Illinois.

22 It would be required to extend
23 perhaps significant amounts of money and time in
24 conducting these capture efficiency tests on lines

1 that may be removed within three months of conducting
2 such tests assuming that the tests were conducted --
3 had to be conducted in late 1997 or early 1998.

4 White Cap should be allowed the
5 opportunity to either conduct the modernization or
6 conduct the capture efficiency tests.

7 Again, going to when it may
8 conduct such alternative capture efficiency testing
9 under the current Illinois regulations, Section
10 218.105, White Cap may only conduct capture
11 efficiency tests using alternative methods if they
12 are approved by U.S.EPA as a SIP revision.

13 Contrary to the statements made
14 by the agency, Section 218.105 -- sorry -- strike
15 that.

16 The agency agrees that Section
17 218.105(c)(2) does not allow a source to conduct such
18 capture efficiency testing using alternative tests
19 with a federally enforceable permit and not with a
20 SIP revision.

21 Accordingly, White Cap requests
22 the board to make a determination as to whether
23 Section 218.108(b) supersedes Section 218.105. If
24 it does not supersede Section 218.105, if the board

1 does not agree to extend this variance consistent
2 with the U.S.EPA consent agreement, White Cap
3 requests that the board extend the variance until
4 such time that White Cap is able to conduct the
5 tests pursuant to a federally enforceable permit --
6 as scheduled to be set forth in a federally
7 enforceable permit, i.e., assuming that White Cap
8 issued Title V permit by January 5, 1998.

9 White Cap also requests the board
10 to -- if in the event that it determines that Section
11 218.108(b) does not supercede Section 218.105, that
12 it requires that the agency submit the variance for
13 a SIP revision by a date certain and that then this
14 variance continues until such time that White Cap is
15 able to conduct the tests pursuant to a Title V or
16 Clean Air Act permit or by November 10, 1998,
17 whichever is earlier.

18 That's all I have.

19 THE COURT: All right. Ms. Archer?

20 C L O S I N G S T A T E M E N T

21 By Ms. Archer

22 Well, Ms. Mihelic is correct
23 in saying that we do agree on many things. However,
24 the crux of the matter is that we do not agree on

1 whether or not 218.105 or 218.108(b) would control
2 in this matter.

3 It is the agency's belief that
4 Section 218.108(b) would control and that in order
5 for White Cap to do capture efficiency testing
6 pursuant to the U.S.EPA guidance memorandum, all
7 they need to do is have those methods contained
8 in the federally enforceable permit.

9 The agency has made a commitment
10 to have this permit issued by August 15, 1997.
11 The agency does not feel that a SIP revision is
12 necessary based on the foregoing testimony
13 and arguments.

14 The agency feels its position
15 is quite clear on that, that Section 218.108(b)
16 would supersede Section 218.105. The alternative
17 methods in the U.S. EPA guidance document are
18 considered equivalent alternative test methods,
19 which are clearly delineated in Section 218.108(b).

20 The agency feels that the
21 granting of this variance by the board would be
22 the first step towards getting White Cap into
23 compliance.

24 This variance should expire on

1 August 15, 1997, the date when the agency will
2 issue the cap permit for White Cap or if the
3 agency issues the cap permit for White Cap
4 before August 15, 1997, that date, then, the
5 capture efficiency testing would be contained
6 in the agency's cap permit, which it issued to
7 White Cap and the testing for capture efficiency
8 would be set out pursuant to that cap permit.

9 As testimony has indicated,
10 even at the outside, this testing should be
11 completed easily within six months and testimony
12 has indicated that three months would probably
13 be more likely.

14 This puts the time frame for
15 White Cap to do capture efficiency testing by
16 early as 1998 as compared to late 1998.

17 As I stated in my opening
18 statements, it is the agency's goal and the
19 board's goal and it should be the sources goal
20 to get into compliance as soon as possible.
21 A federally enforceable permit is a much easier
22 and legally required route for a source to
23 go as compared to a SIP revision.

24 A SIP revision would require

1 much more work for the agency and for the board
2 whereas the agency and the board have the option
3 of going with the federally enforceable permit
4 which is a much cleaner and simpler way -- more
5 simple way to do this.

6 White Cap has stated it is
7 planning to modernize its facility and hopefully
8 everything will be completed and all of the lines
9 will be using permanent total enclosure by 1998.
10 The agency would applaud White Cap's efforts to
11 do this and would hope this was the case.

12 As of today, nothing is for
13 sure. It has taken approximately nine months
14 to do the testing on the four new lines and
15 have everything completed and up and running.
16 We just don't know at this point whether or
17 not the timing will be sufficient for White
18 Cap to have permanent total enclosure on the
19 remaining lines.

20 The agency will submit
21 the variance request as a SIP revision as one
22 of the provisions of the variance would be
23 consistent with federal law. That should
24 satisfy White Cap's concerns over the SIP

1 revision regardless of whether Section 218.105
2 or 218.108(b) would control in this matter.

3 In summary, the agency
4 believes that granting White Cap the variance
5 until August 15, 1997, or until the agency
6 issues White Cap its Title V permit, whichever
7 is sooner, would be the first step in allowing
8 White Cap to come into compliance.

9 Once White Cap has its
10 Title V, it may do capture efficiency testing
11 pursuant to that permit. At that point, the
12 permit would control. A variance would no
13 longer be necessary. It would take everything
14 out of the realm of the variance proceeding
15 and put it into a permanent proceeding, which
16 is a much more preferable route.

17 THE HEARING OFFICER: All right.
18 Thank you.

19 MS. ARCHER: That's all I have.
20 Thank you.

21 MS. MIHELIC: May I do a quick
22 reply?

23 THE HEARING OFFICER: Go ahead.

24 C L O S I N G R E P L Y

1 By Ms. Mihelic

2 It has been and continues
3 to be White Cap's position that it is in current
4 compliance with Illinois' regulations.
5 Specifically, I'm referring to 218.207(b)(2).

6 It has been and continues to
7 be White Cap's position that it simply has been
8 unable to demonstrate compliance using the
9 current capture efficiency test methods set
10 forth in the regulations.

11 U.S.EPA and IEPA have concurred
12 that current capture efficiency test methods are
13 not economically or technically feasible for all
14 such coating lines for lines that those requirements
15 apply to. Therefore, they have developed alternative
16 testing methods.

17 The agency admits in its
18 conclusion and throughout its testimony that
19 it is already submitting the variance as a SIP
20 revision. It has stated that it would be more
21 difficult to submit a variance as a SIP revision
22 at a later time.

23 White Cap is confused by the
24 agency's position that they are already submitting

1 the variance as a SIP revision. It needs to only
2 submit the variance as a SIP revision extending
3 the time frame of the variance from August of 1997
4 when it anticipates that the agency will issue a
5 Title V permit although the agency, pursuant to
6 its own regulations, has until January of 1998
7 to issue such a permit.

8 In addition, the agency need
9 only to submit the SIP revision extending the
10 variance until such time as the agency has --
11 to allow such time for the agency to review the
12 results of the test, and verify that White Cap
13 is in current compliance with the Illinois
14 regulations.

15 We testified here today that
16 the agency has stated that conducting such tests
17 and obtaining such results could take over six
18 months of time and not merely 90 days within the
19 issuance of a Title V permit.

20 Accordingly, White Cap requests
21 that the variance not expire on August 15, 1997,
22 since there is no definite time by which the
23 agency must submit a Title V permit nor has White
24 Cap had any control over when such a permit will

1 be issued.

2 In addition, the agency admits
3 upon the issuance of the Title V, White Cap may not
4 have conducted capture efficiency tests, that that
5 Title V permit will address the conducting of such
6 tests.

7 White Cap has agreed in its
8 variance petition to conduct such tests by November
9 of 1998. Accordingly, White Cap requests that
10 the board not limit the amount of time of these
11 hearings. We will go forward until October of 1997
12 as the arbitrary deadline.

13 Rather, White Cap requests we
14 either defer to U.S.EPA consent agreement with
15 date of November of 1998 or that the board grant
16 the variance until pursuant to any federally
17 enforceable permit White Cap has to conduct such
18 tests, submit such results to the agency and for
19 agency's review of those tests.

20 THE HEARING OFFICER: Okay. Thank
21 you. That raises some interesting questions
22 and maybe the board will need these clarified.

23 What effect is there if the
24 variance expires August 15, 1997, and tests are

1 not performed results are not reviewed for months
2 afterwards, Ms. Archer?

3 MS. ARCHER: If a Title V permit is
4 issued before or after that date?

5 THE HEARING OFFICER: If the permit
6 is issued, the variance expires, but no tests or
7 results are reviewed or obtained within several
8 months?

9 MS. ARCHER: It's the agency's position
10 that once the cap permit is issued, that would
11 control rather than the variance. The time frame
12 set out within --

13 THE HEARING OFFICER: I understand that,
14 but is White Cap open to enforcement actions after
15 the issuance of the permit, but before these tests
16 are even done?

17 MS. ARCHER: No. Once White Cap has
18 their cap permit, the time frame set out within the
19 permit will control. The variance is the only
20 mechanism to get White Cap the federally enforceable
21 permit it needs to conduct the capture efficiency
22 testing.

23 THE HEARING OFFICER: Obviously, there
24 is a difference of almost a year here. I don't see

1 it. Maybe the board will. I think that certainly
2 needs to be addressed.

3 MR. BECKSTEAD: They are not shielded by
4 the cap.

5 MS. ARCHER: Right. The agency's
6 position is once the cap is issued, you have a
7 federally enforceable permit that sets out the
8 testing requirements. That's something that
9 would be negotiated with. You have a public hearing
10 before a cap permit is issued. Both the company and
11 the agency would know what was required regarding
12 that permit.

13 THE HEARING OFFICER: Apparently, there
14 is a problem with that. The problem is what? Maybe
15 you could be more specific.

16 MS. MIHELIC: The problem is under
17 the current Illinois regulations, the testing
18 requirements require that you comply with either
19 the test methods set forth in the rules --

20 THE HEARING OFFICER: No, no. I
21 understand that. Why is August 15, 1997, not
22 acceptable if there is a Title V permit?

23 MS. MIHELIC: Because the Title V
24 permit isn't a SIP revision. That does not

1 allow White Cap, pursuant to the current language
2 of Illinois' rules, to use alternative test methods.
3 It has to be incorporated into SIP revision.

4 THE HEARING OFFICER: All right. Why
5 would December of 1998 alleviate that?

6 MS. MIHELIC: Because the variance is
7 the SIP revision. They have stated they are
8 submitting the variance as a SIP revision.
9 Accordingly, as long as they are under variance or
10 complying with the variance, i.e., conducting the
11 alternative test methods, submitting those by
12 November of 1998, they are covered. They are covered
13 because it's a SIP revision. They are covered by
14 this variance. They are --

15 THE HEARING OFFICER: Who is covered?

16 MS. MIHELIC: White Cap is. They are
17 allowed to go forward with the tests, conduct the
18 tests, submit them to the agency or the U.S.EPA for
19 reviews, et cetera, et cetera. It also allows time
20 under the SIP revision for White Cap to continue and
21 complete its modernization program so that, in the
22 end, these tests may not even be required to be done.
23 It doesn't have to go forward with all the costs and
24 time and money, the agency's time, everybody's time

1 basically and conduct these tests. It will have five
2 lines that are permanently totally enclosed. Under
3 the current regulations, such lines are not required
4 to conduct capture efficiency testing. They are
5 assumed to be 100 percent capture.

6 THE HEARING OFFICER: Okay. Even if the
7 agency submits this as a SIP revision, that can take
8 up to two years, right?

9 MR. BECKSTEAD: Uh-huh.

10 MS. ARCHER: Correct.

11 THE COURT: If it's submitted, can White
12 Cap go ahead with -- I mean, it has to be accepted by
13 the U.S.EPA, correct?

14 MS. MIHELIC: Correct, as a SIP
15 revision.

16 MS. ARCHER: It's the agency's position
17 that there is a fundamental difference between having
18 the variance submitted to U.S.EPA as a SIP revision,
19 which is a way to get in compliance with federal law,
20 which is a variance requirement, and having capture
21 efficiency testing requirements submitted to U.S.EPA
22 as a SIP revision.

23 MS. MIHELIC: It's my understanding that
24 the variance incorporates already capture efficiency

1 test methods.

2 MS. ARCHER: The variance is actually a
3 mechanism for White Cap to get their federally
4 enforceable permit because right now, an arbitrary
5 or unreasonable hardship would occur for White
6 cap until they have a federally enforceable permit,
7 which would allow them to do capture efficiency
8 testing.

9 That's the first step towards
10 the whole process of actually doing the testing,
11 but until -- I mean, currently, the hardship exists
12 until they have their cap permit, which is why the
13 agency is requesting the variance only last until
14 White Cap has their Title V permit.

15 THE HEARING OFFICER: As I understand
16 it, the agency prefers the cap permit process as
17 opposed to this SIP revision process. Is that what
18 it boils down to.

19 MS. MIHELIC: Yes.

20 THE HEARING OFFICER: All right.

21 Thank you.

22 The briefing schedule is
23 that the transcript should be due here July
24 31st. White Cap's initial brief is due August

1 the 14th. The agency's brief will be due
2 August the 28th and White Cap may reply to
3 that on September the 4th.

4 White Cap has submitted to
5 waiving the decision deadline, which is now
6 currently September 19th to October 3rd. If
7 you would follow that up with the written waiver
8 to the clerk's office, I would appreciate it.

9 There are no exhibits to be
10 admitted. The hearing officer finds that the
11 three witnesses that have testified were credible
12 and that there are no credibility issues to be
13 resolved.

14 Anything further at this point?

15 MS. MIHELIC: No, nothing further.

16 MS. ARCHER: Nothing. Thank you.

17 THE HEARING OFFICER: All right. This
18 hearing is closed. Thank you very much.

19 (Which were all of the
20 proceedings had in the
21 above-entitled cause.)

22 * * * * *

23

24

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

4
5

6 I, LORI ANN ASAUSKAS, CSR, RPR,
7 do hereby state that I am a court reporter doing
8 business in the City of Chicago, County of Cook,
9 and 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 true
12 and correct transcript of my shorthand notes so
13 taken as aforesaid.

14

15 _____
16 Lori Ann Asauskas, CSR, RPR.
17 Notary Public, Cook County, IL

18

19

20

21 SUBSCRIBED AND SWORN TO
22 before me this _____ day
23 of _____, A.D., 1996.

24

Notary Public

