

ORIGINAL

BEFORE THE INDIANA GAMING COMMISSION

PUBLIC MEETING
MORNING SESSION

TRANSCRIPT OF PROCEEDINGS

DATE: June 22, 1995

PLACE: Indiana Government Center Auditorium
302 West Washington Street
Indianapolis, Indiana

REPORTED BY: Bobette Jo Bedinger, Notary Public

MEMBERS OF THE COMMISSSION

Alan I. Klineman, Chairman
Thomas F. Milcarek
Donald R. Vowels
Ann Marie Bochnowski
Robert W. Sundwick

ALSO PRESENT

John J. Thar, Executive Director,
and Members of the Staff

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1 MR. KLINEMAN: Let the record
2 show that all the commissioners except Dr.
3 Ross are present, and with that we would
4 entertain the presentation from
5 Lawrenceburg.

6 MR. TREADWAY: Chairman Klineman,
7 Commission Members, Director Thar and Staff,
8 my name is Scott Treadway. I'm an attorney
9 with the Indianapolis law firm of Lowe, Gray
10 Steele & Hoffman. We were engaged by the
11 city of Lawrenceburg approximately one year
12 ago to assist the city with negotiation of
13 development agreements, to assist the city
14 with various other gaming issues. On behalf
15 of Mayor Combs, city council and the
16 residents of Lawrenceburg, we welcome the
17 opportunity to make this presentation to the
18 Indiana Gaming Commission.

19 Over the next 30 minutes we intend
20 to demonstrate the city of Lawrenceburg's
21 analysis of the gaming applicants was as
22 thorough as reasonably possible and clearly
23 resulted in the three best gaming applicants

1 receiving an endorsement from the city of
2 Lawrenceburg, those being Ameristar, Boyd
3 and Indiana Gaming Company. The city's
4 presentation with include the following: A
5 review of the endorsement and anaylsis
6 process employed by the city; a review of
7 the infrastructure and engineering needs of
8 the city and the proposed projects; a review
9 of the financial anaylsis of the applicants
10 and their proposed projects; a review of the
11 development agreements entered into between
12 the city and the endorsed companies; and a
13 review of the multi-county revenue sharing
14 plan adopted by the Lawrenceburg City
15 Council.

16 We are confident that this
17 Commission sees fit to award the license to
18 one of the three endorsed candidates. It
19 will have taken the single most important
20 step that it can take to ensure that the
21 project is completed quickly, that the
22 project is constructed and managed by an
23 experienced gaming operator, and that the

1 project is successful for the long-term
2 future when competition is likely to follow.

3 The goal of our presentation is to
4 help you, the members of the Indiana Gaming
5 Commission, understand the emphasis that the
6 Lawrenceburg City Council placed upon
7 endorsing the best candidates. We ask only
8 that you listen to our presentation
9 carefully and consider the written materials
10 submitted to you. We are confident that you
11 will then agree that Ameristar, Boyd and
12 Indiana Gaming Company should receive a
13 license to operate a gaming facility in
14 Dearborn County.

15 I would now like to introduce
16 Mayor Donald Combs who would like to make a
17 few brief comments to the Commission on
18 behalf of the city of Lawrenceburg.

19 MR. COMBS: Good morning, Mr.
20 Chairman, Commission Members, Director Thar,
21 Commission Staff. I would like to thank you
22 on behalf of Lawrenceburg and Dearborn
23 County for this opportunity to present our

1 community's view on riverboat gaming. We
2 believe the Lawrenceburg gaming market
3 presents unique challenges to the Commission
4 but also presents an unequal opportunity.

5 As the Commission is aware, the
6 Dearborn County gaming market has a
7 potential to generate more revenue for the
8 citizens of Indiana than any other market.
9 However, the Lawrenceburg gaming applicants
10 and their proposals are as complex and
11 diverse as any that have been presented to
12 you. As I am certain the gaming commission
13 has discovered, the companies vary
14 dramatically in their expertise, experience,
15 financial stability, management styles and
16 ability to work with the state and local
17 governments. We have always recognized that
18 the decision to issue a license rests solely
19 with the Commission. We have never, nor do
20 we today, want to interfere with that role.
21 On the other hand, we also realized that the
22 decision of the Commission is critical to
23 Lawrenceburg and Dearborn County.

1 Recognizing the critical decision
2 facing this Commission and its long-term
3 implication for Dearborn County,
4 Lawrenceburg implemented an evaluation and
5 endorsement process which we hope would
6 identify those gaming companies with the
7 best proposals, the best financial packages,
8 the best operating record and the greatest
9 likelihood of having a positive and a
10 long-term financial impact on Indiana.

11 As a result of the comprehensive
12 process, each gaming company was placed
13 before the city council for the purpose of a
14 vote as to whether the companies should
15 receive an endorsement from the city. Three
16 companies received a unanimous endorsement:
17 Ameristar Casinos, Boyd Gaming, Indiana
18 Gaming Company. After considering the city
19 process and evaluating all the information
20 at your disposal, I am certain that you will
21 agree that the maximum benefit from
22 riverboat gaming will only occur if the
23 license is awarded to either Ameristar, Boyd

1 or Indiana Gaming Company.

2 Finally, I would like to address
3 an issue which has been raised by this
4 Commission. In July of 1994 I wrote a
5 letter to the Commission regarding my
6 personal feelings on Indiana gaming. In
7 hindsight, I recognize the letter was
8 inappropriate and a mistake, thus I want to
9 apologize to the Commission and to Director
10 Thar for any confusion caused by my letter.
11 Please do not let the letter of my action
12 diminish the value of the work of the
13 Lawrenceburg City Council or the value of
14 their endorsement. For the record, I fully
15 support the process and the endorsement of
16 Ameristar, Boyd and Indiana Gaming Company.

17 At this time I would like to
18 introduce Mr. Jeff Dornette who will provide
19 the next component of our presentation.
20 Thank you, very much.

21 MR. DORNETTE: Thank you, Mayor.
22 By the time the November of 1993 referendum
23 rolled around, the city realized that

1 prospective gaming projects were huge and
2 that it was not equipped to manage issues
3 that it would face if the development was
4 located in Lawrenceburg. The mayor and
5 council realized that riverboat gaming was a
6 rare opportunity for Dearborn County, and
7 they had an obligation to maximize that
8 opportunity. They embarked on a process to
9 ensure that a riverboat project will be
10 located in Lawrenceburg and that it would be
11 operated by a high-quality company.

12 They first recognized that it was
13 not equipped to handle serious economic
14 development. They hired Jeff Sheridan as
15 director of municipal development. Next I
16 was retained as special counsel. Jeff and I
17 helped design and implement this process.

18 We knew the city wanted to attract
19 the best builders, so we actively marketed
20 and solicited gaming companies to apply
21 here. Our efforts increased in number of
22 applications. We engaged in a request for
23 proposal process. Each interested applicant

1 submitted detailed proposals. We then
2 arranged for a series of public
3 presentations by each of the representatives
4 of each of the companies. The presentations
5 were before standing room only crowds. They
6 were televised, audience questions were
7 taken, and they served to involve the entire
8 county into the Lawrenceburg process.

9 The city recognized that it lacked
10 the manpower and expertise to properly
11 evaluate the gaming companies' proposals.
12 We retained a multi-disciplined team of
13 professionals to assist us. Doug Ralston of
14 PDR Engineering, in Milan, Indiana, he would
15 want me to add, was engaged by the city to
16 analyze infrastructure and engineering
17 needs. KPMG Peat Marwick was retained for
18 financial analysis of both the companies and
19 their proposals. Lowe, Gray, Steele was
20 engaged to be involved in the negotiation
21 and preparation of the development
22 agreements.

23 The city also engaged an urban

1 impact consultant. They were to perform an
2 analysis of Lawrenceburg and Dearborn
3 County. This analysis helped us understand
4 the impact of this type of development on
5 our community and also to make sure the
6 impact was positive. As a result of this
7 study, the city began a major revision of
8 its zoning and other ordinances.

9 The city formed a Dearborn County
10 Advisory Committee that was comprised of
11 citizens from all walks of life and all
12 areas of the county. They were to consider
13 the impact of gaming, potential uses of
14 revenue and community concerns. These
15 meetings were well attended in public
16 participation and they were televised.

17 The city with the help of Lowe,
18 Gray, Steele & Hoffman successfully
19 negotiated development agreements with five
20 applicants. The city council members and
21 professionals actively participated in these
22 negotiations. These agreements will serve
23 to resolve most of the issues between the

1 city and the companies and will greatly
2 facilitate speedy construction of a project
3 in Lawrenceburg and Dearborn County.

4 Lawrenceburg officials conducted
5 site visits to the applicants' existing
6 riverboat operations, if they had them.
7 These visits proved to be extremely valuable
8 to them, and I am sure the Commission is
9 aware, that the quality of the various
10 operations varied dramatically. They're not
11 the same.

12 The mayor, city council and I
13 spent hundreds of hours, thousands in total,
14 with all the applicants over the past, going
15 on two years. We know all of them
16 personally. We know who is suitable and
17 have ideas about who is not suitable.
18 Lawrenceburg City Council spent countless
19 hours evaluating all of this information
20 that's been generated by our process. They
21 considered many issues including traffic,
22 experience, infrastructure, economic impact,
23 environmental impact, financial stability

1 and community suitability.

2 Finally, each of these companies
3 was placed before city council for a vote on
4 endorsement. All the endorsements were made
5 unanimous. Having helped develop and live
6 with this thing for almost two years, being
7 active in the process, I can assure this
8 commission of two things: There were some
9 bumps in the road, but our process was
10 thorough, honest, comprehensive. Our
11 evaluation was done on a level playing
12 field.

13 Secondly, selection of one of our
14 endorsed companies, Ameristar, Boyd, Indiana
15 Gaming, will give Indiana and Dearborn
16 County a good citizen, a good corporate
17 citizen, and generate the most economic
18 impact of any project in the state.

19 Next up Doug Ralston who will
20 discuss the engineering aspects of this
21 project.

22 MR. RALSTON: Thank you, Mr.
23 Dornette. Good morning, Mr. Chairman,

1 Commission Members, Staff. I represent PDR
2 Engineers, Incorporated, a multi-disciplined
3 engineering firm based in Lexington,
4 Kentucky. We are a nationally-recognized
5 firm that has been in business for 49 years.
6 The city of Lawrenceburg retained our
7 services to evaluate the original gaming
8 operation proposals with respect to their
9 impact on utilities, traffic, environmental
10 factors and implementation issues.

11 We initially evaluated the Phase 1
12 proposals of seven developers, met with each
13 developer and their engineering staff,
14 participated in the development agreement
15 negotiations; and, finally, reviewed the
16 five Phase 2 proposals that had executed
17 development agreements with the city. We
18 found that the following minimal
19 infrastructure improvements were needed:

20 Utilities, the water: Ground
21 storage and distribution lines will not be
22 adequate for fire protection at any site
23 development. A new storage tank and water

1 main would be required. New fire and safety
2 equipment is anticipated. Over 2.5 million
3 dollars has been allocated for these items
4 and the development agreements by the
5 endorsed candidates.

6 Electric: Two new substations and
7 an overall distribution system of the
8 project would be required to serve any
9 riverboat development. 1.75 million dollars
10 has been allocated in the development
11 agreements by the endorsed candidates for
12 this reason.

13 Wastewater: As you probably
14 realize, the wastewater treatment plant
15 serving the city of Lawrenceburg has reached
16 its loaded design capacity and a new
17 wastewater treatment plant is needed. If an
18 endorsed company is awarded the license, a
19 new 5 million gallon wastewater treatment
20 plant estimated to cost 10.3 million dollars
21 would be constructed by the city and
22 dedicated to the South Dearborn Regional
23 Surdistrict operating entity. This plant

1 would serve the needs of Aurora, Greendale,
2 Seagrams, Lawrenceburg and much of the
3 county for a minimum of ten years.

4 Traffic: INDOT plans to add a
5 fifth lane through the city. This, in
6 addition to the proposed automated
7 signalization system, will improve the
8 traffic situation in Lawrenceburg.
9 Approximately 7 million dollars has also
10 been allocated by the endorsed companies for
11 traffic-related improvements specific to
12 their project.

13 Environmental: Most developers
14 face individual environmental issues, but we
15 feel that these problems are capable of
16 mitigation. The city required the endorsed
17 candidates to complete their Phrase 1
18 archaeological survey at their sites and to
19 prepare their permitting documents.

20 Implementation: The endorsed
21 gaming companies' projects will use a
22 temporary riverboat to expedite gaming
23 revenues. We feel that all of these

1 projects are capable of implementation
2 within the time-frame anticipated. The city
3 has negotiated liquidated damage clauses
4 within the development agreements to protect
5 their interests. The three endorsed gaming
6 companies have agreed to participate in the
7 necessary infrastructure improvements needed
8 for their particular project. To accelerate
9 many vital infrastructure improvements, the
10 endorsed companies have already provided 1.9
11 million dollars in up-front funding for
12 planning and design of several projects.

13 As an example of the importance of
14 selecting an endorsed company as clearly
15 shown by the slide exhibit, the wastewater
16 rates would nearly double for the average
17 customer without participation by the
18 licensed riverboat gaming company in the
19 wastewater project. The Commission should
20 be aware that Seagrams has indicated that
21 they would likely leave the community if
22 these rate increases were to occur.

23 Seagrams currently employs over 700 and is a

1 primary contributor to the local tax base.

2 We hope that the gaming commission
3 realizes that it is of prime importance to
4 the city of Lawrenceburg that an endorsed
5 gaming company with an executed development
6 agreement be awarded the license. Without
7 assurances of infrastructure improvements,
8 the city and county would suffer in extreme
9 indebtedness and hardship in efforts to
10 provide these necessities.

11 The city has done due diligence in
12 not only their engineering reviews but on
13 the other important community issues and
14 have made their endorsement on the basis of
15 these reviews to the Commission. As a
16 participant and component of that process,
17 PDR hereby asks that the Indiana Gaming
18 Commission select a gaming company that has
19 been endorsed by the city.

20 Mr. Paul Garity and Mr. John Repa
21 of Peat Marwick will now present their
22 analysis.

23 MR. GARITY: Hi, I'm Paul

1 Garity. I'm from KPMG Peat Marwick. I'm
2 the partner in charge of the gaming practice
3 for the United States. I'm joined by John
4 Repa who's a senior manager in our practice
5 and who has been a key consultant on this
6 project. We were retained by the city about
7 18 months ago to assist them in reviewing
8 the proposals by the operators you're going
9 to hear about today.

10 Just a quick word on Peat
11 Marwick. We're a large accounting firm with
12 about 75,000 people worldwide.

13 I think the city chose us because
14 we've worked a lot of new venue gaming
15 issues across the country both on the
16 proposers side with some of the operators as
17 well as on the municipality side looking at
18 the selection process. Our initial analysis
19 of Dearborn County convinced us that the
20 casino operators were very interested in
21 this area. As you heard before this week,
22 Wall Street analysts and some other
23 consultants have projected the market in

1 this area could approach 700 million dollars
2 of gaming revenue annually.

3 So, why is Lawrenceburg so
4 attractive? I think the reasons are pretty
5 obvious: Big population base, good access,
6 opportunity to beat any competition to the
7 market in this area. And also from the city
8 side, pretty obvious reasons, that the city
9 is interested in the economic growth and the
10 revitalization potential of the proposals.

11 So, it was no surprise that we
12 found the casino companies very interested
13 and enthusiastic, and that has allowed the
14 city to be very aggressive in trying to
15 determine what a development agreement
16 should look like and what amenities and
17 infrastructures should be provided for the
18 community. As we emerged in this selection
19 process, it's pretty obvious that the
20 operators have high expectations for this
21 gaming market and, correspondingly, the
22 community has high expectations for the
23 investment of that in the community.

1 Just a brief word on KPMG's role.
2 You're going to hear a lot about process
3 today from everyone here, as you'd expect me
4 to try to provide the city council with an
5 overview of the gaming industry to get them
6 comfortable with the terms and trends of
7 companies. We then played the key role and
8 kind of summarized all the presentations and
9 put them on some kind of an apples and
10 apples basis as you see in the written
11 material presented to you.

12 And other than that, we really
13 acted as a team member particularly involved
14 in the conversations with the proposers,
15 going back and forth on the proposals, and
16 more recently we tried to help update as
17 proposals have changed and been improved,
18 we've been trying to get financial status and
19 other information to the city council.

20 I'd like to turn the presentation
21 over to John who's really been the key guy
22 on the project.

23 MR. REPA: As you can see, this

1 next slide illustrates the results of the
2 process. Due to time constraints today,
3 I'll be focusing on the endorsed candidates,
4 but we've also reviewed the non-endorsed
5 companies, and I would encourage your
6 questions after our presentation.

7 There is no doubt the endorsed
8 companies best met the selection criteria
9 used by the community. First of all,
10 they're all experienced operators. As part
11 of the endorsement process, the council
12 toured casinos operated by each proposer.
13 They were clearly impressed with not only
14 the operations of the endorsed companies but
15 the quality level of their developments.

16 Every endorsed candidate signed a
17 development agreement and promised
18 significant incentives to the city. These
19 agreements required the operator to deliver
20 the project as proposed. Working with a
21 business partner with whom we have a solid
22 relationship will greatly accelerate the
23 process. Most issues already have been

1 resolved between the community and the
2 endorsed companies which will ensure the
3 state of Indiana that they will get the
4 gaming tax revenue as soon as possible.

5 The endorsed candidates also
6 provided strong benefits in terms of jobs
7 and economic development. These proposals
8 were responsive to the community and the
9 state. During the course of our firm's
10 analysis, we assessed whether or not the
11 proposals met the needs of the market and
12 the community. We went back to the gaming
13 companies on certain issues that the city
14 wasn't comfortable with and asked them to
15 change their proposals.

16 For example, regarding the marina,
17 the number of slips was either reduced or
18 eliminated in most projects. Parking for
19 not only patrons but employees was
20 increased, and the hotels on the endorsed
21 companies were sensitive to the needs of the
22 community in terms of quality level.

23 The endorsed candidates are all

1 willing to invest substantial funds and
2 land-based facilities. This discourages
3 these companies from ever one day sailing
4 away to more lucrative waters. The
5 agreements with these three companies also
6 balanced quality and the level of investment
7 between the land-based facilities and the
8 riverboat itself. The endorsed companies
9 have proven themselves to be leaders in
10 highly-competitive markets.

11 Ameristar has a successful
12 operation in the highly-competitive market
13 of Vicksburg where they currently hold 35
14 percent of the market share.

15 Boyd Gaming has the most
16 successful riverboat operation in the New
17 Orleans area and is the market leader in
18 terms of revenue in a highly-competitive
19 environment.

20 And one of Indiana Gaming
21 Company's success stories is in Sioux City,
22 Iowa. Since Artis has taken over management
23 of the operation, passenger accounts have

1 quadrupled.

2 Finally, the endorsed companies
3 have established a rapport with the
4 community. The community needs a business
5 partner and community citizens. Cooperation
6 between the company ultimately awarded the
7 license and the community will have to
8 result in a successful project. The
9 intangibles that arise in dealing with
10 people over 18 months or more should be a
11 critical element in the selection process.

12 The process conducted by the city
13 of Lawrenceburg was the most comprehensive
14 and thorough that we have ever seen a
15 municipality conduct in selecting a casino
16 operator. While any casino development
17 venture involves some bit of risk, we are
18 satisfied that the city has asked the right
19 questions and the companies selected can
20 deliver the kind of project Indiana wants
21 and deserves.

22 Scott Treadway with Lowe, Gray,
23 Steele & Hoffman will talk to you in detail

1 about our development agreements.

2 MR. TREADWAY: Thank you, John.
3 The process of reaching development
4 agreements with the prospective companies
5 consisted of four phases. Phase 1 involved
6 Lowe Gray identifying that information which
7 would place Lawrenceburg in the best
8 position to negotiate favorable development
9 agreements. The information included the
10 following: Getting a general understanding
11 of the riverboat industry, identifying the
12 problems encountered by other municipalities
13 which have posted riverboat projects in such
14 areas as finance, design, construction,
15 operation and maintenance; identifying those
16 areas where gaming companies frequently
17 failed to honor their commitments and
18 promises; gaining an understanding of how a
19 riverboat project of this size and magnitude
20 might impact a city of approximately 4,300
21 people; determining the financial burden
22 that a project of this magnitude would place
23 on Dearborn County; and identifying those

1 components of a riverboat project that
2 maximize its chances for long-term success.

3 In order to obtain this
4 information, Lowe Gray conducted the
5 following investigation which comprised
6 Phase 2 of our process. We interviewed
7 representatives of other municipalities
8 which have hosted riverboat projects. We
9 studied development agreements from other
10 jurisdictions. We studied the gaming
11 company proposals. We attended the gaming
12 companies' presentations to the city. We
13 requested copies of development agreements
14 that the applicants have signed in other
15 gaming jurisdictions. We reviewed the
16 gaming company and project analysis
17 performed by PDR Engineers and Peat
18 Marwick. Finally, we studied the unique
19 requirements of the city of Lawrenceburg and
20 Dearborn County so that we could ensure that
21 those requirements were addressed in the
22 development agreements.

23 As a result of this investigation,

1 we concluded that negotiating a detailed
2 development agreement prior to licensing was
3 the only means to ensure that the successful
4 applicant honored its many promises to the
5 city and to ensure the riverboat project
6 work in harmony with the city rather than
7 overwhelm them. As a result of our
8 investigation, we identified six critical
9 areas to address in the development
10 agreement which was Phase 3 of our process.

11 Number one, infrastructure. As
12 you heard, the city's infrastructure
13 including wastewater treatment, water and
14 electricity, but to mention a few, are
15 inadequate to handle the city's current
16 population. PDR Engineers have identified
17 approximately 22 million dollars in
18 infrastructure improvements. The lack of
19 development agreements in other
20 jurisdictions in several cities failed to
21 generate sufficient revenue to pay for even
22 basic infrastructure requirements; project
23 design, construction and maintenance.

1 The quality of riverboat projects
2 vary greatly in gaming jurisdictions across
3 the country. The projects range from
4 four-star hotel quality to, as the mayor of
5 Evansville accurately described, truckstop
6 quality. The same is true for the proposed
7 projects. The quality of your applicants'
8 projects in other jurisdictions varied
9 dramatically as do their current proposals.
10 The company willing to make firm contractual
11 commitments concerning cost and quality may
12 be the only demonstrative proof of a
13 company's intent to be in a jurisdiction for
14 the long haul. And as rest of the country
15 has proven, quality built and well-operated
16 projects have survived and prospered while
17 poorly-built projects managed by inferior
18 operators have failed and been abandoned
19 have been by their owners.

20 Timely completion of projects.
21 Many projects across the country have failed
22 to meet the gaming company's
23 overly-optimistic completion schedule

1 costing everyone millions of dollars. We
2 deemed it critical to ensure that each
3 company provided a realistic completion
4 schedule so as to be able to fairly judge
5 that company and avoid significant loss of
6 income in city, county and state.

7 Employment wages and benefits.

8 The best measure of economic development is
9 the creation of full-time jobs with good
10 wages and good benefits. Accordingly, we
11 deemed it critical to request the gaming
12 companies to commit to a minimum number of
13 new jobs, guaranteed minimum average
14 salaries, guaranteed benefits, and agreed to
15 first employ Lawrenceburg and Dearborn
16 County and Indiana residents.

17 Financial commitments to the city.

18 We believe it's in the best interest of the
19 city of Lawrenceburg and Dearborn County to
20 maximize the revenues from this rare
21 opportunity. Many companies, including some
22 of your applicants, are willing to give
23 vague assurances and pat-on-the-back

1 promises regarding incentive payments to
2 both governments. We ask that these
3 commitments be guaranteed and in writing.

4 Covenant not to complete. As the
5 Commission has recognized, other
6 jurisdictions in the region will open their
7 borders to gaming. We do not want the
8 successful applicant to abandon its location
9 for greener pastures or open facilities
10 which will draw business from Indiana.

11 The first three phases of our work
12 led to Phase IV, direct negotiations with
13 the gaming companies. Representatives of
14 the city spent approximately six weeks
15 negotiating development agreements with
16 seven gaming companies. The city entered
17 into development agreements with five
18 companies; Boyd, Indiana Gaming, Ameristar,
19 Lady Luck and Empire.

20 Although not identical, the
21 development agreements with the three
22 endorsed companies are clearly the best
23 agreements for the protection and benefit of

1 Lawrenceburg, Dearborn County and ultimately
2 the state of Indiana. These agreements
3 maximize the financial benefits to
4 southeastern Indiana, eliminate many
5 potential development issues which can delay
6 a project, and take great strides toward
7 assuring the construction and operation of a
8 quality project.

9 Although the agreements are too
10 lengthy to cover in detail here, I would
11 like to take a few moments to summarize six
12 provisions of the development agreements
13 common, and maybe more important, unique to
14 the endorsed candidates.

15 Financial commitments. Each the
16 endorsed candidates have agreed to fund
17 \$21,848,000 of infrastructure improvements.
18 Each of the endorsed candidate have also
19 agreed to make incentive payments to the
20 city of Lawrenceburg ranging from 31 million
21 to 43 million dollars over five years. In
22 addition, each of the endorsed companies
23 have agreed to share a percentage of their

1 gaming revenues with the city of
2 Lawrenceburg.

3 Project completion. Each of the
4 endorsed companies has agree to complete
5 their projects between 16 and 18 months.
6 And, significant, each of the endorsed
7 companies have agreed to a liquidate damage
8 cost ranging between \$30,000 and \$35,000 per
9 day in the event their project is not
10 completed on a timely basis.

11 Project quality. Each of the
12 endorsed candidates made a number of
13 commitments concerning the quality of their
14 project including provisions guaranteeing
15 the minimum cost of the riverboat and
16 land-based facility, committing to a project
17 of high-quality with a minimum life-span of
18 30 years, providing 100 percent performance
19 in payment bonds, providing maintenance
20 bonds equal to 25 percent of the project and
21 guaranteeing minimum hotel standards.

22 Hiring and supplier preferences.
23 Each endorsed company guaranteed this

1 project would be an Indiana project which is
2 key considering the location borders on Ohio
3 and Kentucky. Each of the endorsed
4 candidates have agreed to use an Indiana
5 general contractor, Indiana construction
6 manager, Indiana subcontractors, and agreed
7 to contract or employee-hiring preference.
8 Each of the endorsed candidates have also
9 agreed to pay salaries equal to a union
10 contract wage or prevailing wage. Finally,
11 each the endorsed candidates have made firm
12 commitments regarding permanent employment
13 on their projects.

14 These are but a few highlights of
15 the endorsed companies' development
16 agreements. I can assure this Commission
17 there are many more key provisions essential
18 to the success of this project. I have
19 observed and participated in many facets of
20 the city's analysis over the past two years,
21 a process which has lasted an extended
22 period of time and could not have been more
23 thorough. Although I am not here to

1 recommend a specific company, I can say to
2 this Commission without any reservation the
3 single most important step this Commission
4 can take to ensure the success of gaming in
5 southeastern Indiana is to award the
6 certificate of suitability to Ameristar,
7 Boyd or Indiana Gaming.

8 I would now like to introduce a
9 member of the city council, Pat Krider, to
10 discuss revenue sharing and conclude our
11 presentation.

12 MS. KRIDER: I'm very proud to
13 have this opportunity to share with the
14 Commission the revenue sharing plan that's
15 been adopted by the city of Lawrenceburg.
16 This is a plan that can only be implemented
17 if one of the city's three endorsed
18 candidates is awarded a license. Before
19 revenue sharing was being considered in many
20 cities, Lawrenceburg was talking about
21 revenue sharing. Our efforts to formulate a
22 plan have intensified in this past year.
23 Our plan takes into account the intent of

1 the legislation, the impact on Lawrenceburg
2 and surrounding communities and our
3 responsible to the citizens of Lawrenceburg.
4 Our plan is clearly one of the most
5 lucrative in the country and definitely the
6 largest in the state. It distributes 40
7 million dollars over a five-year period.
8 The plan includes the following:

9 By virtue of our development
10 agreements, the city will spend 10 million
11 dollars on a new wastewater treatment system
12 which will service residents from a large
13 part of Dearborn County. The city will
14 provide a hundred thousand dollars in
15 funding for a countywide master plan.

16 Third, again, as part of the
17 development agreements, the city will spend
18 7 million dollars to address traffic issues
19 which will benefit a multi-county area.

20 Fourth, the city will spend
21 \$200,000 for improvements associated with
22 the state's US 50 improvement project.

23 And, finally, the city of

1 Lawrenceburg will distribute, we will share,
2 a full 50 percent of all gaming tax
3 revenues. We estimate that amount to be
4 between 30 and 32 million dollars over a
5 five-year period.

6 The tax revenues will be shared in
7 the following ways: The first 25 percent
8 will be distributed in direct cash
9 disbursements to towns, cities and
10 unincorporated areas within Dearborn County.
11 Another 10 percent will be distributed to
12 the three school corporations within the
13 county and to higher education. Another 10
14 percent will be distributed as unrestricted
15 funds to Switzerland, Ohio, Franklin and
16 Ripley counties. And a fifth and final five
17 percent will be used to establish a
18 countywide economic development
19 organization.

20 It's important to remember that
21 what will allow the city to share such
22 significant revenue are the financial
23 commitments that have been made by our three

1 endorsed companies. This package may not
2 satisfy everyone in southeastern Indiana, we
3 know that, but what's important is what the
4 plan does. It maximizes economic impact
5 over a five-county area, and it provides
6 local officials with funds and the
7 discretion to spend those funds where they
8 are needed.

9 We sincerely hope that our efforts
10 and our analysis will assist the Commission
11 in its very critical decision of selecting a
12 location for a riverboat in southeastern
13 Indiana, and equally important selecting a
14 gaming company to operate that facility.
15 Based upon every study we are aware of,
16 based upon the quality of the applicants and
17 based upon economic impact on the region,
18 Dearborn County, Lawrenceburg, is the
19 logical site for a riverboat project.

20 By choosing one of these three
21 companies, the Commission can be confident
22 of the following: That you will be choosing
23 a gaming company with a well-established,

1 successful riverboat history that will
2 build, operate and manage the project. That
3 the project will be constructed in the
4 shortest amount of time because many, if not
5 all of the development issues, have already
6 been addressed in the development
7 agreements.

8 One year ago the city council of
9 Lawrenceburg endorsed three companies.
10 Today we firmly believe that those three
11 endorsements have stood the test of time.
12 We ask the Commission to please award a
13 certificate of suitability to Ameristar,
14 Boyd or Indiana Gaming. Thank you.

15 MR. KLINEMAN: Thank you. I
16 guess, according to the schedule, we have
17 Ohio County. Does Ohio County wish to
18 present from the -- and we should stay here
19 in the first row or do we go back where we
20 belong? Stay in the front row, okay..

21 MR. GUARD: Chairman Klineman,
22 Commissioners, Mr. Thar, Mr. Hannah, the
23 Gaming Commission Staff, my name is Mark

1 Guard. I am the mayor of the city of Rising
2 Sun and a teacher with the South Ripley
3 Community School Corporation in Versailles,
4 Indiana. I grew up in Rising Sun, graduated
5 from our high school and have lived there
6 all of my life. When I first ran for mayor
7 four years ago, I never dreamed that I would
8 be involved in this type of process. Here I
9 am, and in that sense I'm proud to be here
10 today. I am proud of the city of Rising
11 Sun. I am proud of Ohio County, and I'm
12 especially proud of the Rising Sun First
13 group. And I'm proud to present to you
14 today a program that will benefit all of
15 southeastern Indiana and ultimately all of
16 the state of Indiana.

17 When we first started down this
18 path some two years ago, we were faced -- we
19 often found ourselves trying to answer two
20 big questions; one, where is Rising Sun and,
21 two, how do you get there. Well, today we
22 are here to answer those questions and,
23 furthermore, let you know why you will want

1 to come to Rising Sun, visit us, and along
2 with millions of others wants you to license
3 a riverboat to Rising Sun.

4 Most of you have been to Rising
5 Sun. You've seen the main street we plan to
6 restore. You've seen our wonderful stretch
7 of Ohio River, and you've walked to what we
8 know to be the best riverboat site in the
9 state of Indiana just three blocks from our
10 downtown. You've met the friendly people of
11 our city and of our neighboring communities,
12 and you've had to feel the tremendous
13 enthusiasm of these people in southeastern
14 Indiana for this project that has gone
15 beyond the words of enthusiasm.

16 As you can see, all roads lead to
17 Rising Sun. We're only 100 miles from
18 Indianapolis and Lexington. Less than 100
19 miles from Louisville and just 30 miles from
20 Cincinnati. In short, despite what you may
21 have believed at one time, you and nearly 8
22 million others in our major market area can
23 and will get to Rising Sun.

1 As you can see, we have an
2 impressive group of citizens today from
3 Rising Sun, Ohio County, and our neighboring
4 communities out here, yet not everyone can
5 be here. So, we'd like to start our
6 presentation with a picture of our
7 community. Following that Monte Denbo,
8 someone who has earned my respect and my
9 city's gratitude as chairman of Rising Sun
10 redevelopment commission and a volunteer
11 leader who has led our riverboat effort,
12 will continue our presentation. Thank you,
13 very much.

14 (AT this time a video is being
15 played.)

16 MR. DENBO: Chairman Klineman,
17 Commissioners, Director Thar, Deputy
18 Director Hannah, the Staff, my name is Monte
19 Denbo, and I proudly serve my community as
20 the chairman of its redevelopment
21 commission. And today I'm here to walk you
22 through the careful and thorough course of
23 action Rising Sun and Ohio County have taken

1 for the past two years and to assure you
2 that we are, indeed, ready.

3 Just two short years ago when the
4 general assembly enacted riverboat gaming
5 legislation, Rising Sun quickly moved
6 forward. And less than 24 hours after the
7 law was in force, our city council
8 unanimously passed resolutions to vigorously
9 pursue a riverboat project.

10 Mayor Guard appointed a riverboat
11 task force on July 8th and we set things in
12 motion. Within the month of July, the city
13 council enacted a docking ordinance, the
14 first on the Ohio River, and voted to add a
15 riverboat gaming referendum to our November
16 ballot. Our task force took a long, hard
17 look at the community and asked what is best
18 for Rising Sun and southeastern Indiana.

19 We looked at our potential site,
20 400 plus acres of undeveloped farmland with
21 unmatched picturesque view of the Ohio
22 River, the high spot between Cincinnati and
23 Louisville, just three blocks from our main

1 street, land that is immediately available
2 served by city utilities with abundant
3 Indiana waters, no navigational, no boundary
4 or environmental problems. This is our
5 opportunity for a development unparalleled
6 in Indiana, a destination resort complex.

7 The riverboat would be the
8 centerpiece of land-based development
9 featuring a major hotel, meeting facilities,
10 entertainment venues, retail shops and a
11 golf course, a project that could survive
12 competition from other states should that
13 happen. We wanted a project that would
14 maximize the use of our land and include in
15 permanent investment, one that would provide
16 a variety of jobs and sources of revenues
17 and would actively support redevelopment of
18 our downtown.

19 So, we told that to the companies.
20 We set specific guidelines for them, bring
21 in a riverboat, build a hotel, develop a
22 resort with entertainment, a golf course,
23 shopping and other amenities, assure us of

1 good jobs, solid revenues, show us your
2 commitment. Our evaluation process included
3 a task force view in public presentations.
4 That resulted in contractual agreements with
5 two companies. Phil Bayt will explain those
6 in more detail in just a few moments.

7 We implemented community education
8 programs in anticipation of the referendum,
9 and I'm proud to point out that Ohio County
10 had a 69 percent voter turnout and the
11 highest winning margin on the Ohio River,
12 convincing proof of the citizen support for
13 this project.

14 At this time I'd like to bring
15 Phil Bayt to the podium.

16 MR. BAYT: Good morning, Chairman
17 Klineman, Members of the Commission, Mr.
18 Thar, Staff, my name is Phil Bayt from the
19 Ice Miller law firm. You know, when I told
20 my daughter, who is six and who is a lot
21 smarter than I am, that I was going to be
22 making this presentation today, that I was
23 going to be speaking on behalf of Rising

1 Sun, she started talking about spiders. I
2 didn't understand what she meant until she
3 started going, "Itsy, Bitsy Spider." When
4 she got to, "Out comes the sun," I fully
5 understood exactly what she meant, and I
6 hope a week from now the sun does come out
7 for Rising Sun.

8 Historically we've represented
9 Ohio County and the city of Rising Sun in
10 municipal law matters. We were pleased to
11 be asked to represent the local government
12 in connection with the local process and to
13 help them facilitate the advent of riverboat
14 gaming in their community. You know, Monte
15 Denbo and the mayor and city attorney Lane
16 Siekman and others solicited 22 different
17 gaming companies to consider and to visit
18 Rising Sun to see whether it would be
19 suitable as a docking facility.

20 The local government arranged
21 public presentations by the three applicants
22 to educate the community in Rising Sun about
23 riverboat gaming and about the projects that

1 could come to their community. After the
2 close of applications, the negotiating team
3 conducted several meetings with all three
4 gaming companies to discuss a variety of
5 issues. I drafted a project agreement after
6 distilling those comments from early
7 meetings and negotiated project agreements
8 with all three of the gaming company
9 applicants. Ultimately the local government
10 entered into with two of those three
11 applicants.

12 In the project agreement, each
13 applicant described its project in great
14 detail and provided a development timetable.
15 Each applicant agreed to make delayed
16 payments each month if it failed to meet
17 that development schedule. Each applicant
18 agreed to provide security to the local
19 government in the form of a 5.4 million
20 dollar letter of credit to be issued
21 immediately upon the issuance of the
22 certificate of suitability, and to provide a
23 parental guarantee in the maximum amount of

1 the obligations of the applicant to the city
2 and to the local government.

3 Each applicant agreed to address
4 any traffic and parking issues presented by
5 the project's employees and its patrons.
6 Each signatory agreed to provide adequate
7 security for the project and its environs.
8 Each agreed to clean and maintain adjacent
9 streets and walks. Each agreed to maximize
10 the use of local and union labor. And each
11 agreed to reimburse the local government for
12 its local process and for its presentation
13 costs. Each applicant gave the local
14 government approval rights over major
15 changes to its project.

16 The local government, in turn,
17 agreed to facilitate development of the
18 project and to provide its non-exclusive
19 support to each applicant that was signing
20 the project agreement. In the project
21 agreement each applicant agreed to provide a
22 variety of local benefits. Each signatory
23 agreed to provide \$500,000 for a much-needed

1 community park.

2 This is the kind of local benefit
3 riverboat gaming could bring to our
4 community in southeastern Indiana. Gaming
5 will make a big impact on a local merchants
6 in Rising Sun. We think that impact can be
7 a positive one, especially with the 3.5
8 million dollar grant to be used to enhance
9 our local infrastructure and to establish a
10 revolving loan fund to help those merchants
11 revitalize the downtown and make it more
12 attractive to both literally millions of
13 patrons that will visit our community each
14 year. This is what downtown can become.

15 We expect that as many as 2.5
16 million passengers will embark on the
17 riverboat each year. Because of the promise
18 by each of the applicants to give the local
19 government one dollar per passenger, the
20 local community will have as much as 2.5
21 million dollars each year for additional
22 local benefits. Granting a license to Ohio
23 County can have an enormous positive impact

1 on our community. And thanks to a fair,
2 open and competitive local process, the
3 local government stands ready to take
4 advantage of the opportunities that
5 riverboat gaming can bring to southeastern
6 Indiana. With your help, the community is
7 poised to turn the dreams you see in this
8 presentation into reality.

9 MR. DENBO: Thank you, Phil. In
10 the final portion of my presentation, I'll
11 discuss the many ways in which Rising Sun
12 and Ohio County have prepared and continue
13 to prepare for a riverboat destination
14 resort. This project has completely unified
15 Rising Sun and Ohio County. Never before in
16 our history has the community come together
17 so strongly. The city and county groups and
18 citizen organizations have worked together,
19 Rising Sun first, the grass-roots initiative
20 has helped in more ways that I can
21 enumerate.

22 We have received support from each
23 of our contiguous counties and communities.

1 As a community we developed a vision plan;
2 where we are, where we want to be, and how
3 can we get there. Our united goal was
4 clear; preserve and enhance the unique
5 character and individual identity of our
6 community. Through citizen forums and
7 resulting input, four key issues related to
8 the development were identified; safety,
9 infrastructure, downtown revitalization,
10 project management now and later.

11 Moving people safely in and out of
12 our city is an important consideration. The
13 expanse of our site allows for easy and safe
14 access at all points. But many have asked
15 about State Road 56, so let's talk about
16 State Road 56. Engineering studies and
17 information from INDOT indicate that the
18 road is not at full capacity. In fact, even
19 with the numbers of visitors projected, the
20 road will only be at 65 percent capacity.
21 The road in its present state can
22 accommodate the increased number of
23 vehicles, but from a safety standpoint there

1 are three areas of road improvements which
2 can be started right away.

3 We intend to widen the existing
4 two lanes by three feet on either side and
5 then repave the entire seven miles from
6 Rising Sun to the Ohio County line. In
7 addition, six feet of shoulders will be
8 added to each side. In order to begin this
9 project right away, the city has obtained
10 from each of the developers, in addition to
11 the 5.4 million dollar commitment, a letter
12 of credit in the amount of 3 million dollars
13 upon the issuance of the certificate of
14 suitability. The project would be
15 subsequently financed through a tax
16 incremental financing program. These
17 improvements combined with the project now
18 under way to add turning lanes on US 50 and
19 the improvements to Woody's Hump on State
20 Road 56, will make a visitor's trip to
21 Rising Sun a pleasurable and safe
22 experience.

23 Item number two, what about our

1 infrastructure. Outside consultants have
2 studied our systems and indicate that our
3 waste treatment, storm water, water and
4 electric systems are sufficient for the near
5 term with some equipment upgrades and backup
6 systems needed down the road. For the
7 long-term we are certain that the 50 percent
8 allocation of revenues annually to our
9 communities infrastructure will be
10 sufficient to maintain and build the new
11 systems.

12 Third issue, will the project help
13 or hurt our downtown. Our city's contract
14 with the developers guarantees that the
15 project will create advantages for our main
16 street businesses present and future. The
17 agreement stipulates that 3.5 million
18 dollars must be contributed at the onset of
19 the project to establish an economic
20 development revolving fund for downtown
21 restoration and other necessary front-end
22 needs.

23 Though our main street has been

1 through some hard times, we don't intend to
2 radically change our downtown. We want to
3 build on what we have. We want to restore
4 our historic buildings and enhance the
5 entire area. The city has already begun to
6 enact ordinances that will address issues
7 affecting downtown, and the redevelopment
8 commission is establishing guidelines such
9 as height limitations, lighting standards,
10 landscaping, signage and architectural
11 design.

12 The last major focus of our vision
13 process was to determine what we needed to
14 effectively manage this process. Since the
15 beginning our community has been out front
16 setting parameters, establishing guidelines.
17 We don't intend to stop that process once
18 any project is under way. We see this as a
19 constant evolutionary process where we'll
20 never learning, we'll stop growing, and
21 we'll never stop improving.

22 We know, for example, that our
23 present government structure will be

1 insufficient given dramatic growth. Our
2 plan will be to add several full-time
3 positions; a full-time clerk/treasurer and
4 assistant, a full-time building inspector
5 and a zoning administrator, a full-time
6 redevelopment administrator and a director
7 of tourism. We will update the city's
8 comprehensive plan, establish a capital
9 improvements program and add a tourism and
10 convention bureau. Zoning is already under
11 way and we're proud to say that this has
12 been and will continue to be a city and
13 county effort. Our plan includes a rainy
14 day fund. With 23 percent of our annual
15 revenues, this money will be locked away in
16 an investment program for five years and
17 will serve as our guarantee that this
18 community will continue to growth and thrive
19 the riverboat notwithstanding.

20 To truly make this a benefit for
21 all of southeastern Indiana, Rising Sun and
22 Ohio County created a revenue sharing
23 program more than one year ago. For our

1 neighbors in Ripley, Switzerland and
2 Dearborn County, again, rising again Rising
3 Sun set the standard. The people of Rising
4 Sun and Ohio County have spent two years
5 positioning themselves for a major
6 destination resort that will include a
7 riverboat. We want this not just for
8 ourself but for all of southeastern Indiana.
9 We have worked, we have listened, we are
10 committed, we are prepared, we are ready.

11 At this time I'd like to introduce
12 Lane Siekman who will discuss our revenue
13 sharing program.

14 MR. SIEKMAN: Thank you, Monte.
15 Good morning, Chairman Klineman, Members of
16 the Gaming Commission, Mr. Thar, Mr. Hannah,
17 Commission Staff. My name is Lane Siekman.
18 I am city attorney for Rising Sun and a
19 lifelong resident of Rising Sun, Indiana.

20 On April 14, 1994, Rising Sun and
21 Ohio County passed a unique revenue sharing
22 plan agreeing to sharing revenue and
23 economic development benefits with

1 contiguous counties and their cities and
2 towns. The resolution will spread the
3 impact of the Rising Sun riverboat
4 throughout the underdeveloped areas of
5 southeastern Indiana.

6 More than a year ago Rising Sun
7 was a first to develop such a plan. We
8 recognized early on that our neighbors will
9 share in some of the affects of riverboat
10 development, and we felt it appropriate,
11 therefore, to share the benefits. In our
12 plan Rising Sun will share a portion of the
13 collective admissions taxes on a per capita
14 basis with fifteen cities and towns and
15 three counties in southeastern Indiana.

16 Subject to your decisions on
17 locating riverboats in southeastern Indiana,
18 our revenue sharing program will annually
19 distribute money to Patriot, Napoleon, West
20 Harrison, Holton, St. Leon, Sunman, Moores
21 Hill, Dillsboro, Vevay, Milan, Osgood,
22 Versailles, Aurora, Greendale and
23 Lawrenceburg and to Switzerland and Ripley

1 and Dearborn Counties with no strings
2 attached. This no strings per capita
3 funding will allow local governmental
4 entities to define their own spending
5 priorities.

6 You heard several Ripley County
7 officials praise our plan at the Commission
8 Public Comment Hearings in April, and you've
9 seen letters and support from throughout the
10 areas. Again, I want to emphasis to you we
11 did this early on. Rising Sun and Ohio
12 County have been proactive, not reactive in
13 addressing the challenges of this project.
14 Our revenue sharing plan is a good example
15 of our initiative. We included revenue
16 sharing with our neighbors because it is the
17 right thing to do.

18 In addition to direct revenue
19 sharing, Rising Sun and Ohio County will
20 contribute more than 2.5 million dollars
21 annually to a reasonable development
22 foundation that will award community seed
23 money for matching fund grants. We will

1 also establish a four-county regional
2 economic alliance and a regional visitor and
3 tourism bureau. Those programs will promote
4 commerce and jobs in our region and open the
5 doors to many exciting new opportunities in
6 this emerging market.

7 In all the revenue sharing package
8 will exceed 7.5 million dollars annually.
9 That's 2.5 million dollars in direct revenue
10 sharing, 2.5 million dollars through the
11 foundation, which should generate a minimum
12 2.5 million dollars in matching grants.
13 This is the conservative projection since it
14 does not factor in the impact of the
15 alliance generated businesses or the
16 regional regional tourism bureau.

17 Our project ensures that the state
18 of Indiana will receive optimum benefits
19 from the licensing of a riverboat in Rising
20 Sun and Ohio County. Certainly our city and
21 county will gain from this destination
22 resort and riverboat. But beyond that, this
23 revenue sharing plan would extend the

1 financial benefits well beyond our city and
2 county boundaries. Our neighbors agree with
3 us. When you put a boat in southeastern
4 Indiana, please think of Rising Sun first.

5 Now, before Mayor Guard closes our
6 presentation, we would like to let you hear
7 and see a few more people and places in
8 southeastern Indiana. Thank you.

9 (At this time a video is playing.)

10 MR. GUARD: We hope that today
11 you have seen our commitment to a
12 first-class project, to a destination resort
13 that will begin a successful program in
14 southeastern Indiana as a center of tourism.
15 As you have seen today, Rising Sun is
16 prepared because of the hard work and
17 dedication of citizens throughout our
18 region. We've shown you our community and
19 our magnificent site. We've explained our
20 process from the beginning until today.
21 We've shown you why we believe this project
22 is such an excellent fit for us. We've
23 shown you what we've done to prepare. And,

1 finally, we've shown you how this project
2 can benefit all of southeastern Indiana.

3 Rising Sun and Ohio County have
4 worked together well and enjoyed the
5 unparalleled support of our neighboring
6 communities. As evidence of this support,
7 Debbie Fouty, president of Rising Sun First,
8 is presenting you with signatures of
9 citizens in Ohio, Switzerland, Ripley and
10 Dearborn Counties who believe that a
11 riverboat in Rising Sun will mean better
12 communities throughout southeastern Indiana.

13 Through our visioning process, our
14 community has looked at where we are, where
15 we want to be and how we can get there.
16 We've answered the first two questions and
17 now we leave it to your good judgment to
18 answer number three in the affirmative by
19 selecting Rising Sun First. Thank you, very
20 much.

21 MR. KLINEMAN: I think we'll get
22 a little bit off schedule and take our break
23 now before we hear the good people of

1 Switzerland County. So, we'll take a
2 15-minute break and be back here about
3 10:00.

4 (A short break was taken off the
5 record, after which the following
6 proceedings were had.)

7 MR. KLINEMAN: I think we're
8 about ready to come back to order. Okay. I
9 think the Commission Members are ready.
10 Mike, are you ready?

11 MR. JONES: We're ready.

12 MR. KLINEMAN: Okay. Thank you.

13 MR. JONES: Good morning.

14 Chairman Klineman, Members of the
15 Commission, Executive Director Thar and
16 Staff. My name is Mike Jones. I serve as
17 president of the Switzerland County Council,
18 and we are here today to tell you why a
19 riverboat gaming license should be awarded
20 to Switzerland County. The reason, Mr.
21 Chairman, is that Switzerland County is the
22 right place with the right project and this
23 is the right time.

1 Assisting us today as members of
2 our team will include Alan Rachles, director
3 a Crowe Chizek's public sector of
4 hospitality, who will present the financial
5 and economic reasons; Chris Johnston of
6 Crowe Chizek who will add to the financial
7 and economic reasons; Evalina Brown,
8 Switzerland County counsel/attorney who will
9 discuss our regional revenue sharing fund
10 and the county revenue distribution. Also
11 assisting us will be our consultant for the
12 evaluation process Craig Johnson of Gaming
13 Development International who will assist
14 with the question and answering sessions.

15 Why is Switzerland County the
16 right place? Access from the Markland
17 Bridge to the interstate network puts
18 Switzerland County within easy reach of
19 Cincinnati, Louisville and Lexington
20 together with access to Indiana markets from
21 156. Economic statistics show Switzerland
22 County to be one of the most needy in the
23 state. A riverboat in Switzerland County

1 would provide a major boost to this and
2 surrounding counties, geographically
3 directing the economic benefits from this
4 license into disadvantaged rural
5 communities.

6 Switzerland County has already
7 begun to establish itself as a tourist
8 destination and has attractive recreation
9 developments that would supplement the
10 riverboat activities and which would have
11 the opportunity to grow and prosper with an
12 increase in new visitors to the area.

13 Why is this the right project?
14 The selective site offers perhaps the
15 safest, most attractive section for
16 riverboat cruising in Indiana waters on the
17 Ohio River. It is subject to negligible
18 impact from the rise and fall of the river
19 even under flood conditions. It's free from
20 wetland concerns and requires minimal
21 excavation or site preparation. It's
22 location away from residential areas will
23 minimize disruption to the existing

1 community, infrastructure from the
2 inevitable traffic and attended issues
3 associated with such a major development.
4 And we emphasize that Vevay and it's
5 neighboring communities will reap the
6 benefits of the development while continuing
7 to maintain their charm and character.

8 The three original applicants in
9 Switzerland County were subjected to an open
10 and fair evaluation process by the county
11 council with assistance from Gaming
12 Development International. This evaluation
13 gave much opportunity for community input
14 into the casino development projects. In
15 Pinnacle Gaming Development we have an
16 applicant who has already been a part of our
17 community for almost two years and who has
18 demonstrated a willingness to work in
19 partnership with the government entities and
20 citizens of the county.

21 And, finally, why is this the
22 right time? Pinnacle Gaming Development has
23 secured the financing that is necessary that

1 when coupled with an easily converted site,
2 would enable a Switzerland County casino to
3 be in operation within five months of
4 issuance of a license, thus meaning millions
5 of dollars to Switzerland County, southeast
6 Indiana and the entire state.

7 For generations our citizens have
8 relied on agriculture, primarily tobacco, as
9 a major source of income. The uncertainty
10 of the tobacco program coupled with the
11 recent sale of our largest industrial
12 employer, USU, cast a shadow on the economic
13 future of Switzerland County.

14 By issuing a riverboat license
15 now, Commissioners, to Switzerland County
16 the state of Indiana will help to create a
17 strong economic base that will benefit all
18 of southeast Indiana as well as the entire
19 state. Yes, Switzerland County is the right
20 place, has the right project and now is the
21 right time.

22 I will now turn the presentation
23 over to Allan Rachles from Crowe Chizek.

1 MR. RACHLES: Thanks, Mike. My
2 name is Allan Rachles. I head up the
3 hospitality and public sector consulting
4 group for Crowe Chizek. We are, while not a
5 big six firm, the tenth largest accounting
6 and consulting firm in the country, which
7 happens to be headquartered in Indiana. We
8 offices all over Indiana, Illinois, Kentucky
9 and Michigan, Pennsylvania, and Florida and
10 also in the United Kingdom. We've been
11 following the riverboat industry in Indiana
12 since 1989 and we have a contract with the
13 Illinois Gaming Commission where we audit
14 and monitor five riverboats for them and
15 also do work for riverboats in Mississippi,
16 Louisiana and casinos in Nevada.

17 I must point out that on our way
18 over here, we were cautioned by Kevin
19 McGraff, our managing partner, that we could
20 not promise if Switzerland got a license, we
21 would move our national headquarters to
22 Vevay.

23 Crowe Chizek has been employed by

1 Switzerland County as its economic and
2 financial advisor and went through the
3 selection process with Switzerland County.
4 Our job was to make sure our developer
5 presented the best economic project for the
6 county and for itself. It does and we'll
7 tell you why.

8 Let's talk for a minute about
9 market size, size of project, number of
10 visitors and amount of revenue to be
11 generated. Pinnacle predicted gross
12 revenues of 83 million dollars and
13 approximately a project of 70 million
14 dollars in size including a 296 room Ramada
15 Inn hotel. Pinnacle plans to build a
16 destination resort that will cater to people
17 who would want to come to Switzerland County
18 and stay as well as the day trip market.
19 Pinnacle also projects that its project will
20 attract 1,600,000 visitors who will wager
21 with the casino and drop approximately three
22 dollars per person.

23 We mention all of these numbers,

1 again, these did come out at the hearings in
2 May, because at the hearing several weeks
3 ago our developer's presentation produced
4 some questions from some members of the
5 Commission and staff that the Switzerland
6 County project in comparison to the two
7 projects proposed by the Ohio County
8 applicants might not be of sufficient dollar
9 amount.

10 While on the surface this may
11 appear to be the case, the facts simply do
12 not support that assumption. At the present
13 time Switzerland County has in place a
14 tourist infrastructure. In Ohio County the
15 developers do appear to be proposing that at
16 some point in time in addition to the
17 riverboat pavilion, large hotels, golf
18 courses and marinas. At the present time
19 many of these amenities do not exist in Ohio
20 County.

21 Switzerland County presently has
22 the Vineyard golf course, Ogle Haus and
23 three marinas with 100 slips in addition to

1 the two Marines in Kentucky directly across
2 the river from us. Quite properly
3 Switzerland County and their applicant chose
4 not to spend an additional 6 to 12 million
5 dollars to compete with those businesses
6 already in place within our county.

7 Switzerland County is now
8 attracting over 30,000 existing overnight
9 visitors to the county, and the county will
10 definitely encourage these visitors to the
11 community to stay, participate in casino and
12 casino gaming and take advantage of our
13 other activities.

14 Switzerland County has in place
15 today a room tax of five percent for the
16 Ogle Haus which is producing approximately
17 \$35,000 a year. They fund an excellent
18 convention and visitors bureau. This
19 convention and visitors bureau is located in
20 one of Vevay's tourist attractions, the
21 historic Hoosier Theater.

22 When the Pinnacle project is up
23 and running at their site, this convention

1 and visitors bureau will have a satellite
2 location within the Pinnacle pavilion. This
3 will enhance the possibility to promote the
4 existing tourist and recreational
5 attractions already in place in our county.
6 These include the Ogle Haus, the Vineyard
7 golf club, as I mentioned before, the
8 historic Hoosier Theater, presently existing
9 gift and antique shops, beautiful antebellum
10 homes and buildings, and most importantly
11 are two established annual festivals which
12 bring numerous visitors to the county
13 including the annual Swiss Line fest and
14 Sleepy Hollow weekends.

15 The Swiss Line Fest and Sleepy
16 Hollow weekends serve as a testament to the
17 success and viability of Switzerland County
18 as a tourist destination. We ask the
19 Commission not to ignore the hard work of
20 the people of Switzerland County. The
21 convention and visitors bureau in our county
22 has labored diligently to make our county a
23 viable destination.

1 For several years Switzerland
2 County, rather than relying solely on saving
3 hope of riverboat gaming, began working to
4 promote itself as a tourist destination.
5 Let's take a closer look at what's in place
6 in the county that did not require our
7 developer to burden themselves with
8 additional investments that would have
9 adversely affected our local entrepreneurs.

10 The beautiful, challenging,
11 picturesque Vineyard Golf Course recently
12 expanded from a nine-hole to an
13 eighteen-hole golf course definitely
14 negating the need for an additional golf
15 course. The Switzerland County Council does
16 not want all recreation and entertainment
17 options to revolve in and around the
18 Pinnacle development. Switzerland County
19 prefers local entrepreneurs to benefit from
20 any rise in tourism dollars. Our applicant
21 has worked with us and been very conscious
22 for the need for cooperation, collaboration,
23 not competition within the county.

1 Similarly, existing marinas in
2 Switzerland County contain slips for over
3 100 pleasure craft. For our developer to
4 produce a marina as well, we believe there
5 would be a glut of marina space and possibly
6 drive the existing facilities out of
7 business. The Ogle Haus ensures the
8 continued existence of -- Pinnacle ensures
9 the continuing existence of the Ogle Haus
10 through their offer to buy or keep in
11 business this entity.

12 Switzerland County Council keeping
13 in mind that most referendums on casino
14 gaming passed with a small majority, believe
15 that the continued presence of the Ogle Haus
16 offers an option for groups and visitors who
17 wish to come to the county to visit a site
18 which goes does not include gaming-related
19 options during their stay.

20 Summing up, our developer's
21 facility at our request has been designed
22 specifically to encourage and sustain, local
23 risk-takers and spread the tourist dollars

1 and jobs throughout the county. There
2 simply, in our opinion, is no good economic
3 reason for the developer to spend an
4 additional 6 to 12 million dollars to create
5 tourist amenities and options that are in
6 place, ongoing and working.

7 We believe there has been a very
8 prudent planning process by the county and
9 its developer. Our development will, in its
10 present footprint, attract the totality of
11 its potential market without additional
12 amenities and allow for debt reduction to be
13 achieved prior to competition.

14 Switzerland County has been
15 assisted positively in its tourism growth
16 pattern in recent years because of the easy
17 access to Switzerland County from the
18 Cincinnati and Northern Kentucky markets.
19 All roads do not lead to Switzerland County
20 but the best road does. The Markland Bridge
21 places Switzerland County 11 miles from the
22 interstate network. Of course, with the
23 infrastructure and concerns about increasing

1 traffic flow along US 50 are now mitigated.

2 Without question the bulk of
3 traffic will be along I-71 on the Kentucky
4 side and along Kentucky Route 35 to US 42
5 and across the bridge to our site. By
6 promoting this route as the fastest, less
7 congested, safest path to the Pinnacle site,
8 traffic and site access become no problem
9 for our neighboring counties.

10 It is unfortunate that Ohio County
11 has no bridge to Kentucky. Patrons
12 traveling to Ohio County from Louisville
13 will probably be forced to cross the
14 Markland Bridge and then travel on Indiana
15 156 to Rising Sun or go all the way to
16 Cincinnati and double back on US 50 through
17 Greendale, Lawrenceburg and Aurora. Neither
18 alternative is as attractive as taking the
19 quick, easy, safe route to Switzerland
20 County.

21 Casino patrons from Cincinnati
22 wishing to reach the Ohio County site would
23 essentially be forced to bypass the

1 Lawrenceburg casino and its amenities to
2 visit the Ohio County riverboat.
3 Switzerland County offers a much different
4 experience. We have an easily accessible
5 rural setting with relaxation and
6 entertainment without the concerns of
7 traffic on US 50.

8 One of the most significant
9 accessibility differences between our county
10 and our neighboring county is the amount of
11 time that a patron must travel on state
12 roads. We heard a few days ago from one of
13 the presenters talk about the importance of
14 time in the mind of a patron to get to a
15 site and the lengths that that patron will
16 take to arrive at a site in time for a
17 cruise. The observation was amusing but
18 unfortunately true. The Pinnacle site in
19 Switzerland County is located within a
20 two-minute drive of the Markland Bridge
21 crossing the Ohio River and is seven miles
22 east of the town of Vevay.

23 To specifically discuss the land

1 trust, economic issues and revenue sharing,
2 I'd like to introduce my associate Chris
3 Johnston, former deputy treasurer of the
4 state of Indiana, who is responsible for
5 investing the state's money at that time,
6 and now with our firm is the advisor to many
7 of our cities, towns and counties and works
8 with them on budgeting, tax and public
9 finance matters. Chris' clients include the
10 cities of Indianapolis and Fort Wayne and in
11 southern Indiana the cities of Bloomington
12 and Madison. Chris.

13 MR. JOHNSTON: Thank you, Allan.
14 My name is Chris Johnston, and I'm with
15 Crowe Chizek Company specializing in the
16 area of municipal finance.

17 Sadly, Switzerland County may be
18 the epitome of economic stagnation for
19 Indiana counties. Population of work force
20 is aging as young people leave the area
21 looking for brighter opportunities.
22 Business activity is concentrated in just a
23 few sectors of a local economy. The

1 unemployment rate has consistently been
2 above both state and national averages, and
3 new employment opportunities are limited.

4 U.S. Shoe, the largest single
5 employer in the county, has been bought out
6 by an international conglomerate creating
7 grave uncertainty in the community. The
8 other major employers are public sector
9 entities; Switzerland County Government and
10 Switzerland County School Corporation which
11 are forced, like all governmental entities,
12 to do more with less.

13 Switzerland County has been mired
14 in the depths of most economic and quality
15 life statistical rankings for Indiana
16 counties. It has been ranked last or near
17 the last in per capita income 34 percent
18 below the state average and 18 percent below
19 the regional average. The same can be said
20 for assessed value per square mile which is
21 approximately 50 percent below the
22 southeastern Indiana regional average. Both
23 the these factors place significant burdens

1 on the property tax systems which is
2 reflected on the local property tax rates.

3 Simply put, Switzerland County is
4 the right place and today is the right time
5 for riverboat gaming. Riverboat gaming can
6 be a catalyst for substantial economic
7 development based in Switzerland County.
8 The project proposed by Pinnacle is
9 estimated to bring 1,200 full-time
10 equivalent jobs and salary and wages of 21
11 million dollars. These new jobs will foster
12 new home construction and many other
13 benefits from the multiply effect. We all
14 know that these are just tremendously large
15 numbers, but let's look at the impact of
16 direct investment relative to Switzerland
17 County.

18 The construction and equipping of
19 the development alone will diversify the
20 property tax base and increase the county's
21 assessed value by at least 25 percent and
22 will probably double York Township's current
23 assessed value easing the burden on all

1 property tax payers.

2 The gaming tax revenues directed
3 to Switzerland County estimated at over 30
4 million dollars in a five-year period will
5 almost double the amount of property tax
6 funds currently raised by all taxing units
7 in Switzerland County combined. The county
8 has wisely decided to share and allocate
9 these revenues for much needed programs and
10 investment which have up to now been
11 unfundable. The county even plans to set
12 aside some funds for future, unexpected
13 needs. The state is estimated to receive
14 over 70 million dollars for its general
15 funds and other funds designated by law.

16 I would like to discuss one
17 component of the development agreement that
18 created some concern at the hearings in
19 May. That's land trust. One thing I have
20 learned during our engagement with the
21 officials of Switzerland County is that they
22 are not satisfied with merely saying they're
23 going to do something. They want to know

1 how something is going to be done.

2 The land trust was developed to
3 facilitate the distribution of revenues
4 committed by Pinnacle to identify political
5 subdivisions and not-for-profit foundations
6 in the county. The objective was to have a
7 framework which could work within the
8 idiosyncracies of the budget-making process
9 for Indiana local units of government and
10 school corporations.

11 The land trust will lease to
12 Pinnacle the land on which part of its
13 operation will be located. The lease
14 payment will be determined by a formula in
15 the development agreement and distributed to
16 those governmental and not-for-profit
17 entities. This is not a tax avoidance
18 mechanism. Property taxes will be paid, and
19 they will be paid by Pinnacle. In Indiana,
20 property used for nonexempt purposes is
21 taxed regardless of ownership, and Indiana
22 code specifically states that leased
23 property shall be taxed as if it is owned by

1 the lessee. In this case Pinnacle is
2 obligated to pay those property taxes.

3 This is a frequent occurrence in
4 many economic development projects with
5 possibly the most prominent example being
6 just a couple of blocks away at the Circle
7 Center Mall. The City of Indianapolis
8 technically owns the old L.S. Ayres
9 building, but when it is renovated and
10 leased to a tenant, that tenant will pay the
11 property taxes. Money can be both a curse
12 and a blessing. What we at Crowe Chizek
13 have witnessed in Switzerland County is the
14 thoughtful, open deliberation for the
15 prudent use of these funds for both today
16 and tomorrow.

17 To discuss this at greater length,
18 it is my pleasure to introduce Evalina
19 Brown, the county attorney.

20 MS. BROWN: Good morning, Mr.
21 Chairman, Commissioners, Mr. Thar and Staff,
22 I'm Evalina Brown, attorney for Switzerland
23 County Council. First I'd like to take a

1 moment to thank all of you for the long, I
2 was going to say job, but I imagine it's
3 more like an ordeal, that you've been
4 through and, of course, probably the worst
5 is yet to come. I want you to know that no
6 matter what happens I sincerely, and I think
7 I speak for the county and our team, we do
8 appreciate all the efforts that you're going
9 to make and that you have made.

10 As been said by nearly everybody
11 up here, we are ready, Switzerland County is
12 ready for the vote. We have an economic
13 development agreement in place. We have a
14 well thought out riverboat gaming revenue
15 distribution plan. We have passed a
16 resolution to share our revenue from the
17 boat through an interlocal agreement which
18 you have in the packets that have been
19 passed out to you, I believe. We have taken
20 the long, hard look at our present zoning
21 ordinance. And we are ready by the end of
22 this year, actually I think it's about ready
23 to be signed now, but you know how slow

1 government works here; but by the end of the
2 year, I believe we will have a very
3 comprehensive countywide zoning ordinance in
4 place.

5 It's only fitting, I believe, that
6 Pinnacle remain and is Switzerland County's
7 applicant. It was the first to recognize
8 the unique potential of Switzerland County
9 to attract visitors and the possibilities in
10 the riverboat gaming operations that the
11 county has. It has remained steadfast to
12 the commitments that it made in its
13 incentive packages over a year ago.

14 We have provided, as I stated, a
15 packet today. We know that you have had
16 this before, but for your convenience we
17 have provided there a copy of the interlocal
18 agreement along with letters from four
19 different counties that have supported
20 that. We have received them back from
21 Ripley, Jefferson County, Jennings County
22 and Franklin County.

23 Now, highlights of the economic

1 development agreement that we've entered
2 into with Pinnacle, they have committed over
3 2 million dollars for infrastructure, and
4 this is over and above the regular,
5 necessary infrastructure at the site and so
6 forth, but have committed nearly 2 million
7 dollars extra, and there aren't any strings
8 attached to \$75,000, I believe it is,
9 \$275,000.

10 They provided and committed
11 commitments for a medical clinic, a new
12 ambulance, a new fire department at the
13 Florence site. And they also are giving
14 \$45,000 to five other existing voluntary
15 fire departments. They are providing
16 funding for a southeastern Indiana
17 technological apprentice center, C-TAC,
18 which we really need in this area of Indiana
19 of vocational type training college. They
20 have committed \$425,000 to be given to 4-H
21 fairgrounds and for our Vevay riverfront
22 park that already exists. Actually, those
23 are for restrooms. We have a park but no

1 johns, so they're going to give \$25,000.

2 And as already been stated to you,
3 there is a land trust. The land trust was
4 developed primarily so that we could get
5 money to the schools in Switzerland County
6 and to a not-for-profit foundation that we
7 have known as the Vevay/Switzerland County
8 Foundation. We wanted to continue to exist
9 as a perpetual foundation, continue the good
10 things that its done the past ten years or
11 so. And so 46 percent of the revenue raised
12 through that lease payment will be given to
13 the schools, 23 percent will be given to the
14 Vevay/Switzerland County Foundation, and the
15 rest will go to Vevay and Patriot.

16 Next Switzerland County conducted
17 many surveys, as I'm sure all of these
18 people had along the river, and had a lot of
19 public meetings and that sort of thing. And
20 we wanted to determine how people in our
21 county would want us to spend this money
22 should we be fortunate enough to get this
23 license, and so we did develop a

1 distribution plan. Yes, like others we are
2 planning to use it wisely. We want to save
3 ten percent every year for the future.

4 I would like now to turn to the
5 interlocal agreement that we have because we
6 do feel that it is a unique one. What makes
7 it so different from the other plans that
8 you've been hearing about all of before us,
9 I think, first, it's a wider spread of the
10 sharing. It goes over six percent of the
11 geographical area of Indiana. It's seven
12 county wide. We include Franklin County,
13 Jennings County, Jefferson County, Ripley
14 County and, of course, Ohio, Dearborn and
15 Switzerland.

16 And, secondly, I think what makes
17 it different is there's a little a nice
18 aspect that will include the arts, literary,
19 educational, historical. Requests can be
20 made to an eight-member board that will be
21 created. And this board will be made up of
22 one person from each of the county councils
23 and the director of the Southeastern Indiana

1 Regional Planning Commission. That office
2 is now located in Versailles, Indiana, and
3 they have agreed already to help us. That
4 they -- the director will be an existential
5 member, and they will also assist with the
6 administration of the funds.

7 And what this board would do would
8 be to listen to not-for-profit groups,
9 municipalities and unincorporated areas that
10 will come and request grant money. We feel
11 that this is not only spreading the revenue
12 a wider area, but we hope that we can
13 double, triple the dollars because this
14 would be like matching fund grants that they
15 could request.

16 And as I stated, we have nearly in
17 place a new zoning ordinance that is needed.
18 We are ready for the vote and we ask you, we
19 sincerely ask you, to please consider
20 Switzerland County in granting one of the
21 five licenses. Thank you.

22 And now Mike will summarize our
23 presentation for you at this time.

1 MR. JONES: Thank you, Evalina.
2 Mike Jones, president of Switzerland County
3 Council. Chairman Klineman, Members of
4 Commission and Staff, in a 30-minute
5 presentation, it is impossible to describe
6 in detail the work and accomplishments of
7 the numerous governmental and citizen groups
8 that have worked to prepare Switzerland
9 County for riverboat gaming.

10 As a lifelong resident of
11 Switzerland County, I can say that riverboat
12 gaming brought the people of Switzerland
13 County together unlike any issue I have
14 known in my lifetime. This has been a
15 concerted effort by the county council, the
16 commissioners and the elected
17 representatives and trustees of other
18 communities throughout the county. Local
19 law enforcement, EMS and fire departments
20 have all contributed to our preparation of
21 this development. Numerous independent
22 citizen and business groups have also been
23 active in the support of and preparation for

1 the coming of riverboat gaming.

2 Furthermore, we have negotiated,
3 as you have heard, a development agreement
4 with Pinnacle that has been almost ten
5 months in preparation. And as we have
6 demonstrated, our unique revenue sharing
7 agreement creates a solid economic
8 developmental alliance with six other
9 southeast Indiana counties comprising, and
10 these counties comprise 6.11 percent of the
11 state of Indiana.

12 In Switzerland County the state of
13 Indiana has a riverboat gaming project that
14 is ready to go. We ask for this chance, not
15 out of desperation, but because we believe
16 that a riverboat gaming development is
17 entirely compatible with the direction we
18 have already taken to establish the county
19 as a tourist destination, and because we
20 believe that Switzerland County is uniquely
21 situated to realize the maximum long-term
22 economic benefit of southeast Indiana.

23 Yes, Commission Members,

1 Switzerland County is the right place with
2 the right project and this is the right
3 time. On behalf of the people of
4 Switzerland County, I thank you sincerely
5 for this opportunity.

6 MR. KLINEMAN: Thank you, Mike.
7 Let's assume our seats.

8 Well, thank you very much for the
9 very enlightening presentations we've
10 received this morning. As some of you have
11 expressed, this is going to be very, very
12 difficult for this Commission, but we're
13 going to try the do the best we can. And,
14 obviously, in every situation it will be at
15 least two winners in and some losers. All I
16 can tell you is that this Commission has
17 worked very hard to bring it to the point we
18 are today, and we still have another week of
19 analyzing the material we've received. And
20 you have our assurances that we'll go over
21 all the information we've received and try
22 to make the best decision that we possibly
23 could make. And we understand the emotional

1 involvement of each of the counties with
2 their projects, and we commend the citizens
3 for having gotten involved as they have and
4 it really is a grass-roots democracy at its
5 best and we appreciate it. Well, with that
6 we'll see if their any questions that any of
7 the Commissioners have of any of the
8 presenters this morning.

9 MR. VOWELS: I have one for
10 Lawrenceburg.

11 MR. KLINEMAN: And if you would
12 state your name so the reporter can make a
13 note of it.

14 MR. TREADWAY: Scott Treadway,
15 city of Lawrenceburg.

16 MR. VOWELS: In reference to this
17 resolution to 95-9 that was signed off on
18 June 14, 1995, it speaks to the division of
19 net amount of gaming tax revenue?

20 MR. TREADWAY: Yes.

21 MR. VOWELS: That that -- 50
22 percent of that would be distributed to
23 other Dearborn County units enabling county

1 units. My question is: What is definition
2 of net amount of gaming tax revenue?

3 MR. TREADWAY: The way that was
4 calculated, obviously you can't identify
5 with absolute precision your anticipated
6 revenue based on taxes as it is driven by a
7 number of factors. We used a 200 million
8 dollar gross gaming calculation to calculate
9 those taxes. That seemed to be on the low
10 end of many calculations. So, in fact, that
11 number would be much larger. We anticipate
12 sharing 50 percent of all taxes that we
13 receive.

14 MR. VOWELS: What does that 200
15 million mean?

16 MR. TREADWAY: We based our
17 calculations -- the firm of Crowe Chizek
18 assisted the city in computing some of these
19 numbers, and we based our calculations, all
20 of our tax computations on the point that a
21 boat would generate 200 million dollars in
22 gross gaming revenues over the course of a
23 year. So, if the boat is a great success,

1 obviously that number, that revenue sharing
2 number will be much higher.

3 MR. VOWELS: Are you talking
4 about the admission of wagering taxes that
5 would be received?

6 MR. TREADWAY: No, we're talking
7 about all tax money.

8 MR. VOWELS: Including the
9 property taxes?

10 MR. TREADWAY: No, all
11 gaming-related taxes under the gaming
12 statute.

13 MR. VOWELS: Other than the
14 wagering, what other taxes are there?

15 MR. TREADWAY: Those are the
16 taxes.

17 MR. VOWELS: And the statute
18 specifically states what the city would
19 receive percentagewise, I reckon, right?

20 MR. TREADWAY: Correct. And
21 we're simply saying 50 percent of all taxes
22 we receive we will share. And we based that
23 calculation which we had to approximately in

1 terms of what we thought we would receive
2 when we received the 200 million dollar
3 gross gaming revenue.

4 MR. VOWELS: Where did you get
5 the 200 million dollar figure?

6 MR. TREADWAY: Well, if you look
7 at what all the companies projects, you
8 heard projections as high as 700 million
9 dollars. We thought we could be
10 conservative to be fair, so that we could
11 actually represent to the folks what we were
12 going to distribute, so we used a number on
13 the low end. In fact, that number could be
14 much higher based on everyone's projections.

15 MR. VOWELS: And pursuant to this
16 resolution, that would only be shared if one
17 of the endorsed developers receive the
18 license; is that correct?

19 MR. TREADWAY: That is correct.
20 And that's based upon, the city obviously
21 has a great number of expenses. And through
22 our involvement, we're able to satisfy those
23 expenses such as infrastructure through

1 other means which places us in the position
2 to share those revenues.

3 MR. VOWELS: So, the flip side of
4 that is the non-endorsed developers of the
5 city would receive -- the city would receive
6 all of its net gain and tax revenue; is that
7 correct?

8 MR. TREADWAY: That's correct.

9 MR. VOWELS: All right.

10 MS. BOCHNOWSKI: What would the
11 effect be if, let's just say the Commission
12 chose a non-endorsed candidate but required
13 them to sign this development agreement with
14 you, would that change your tune on this?

15 MR. TREADWAY: Well, I think
16 certainly if we had the expectation of those
17 revenues, and I would have to speak, I
18 guess, on behalf of the council, and they're
19 all here so I would invite them to the
20 microphone, but I am confident that the city
21 of Lawrenceburg would still be willing to
22 share the revenues under the same
23 proportions under those circumstances.

1 MR. THAR: Can we have follow-up
2 on that? You have two other candidates
3 aside from the three endorsed ones that have
4 already signed development agreements. That
5 is not accounted for in this resolution?

6 MR. TREADWAY: That is correct.

7 MR. THAR: Then what are you
8 saying?

9 MR. TREADWAY: If you look at the
10 endorsement or development agreements that
11 were signed, I guess I would characterize
12 those into two categories; the development
13 agreements with the three endorsed companies
14 and those development agreements with the
15 non-endorsed companies. Having negotiated
16 those agreements, I think I can represent to
17 the Commission that they are very, very
18 different agreements. And the commitments
19 to the city of Lawrenceburg and, in fact,
20 Dearborn County are much greater and much
21 more significant in the development
22 agreements that were signed by the endorsed
23 candidates which is, in fact, places the

1 city in the position to share revenues in
2 this fashion.

3 MS. BOCHNOWSKI: Do we have
4 copies in here of those development
5 agreements?

6 MR. TREADWAY: Yes. The
7 development agreements were negotiated so
8 that they could be signed and made part of
9 the part 2 application.

10 MR. SUNDWICK: So the
11 determination, if I got this straight, of
12 the three candidates that you endorse now
13 are because of the funding created,
14 development funding created by each one of
15 them being somewhat equal?

16 MR. TREADWAY: That was merely a
17 consideration. That was a factor of many
18 factors, quite candidly, in terms of why the
19 city endorsed those three candidates.

20 MR. SUNDWICK: All of the
21 candidates have properties that are within
22 the city limit of Lawrenceburg, am I
23 correct?

1 MR. TREADWAY: With the exception
2 of Boomtown, and their temporary boat site
3 is not located in Lawrenceburg.

4 MR. SUNDWICK: But I mean the
5 permanent sites?

6 MR. TREADWAY: Yes, they are.

7 MR. SUNDWICK: So, all permanent
8 sites are within the city limits of
9 Lawrenceburg?

10 MR. TREADWAY: With the
11 exception, I guess, of Lady Luck and their
12 permanent facility, I guess they have, in
13 all purposes, a barbell approach and one end
14 of the barbell is not --

15 MS. BOCHNOWSKI: So, their boat
16 is in Lawrenceburg but their hotel is in
17 Greendale, right?

18 MR. TREADWAY: Yes.
19 Unincorporated area.

20 MR. SUNDWICK: Who gets that?
21 That would be a county issue, then, right?

22 MR. TREADWAY: I'm not sure I
23 understand the question.

1 MR. SUNDWICK: If it's
2 incorporated, it would be Dearborn County
3 that would be taxed?

4 MR. TREADWAY: Correct.

5 MR. VOWELS: Why is it -- in the
6 liquidated damages, I was looking through
7 that, and Ameristar and Boyd are at 35,000 a
8 day and Indiana Gaming is only at 30,000 a
9 day. Why the difference?

10 MR. TREADWAY: I can, again,
11 represent to this Commission, having been in
12 all of those negotiation sessions, it was
13 simply a matter of negotiation. I can
14 assure you we made the same demands on every
15 company. And as Mr. Ralston has represented
16 to this Commission, those were as vigorous
17 of negotiations as I certainly have ever
18 been involved in, and it was simply a point
19 of negotiation.

20 MR. SUNDWICK: Is the reason the
21 50 percent share, and this is relative to
22 you, and always as a part of the proposals
23 50 percent sharing, revenue sharing. I

1 think the last time, the meeting, maybe
2 there was put one together?

3 MR. TREADWAY: The city council
4 and, again, I've been part of this process,
5 has debated revenue sharing for a long
6 period of time. Quite honestly, the amounts
7 have changed, with whom the revenue is going
8 to be shared has changed. They've
9 considered many proposals, and they simply
10 thought that the 50 percent proposals was
11 fair.

12 MR. SUNDWICK: So, the 50 percent
13 is just something they come up with, the
14 council has said that will be 50 percent
15 because all of these venues are within the
16 city limits of Lawrenceburg?

17 MR. TREADWAY: Well, we're
18 sharing revenue even outside of Lawrenceburg
19 and Dearborn County. We share it with
20 contiguous counties as well. They attempted
21 to look at the needs of other counties.
22 They honestly considered counties outside
23 the group that they ultimately decided upon.

1 They considered the needs of Lawrenceburg,
2 of Dearborn County. They did some
3 long-range financial planning in terms of
4 their city to try to anticipate their
5 long-term financial needs so they could be
6 responsible to their constituents. There
7 was a whole, I guess, group of
8 considerations that ultimately led to the
9 plan that was adopted.

10 MR. KLINEMAN: But the other
11 entities with whom you are going to share
12 have not really agreed, I mean, you have
13 just basically set the amount that you're
14 going to share and told them this is what we
15 we'll do?

16 MR. TREADWAY: There have been no
17 formal agreements reached with any other
18 municipality. We contemplate there will be
19 interlocal agreements should one of the
20 endorsed candidates receive the license.

21 MR. KLINEMAN: Well, the
22 agreements would have to be put in place
23 because of --

1 MR. TREADWAY: Absolutely.

2 MR. KLINEMAN: -- law and so
3 forth?

4 MR. TREADWAY: Absolutely.

5 MR. KLINEMAN: But nobody has
6 come up and congratulated you from these
7 others and said, That's beyond our wildest
8 expectations, or anything to that effect?

9 MR. TREADWAY: Well, I think
10 there are certainly people who have said
11 we're surprised, that's a great deal of
12 revenue, we're pleased that Lawrenceburg has
13 made this decision, so we certainly have
14 those kind of comments from both municipal
15 entities as well as the chamber of commerce
16 and folks like that located in Dearborn
17 County. And all of those folks were talked
18 to during this process, including the
19 chamber of commerce.

20 MR. SUNDWICK: One of the
21 candidates, I think it was Boomtown,
22 Boomtown said that they had a different
23 revenue sharing program that was based on

1 distribution of per capita, right,
2 distribution, I think, through the county?

3 MR. TREADWAY: Correct.

4 MR. SUNDWICK: Why wasn't that
5 getting more consideration on the three
6 candidates of your 50 percent? I mean, it
7 still would have been within your city
8 limits. It seems to me that they have
9 presented a more fair distribution to the
10 county than the city is doing with their
11 three candidates.

12 MR. TREADWAY: Well, if you look
13 at our distribution in the county, we really
14 do three things; cities, towns and
15 unincorporated areas, and we do that on a
16 population distribution. We actually sat
17 down and went through population numbers,
18 considered every unincorporated areas,
19 considered it based upon current tax levels,
20 current populations. When you did one, it
21 would tend to skew one number one way or one
22 number the other way. And we truly went
23 through countless calculations to come up

1 with the one that appeared to be most fair.
2 We have those calculations and can literally
3 go through point by point by point with the
4 Commission if you're interested.

5 MR. SUNDWICK: It seems to put
6 you in charge. I mean, that particular
7 candidate, applicant, still, in fact, is
8 within the city limits of Lawrenceburg,
9 right, they're not --- am I right?

10 MR. TREADWAY: The individual
11 endorsed company?

12 MR. SUNDWICK: Yeah. Boomtown is
13 within the city limits of Lawrenceburg?

14 MR. TREADWAY: Yes.

15 MR. SUNDWICK: And because they
16 have participated or not, one of the three
17 selected, they have gone off and said we
18 will participate differently?

19 MR. TREADWAY: Well, I believe
20 the history behind that is is that that
21 happened many, many, many months ago.
22 Boomtown was uninterested in working with
23 the city and chose to go to other

1 municipalities and, quite candidly, made
2 many, many promises, different promises than
3 you heard during your presentation, and have
4 talked about many, many different ways that
5 they were going to fund those promises, ways
6 that we have not been able to get a handle
7 on. We tried to do something that was fair.
8 I think we were fairly precise in our
9 calculations and considered many different
10 avenues and many different options.

11 MR. SUNDWICK: You made the
12 comment that, I think, that you had asked a
13 question if, in fact, they would participate
14 like the other communities to the extent that
15 the other candidates have --

16 MR. TREADWAY: Yes.

17 MR. SUNDWICK: -- would that, in
18 fact, make their -- they would have to be
19 under this 50 percent umbrella; is that
20 right?

21 MR. TREADWAY: No. We didn't
22 require any gaming company, even our three
23 endorsed candidates, to be a under any 50

1 percent umbrella. And, quite candidly, we
2 simply decided after we had signed
3 endorsement agreements and after we had
4 development agreements and endorsed the
5 companies, at that point we were in the best
6 the relation because we had some expectation
7 of revenue stream. We knew what that stream
8 could be. We simply went, the city went
9 back and looked at the numbers, did some
10 long-term financial planning to protect
11 their constituents, and I think that was an
12 appropriate thing to do, and came up with
13 what they believe to be a reasonable revenue
14 sharing plan.

15 MR. SUNDWICK: Well, I don't want
16 to make this football rivalry thing any
17 worse than it is --

18 MR. TREADWAY: Nor do we. Nor do
19 we.

20 MR. SUNDWICK: -- but it seems to
21 me when the 50 percent of it goes to
22 Lawrenceburg, it's a county issue, that
23 you're making the rivalry worse than it is.

1 It's just an observation. You can do what
2 you want to, it's your prerogative to do
3 that. But I mean, I don't know if it's
4 right that the county supports --

5 MR. TREADWAY: No. In fact, most
6 of the support in terms of these projects
7 and the overwhelming majority of the impact,
8 would be on the city of Lawrenceburg. Quite
9 candidly, their needs are substantial, to
10 say the least. When they did their studies
11 to determine what problems they had and must
12 be addressed to support this kind of
13 project, I think they were even surprised in
14 the numbers that were supplied by their
15 engineers, which was part of the reason for
16 negotiating some of the provisions in those
17 developments.

18 MR. SUNDWICK: The infrastructure
19 changes, is that what you're saying?

20 MR. TREADWAY: Exactly.

21 MR. SUNDWICK: If you get that
22 money up front, we're talking about sharing
23 the taxes from -- I'm not talking about, you

1 know --

2 MR. TREADWAY: Correct.

3 MR. SUNDWICK: -- you know, five
4 years from, now assuming that you get
5 everything accomplished, US 50 is widened,
6 you get to the sewage plant, you know, you
7 still got your hand in the bag?

8 MR. TREADWAY: Well, one of the
9 considerations the city counsel considered
10 was simply taking 50 percent of that tax
11 revenue and giving it to the county. As we
12 read the statute, our obligation should have
13 been to maximize economic development over
14 the broadest part of Indiana, not just with
15 within Dearborn County, and that's why we
16 stepped outside the borders and distributed
17 millions of dollars outside of Dearborn
18 County as well. That was considered.

19 MS. BOCHNOWSKI: Have your
20 calculations changed depending on the site,
21 because on the east side of town, at least
22 the conservancy district, which I'm not
23 exactly sure how that -- if the city gets

1 most of that money or whatever, gets the
2 lease payments on the other side of town, on
3 the west side of town, actually, the lease
4 payments or the purchase price goes to
5 private company?

6 MR. TREADWAY: Our calculations
7 do not fluctuate depending on whether it's
8 an east side or west side vote.

9 MS. BOCHNOWSKI: I thought
10 perhaps the lease payments would make a
11 difference?

12 MR. TREADWAY: A portion of those
13 lease payments or the lease payments if it's
14 conservancy district land, in fact, go to
15 the conservancy district.

16 MS. BOCHNOWSKI: Which is
17 different from the city?

18 MR. TREADWAY: Yes, separate
19 entity. Yes. And that is spelled out in
20 the development agreement, also.

21 MR. VOWELS: What is the
22 population of Dearborn County?

23 MR. SHERIDAN: It's approximately

1 40,000. Jeff Sheridan, director of
2 municipal development for the city of
3 Lawrenceburg. The population of Dearborn
4 County is approximately 40,000.

5 MR. VOWELS: And the population
6 of Lawrenceburg?

7 MR. TREADWAY: Approximately
8 4,300.

9 MR. VOWELS: We heard the other
10 day about the referendum breakdown, that the
11 yes votes in Dearborn County and
12 Lawrenceburg made up 13 percent of those and
13 the outerlying counties was 87 percent?

14 MR. SHERIDAN: Now, I wasn't
15 quite clear on that anaylsis as well. Our
16 understanding of the referendum, it would
17 not have passed in Dearborn County. It did
18 not pass in Aurora. I was not clear on that
19 amount, either.

20 MR. VOWELS: Do you recall what
21 the percentage were in Lawrenceburg itself
22 as far as yes and no votes?

23 MR. TREADWAY: Lawrenceburg was

1 70 percent, between 60 and 70 percent, I
2 believe.

3 MR. VOWELS: Yes.

4 MR. TREADWAY: Yes.

5 MR. VOWELS: Thank you.

6 MR. KLINEMAN: Implicitly by
7 endorsing Boyd you, I guess, indicate to us
8 that the traffic problem you believe will be
9 solved by this expansion of US 50 and,
10 therefore, its probably become a non-issue
11 in your mind based upon all of these
12 applicants?

13 MR. TREADWAY: Well, I would
14 answer that in a couple of ways. First of
15 all is, yes, the council made that
16 endorsement knowing the board was
17 (inaudible) from site to site. PDR
18 Engineers which is the city's engineer has,
19 in fact, studied all the traffic reports.
20 They've all been provided to them. And Doug
21 Ralston from PDR has gone back each of those
22 companies with questions and issues and made
23 certain those issues were resolved. And I

1 think they have been resolved to the
2 satisfaction of the city.

3 I will say in addition to that,
4 the representatives of Boyd Gaming Company
5 met with representatives from the city
6 shortly, or literally just a few minutes
7 ago, and indicated their willingness to
8 spend another 8 million dollars to fund the
9 bypass around US 50 to further alleviate the
10 traffic problems and are willing to make
11 that commitment to the Commission. And I
12 think they are here to address the issue if
13 the Commission is interested.

14 MR. KLINEMAN: Boy, if this
15 Commission continues to meet, we're going to
16 pick up all kinds of things.

17 MR. TREADWAY: It is a remarkable
18 process.

19 MR. THAR: Going back to the
20 original question asked by Don Vowels, and
21 that is the term net amount of gaming tax
22 revenues. What was meant by net amount?

23 MR. TREADWAY: I guess I would

1 defer to the economic development director.
2 I did not draft the resolutions, so I don't
3 think I can comment on that.

4 MR. THAR: Well, to give you a
5 clue, I mean, net amount means after you get
6 the taxes something comes off the top, and
7 the net amount was --

8 MR. SHERIDAN: That was not the
9 intent. The intent was --

10 MR. THAR: Can those words then
11 be deleted from the resolution?

12 MR. SHERIDAN: If it is the desire
13 of the Commission --

14 MR. THAR: I'm not saying it's
15 the desire of the Commission. I'm saying,
16 would it read how you intended it if you
17 took out the words net amount?

18 MR. SHERIDAN: I believe it to be
19 the intent of the city council that the
20 total amount of gross wagering tax and
21 admissions tax the city of Lawrenceburg
22 received be shared at the 50 percent level.
23 If that need to be admitted to more

1 accurately reflect that, the city will.

2 MR. THAR: That's up to you
3 guys. I just want to know what the term net
4 amount means. Net means something away from
5 gross.

6 MR. SHERIDAN: That is not the
7 intent.

8 MR. TREADWAY: The intent was that
9 would be distributed without any further
10 reduction of revenues.

11 MR. VOWELS: I'm just trying to
12 determine what we're talking about. The
13 dollar per patron for the admission tax goes
14 to the city, 25 percent of the wagering tax,
15 that would go to the state then the state
16 would repay the city 25 percent to the two
17 cities. Are those the only taxes that we're
18 talking about?

19 MR. TREADWAY: I believe they
20 are, yes. I'm not aware of anything else.

21 MR. VOWELS: During the
22 presentation it was stated that over a
23 five-year it was estimated that 32 million

1 dollars would be received. Is that the
2 total amount that would then 50 percent of
3 that would be distributed?

4 MR. TREADWAY: No, in fact, it's
5 approximate.

6 MR. KLINEMAN: Excuse me just a
7 minute. I think if we move the mike towards
8 the middle, it might help the court reporter
9 out a little bit. She's looking as if she
10 has to look around you, Scott.

11 MR. TREADWAY: I can't imagine
12 why.

13 MR. KLINEMAN: A small fella like
14 you.

15 MR. TREADWAY: No, in fact, there
16 is approximately, I believe, if my memory
17 serves, about 67 million dollars in revenues
18 that would be received over that period, and
19 that's where that approximate 30 to 32
20 million range comes from. That is, in fact,
21 the 50 percent is the 30 to 32 million.

22 MR. VOWELS: Let me just
23 reiterate here so I have this straight. Of

1 the admission tax, the wagering tax, the
2 estimate is 60 to 67 million that would be
3 sent to Lawrenceburg, is that correct, over
4 a five-year period?

5 MR. TREADWAY: Correct.

6 MR. VOWELS: And 50 percent of
7 that would then be distributed timely to the
8 other units; is that correct?

9 MR. TREADWAY: Yes. And it's the
10 city council's intent to immediately begin
11 negotiations to finalize interlocal
12 agreements to pay those folks.

13 MR. VOWELS: All right. And so
14 the flip side of that question was: These
15 are only if the endorsed developers receives
16 the license?

17 MR. TREADWAY: That's correct.

18 MR. VOWELS: If a non-endorsed
19 developer receives a license, this
20 resolution is not applicable to --
21 Lawrenceburg, instead of receiving 30 to 32
22 million dollars in taxes over a five-year
23 period would instead receive 60 to 67

1 million, is that the logical --

2 MR. TREADWAY: The difficulty
3 with that being at that point in time there
4 were no assurances that things like
5 infrastructure would be paid for. I am
6 certain this council, because I've discussed
7 it with them so many times, once they could
8 assure themselves all of those costs would
9 be addressed, they would, in fact, turn
10 around and reconsider revenue sharing once
11 again because they think it is a positive
12 thing. But because there are so many
13 unknowns, once you step beyond three
14 endorsed candidates, it is extremely
15 difficult to do that at this juncture.

16 MS. BOCHNOWSKI: Jeff, I have a
17 question, too. If, and I'm not saying that
18 this is the way it's going to happen, but if
19 it should happen that our consensus is that
20 a non-endorsed candidate should get the
21 license, can we make our certificate of
22 suitability contingent upon signing this
23 same agreement with the city, then?

1 MR. THAR: The same agreement? I
2 doubt it. As to whether or not we could
3 require them to negotiate with the city to
4 do certain things, probably yes, but those
5 negotiated development agreements are, in my
6 impression, business decisions made by a
7 private company in attempting to get an
8 endorsement from a municipal entity, so I
9 don't think we could require it.

10 MR. TREADWAY: And I would also
11 say there are many company and site specific
12 issues addressed in those documents.
13 They're simply not a generic document that
14 probably could be distributed and signed in
15 that fashion.

16 MR. SUNDWICK: Can the city
17 council of Lawrenceburg decide two years
18 from now that they really want to, they want
19 to be more benevolent and decide to share
20 more than the 50 percent?

21 MR. TREADWAY: Is that possible?

22 MR. SUNDWICK: Yeah.

23 MR. TREADWAY: Absolutely.

1 MR. SUNDWICK: It's also possible
2 for them to share less than 50 percent?

3 MR. TREADWAY: I would not
4 disagree with you.

5 MR. SUNDWICK: So, who holds the
6 purse strings if the county becomes, the
7 city council of Lawrenceburg instead of the
8 county, (inaudible) the county, they make up
9 10 percent, you know, we get to go out and
10 see the city, people of Lawrenceburg, we
11 can't vote for it to make sure that this
12 county runs the way that the city wants it
13 to run?

14 MR. TREADWAY: Which is the very
15 reason that you do an interlocal agreement
16 between the city of Lawrenceburg and the
17 other municipalities so that those items are
18 spelled out and those commitments are made
19 firm.

20 MR. SUNDWICK: But you haven't
21 done that yet?

22 MR. TREADWAY: No, we have not.

23 MR. VOWELS: Is this resolution

1 somehow irrevocable? My understanding is
2 that the city council's face will change,
3 and the mayor's race is up for re-election,
4 so we don't know what the situation will be
5 with that. We may have different people on
6 January 1st. Can they change this? What
7 was the consideration that would be given
8 from the receiving units that would bind
9 Lawrenceburg to this agreement?

10 MR. TREADWAY: At this juncture
11 that is true, and I think that is true for
12 any resolution or any action taken by any
13 municipality. And, again, that's why you
14 would do the interlocal agreement. And we
15 are glad to hear the Commission will take
16 some action on June 30th. Because I can
17 assure you, this city and this council will
18 immediately thereafter make the endorsed
19 candidates aware of the license, negotiate
20 and sign interlocal agreements at that
21 point. I think it would happen quickly.

22 MR. VOWELS: How is that
23 binding?

1 MR. TREADWAY: I think that is a
2 contractual obligation between those
3 municipalities.

4 MR. VOWELS: But it's almost a
5 terrible contribution to these other units,
6 and I don't see what consideration they're
7 given.

8 MR. TREADWAY: Well, I think,
9 number one, is there is a provision in our
10 code concerning interlocal agreements, and
11 it is my understanding those have the force
12 and effect of a contractual obligation, a
13 weighted contractual obligation.

14 MR. VOWELS: Which code are you
15 referring?

16 MR. TREADWAY: The Indiana code.
17 I don't have a cite for you.

18 MR. VOWELS: It's cited in here.
19 Well, maybe not. I trust you.

20 MR. KLINEMAN: I really haven't
21 had the chance to read it. Tell me about
22 the non-compete clause with your three
23 endorsed candidates.

1 MR. TREADWAY: The non-compete
2 clause is very candidly between development
3 agreements. It was the city's desire that
4 those clauses in terms of spacial limitation
5 be in the range from 100 to 150 mile. As
6 you talk about the market of Lawrenceburg, I
7 think you start to cover the market.

8 Secondly, we wanted the term to be
9 equal to the time that that company was
10 going to be located in Lawrenceburg, at
11 least through the first term of their
12 license, and our goal was that range in five
13 years. If we were not successful in that
14 regard with any candidate, they all range
15 from the two- to five-year range, I think
16 range from 75 to 125 miles. I may be off on
17 those numbers, but that's what included
18 currently. I think a number of companies
19 have made additional representations to this
20 Commission during these hearings, if I
21 remember what has occurred in the last few
22 days, above and beyond what is actually in
23 the development agreements.

1 MR. KLINEMAN: Well, we intend to
2 memorialize those commitments that those
3 people have made when we receive them in
4 writing.

5 MR. TREADWAY: And we are glad to
6 hear that because we think it's very
7 important.

8 MR. KLINEMAN: On the record of
9 this Commission.

10 MR. THAR: Assuming for the
11 moment the Commission would issue a
12 certificate of suitability to an endorsed
13 candidate but not like the development
14 agreement or all the specifics of the
15 development agreement, where does that leave
16 the Commission in relationship to that
17 certificate of suitability holder in the
18 city?

19 MR. TREADWAY: Well, I guess the
20 city would certainly be willing to
21 reconsider, which I guess is what we would
22 be doing, anything that the Commission has a
23 problem with. We spent a great deal of time

1 negotiating those documents. We think they
2 are in the best interest of the city and the
3 state of Indiana because we think they
4 resolve many, many development issues and
5 would greatly accelerate the construction
6 and operation of this project.

7 MR. THAR: There could be certain
8 aspects of those agreements, though, that
9 the Commission could think are completely
10 inappropriate as to be endorsed by a gaming
11 commission.

12 MR. TREADWAY: And if this
13 Commission so thinks, we would certainly
14 reconsider and adjust any provision that
15 this Commission thinks inappropriate.

16 MR. THAR: So, is that a
17 representation that the city and the group
18 that the city has endorsed has a development
19 agreement, if they were receive a
20 certificate of suitability would amend that
21 development agreement to better suit was
22 what the Commission felt was necessary?

23 MR. TREADWAY: I can't make that

1 representation on behalf the endorsed gaming
2 companies. I believe the city would be
3 willing to make those adjustments if
4 required by the Commission, yes.

5 MR. KLINEMAN: Another topic, the
6 so-called city site, the question about the
7 authority of the conservancy district to
8 make the lease, have you done any research
9 in that respect? If so, have you made it
10 available to counsel?

11 MR. TREADWAY: You wouldn't be
12 surprised to find out that we have. We have
13 not issued a formal opinion letter. If the
14 Commission would like us to do so, Lowe Gray
15 would be happy to do so. I have been
16 provided with opinion letters by Barnes &
17 Thornburg and Bose McKinney. I have
18 reviewed the research conducted by both of
19 those firms. We have met with each of the
20 firms that propose to use that east side
21 site. I think we are all in agreement we
22 are not aware of any prohibitions to the
23 conservancy district in leasing that site.

1 MR. KLINEMAN: It sounds like on
2 that basis this is water-related recreation
3 as stated by the attorney for Barnes &
4 Thornburg?

5 MR. TREADWAY: I think it's that
6 basis and I think it is absolutely
7 consistent with the number of the expressed
8 powers of the conservancy district. And it
9 is my understanding that conservancy
10 districts across the state lease their
11 property for a variety of reasons, and that
12 has been done historically in Indiana for
13 many, many, many years. Usually it is not
14 only directed to the conservancy districts.

15 MR. KLINEMAN: Do you happen to
16 have a copy of the original resolution that
17 the court ordered that created the
18 conservancy district?

19 MR. TREADWAY: I believe we have
20 it here today, yes, and we will provide the
21 Commission with that order. It was
22 originally a flood control district and then
23 converted to a conservancy district, I

1 believe in 1983, by court order.

2 MR. KLINEMAN: Okay. If you can
3 make that available to our counsel, I would
4 appreciate it.

5 MR. TREADWAY: We would certainly
6 do so.

7 MR. KLINEMAN: Anybody have
8 anything else while Mr. Treadway is up?

9 MR. SUNDWICK: I've got a
10 couple. But one of them is, I'm confused at
11 who owns the sewer treatment facility. Is
12 that a city-owned facility or county-owned
13 facility?

14 MR. TREADWAY: I don't believe
15 it's either.

16 MR. SHERIDAN: Jeff Sheridan,
17 city of Lawrenceburg. Are you referring to
18 the existing or proposed?

19 MR. SUNDWICK: Pardon?

20 MR. SHERIDAN: Are you referring
21 to the existing facilities?

22 MR. SUNDWICK: The existing
23 facilities.

1 MR. SHERIDAN: The existing
2 facilities is owned by the South Dearborn
3 Regional Sewer District of which
4 Lawrenceburg is a member.

5 MR. SUNDWICK: Now, the new one
6 that you're asking the applicants to pay for
7 would also be owned by the same body?

8 MR. SHERIDAN: During
9 construction it would owned by the city of
10 Lawrenceburg. Upon completion of
11 construction it would be dedicated to the
12 South Dearborn Regional Sewer District for
13 the benefit of all members of the district.

14 MR. SUNDWICK: So, what you're
15 going to do is fund the project for
16 betterment of the community, all
17 communities?

18 MR. SHERIDAN: That's correct.

19 MR. VOWELS: This wastewater rate
20 impact, what is this? I'm not clear on that
21 means.

22 MR. SHERIDAN: What that deals
23 with is that, that was an issue that was

1 very -- that was an issue that the city was
2 looking at when the riverboat came about.
3 The sewer district was beginning a 20-year
4 master plan study as required because the
5 existing facilities were at the end of the
6 life expectancy. And the engineering firm
7 that the sewer district hired established
8 what rates might have to be put in place to
9 support the construction of new facilities.
10 That's a comparison between if we had to pay
11 it out of our pockets compared to the
12 endorsed company funding.

13 MR. VOWELS: So, all of the
14 endorsed applicants have agreed to fund
15 this; is that correct?

16 MR. SHERIDAN: That's correct.

17 MR. VOWELS: It is my
18 understanding there are two other applicants
19 that have signed development plans; is that
20 correct?

21 MR. SHERIDAN: That is correct.

22 MR. VOWELS: Are they obligated
23 to fund this, also?

1 MR. SHERIDAN: There are some
2 minor differences in the way those
3 development agreements are worded, but in
4 principle they approved them.

5 MR. VOWELS: And Seagrams annual
6 fee was increased by 100 percent?

7 MR. SHERIDAN: That is the
8 estimate given by the engineers for the
9 sewer district.

10 MR. VOWELS: And it says thus
11 would likely leave Lawrenceburg. Is that an
12 assumption or has Seagrams communicated
13 that?

14 MR. SHERIDAN: My understanding
15 is a representative of Seagrams was going to
16 attempt to be here today. I would prefer,
17 if they're available, for them to answer
18 that question for Seagrams. I was not able
19 to confirm that they made it.

20 MR. RALSTON: I'm Doug Ralston
21 representing the city of Lawrenceburg. With
22 regard to that issue, Seagrams did give the
23 city a letter indeed stating that if the

1 wastewater rates were to go up as projected,
2 they would indeed probably leave the
3 community. And I think that's in the packet
4 that had been provided to the Commission.

5 MR. VOWELS: What did they intend
6 to do if a riverboat ever came along? It's
7 my understanding the sewer problem is going
8 to have to be taken care of, anyway?

9 MR. RALSTON: That's true. And
10 that's the consideration that they're
11 currently, as we understand, considering, is
12 leaving the community if, indeed, they have
13 to fund a wastewater treatment plant to the
14 tune of 10 to 12 million dollars. They just
15 cannot afford it.

16 MR. VOWELS: They wouldn't fund
17 it alone, correct, the other residents of
18 the area would help to fund it?

19 MR. RALSTON: They're a member of
20 the district. In the past they have
21 participated in the district. And if the
22 district has to go out for a 20-year
23 bondage, their rates will go up, period.

1 MR. VOWELS: So will Joe Blow's
2 down the street, right?

3 MR. RALSTON: Absolutely. As
4 projected, they will almost double.

5 MS. BOCHNOWSKI: To follow up.
6 But what Don is saying, I think, is that if
7 this is this riverboat issue wasn't even an
8 issue, you really need one, anyway, so their
9 rates would go up? This is kind of and
10 opportunity for you not to --

11 MR. RALSTON: It is an excellent
12 opportunity for Dearborn County.

13 MS. BOCHNOWSKI: But you can't --
14 what I'm saying is you can't say that you
15 need this because there's a gaming company?

16 MR. RALSTON: Well, currently the
17 plant is old, antiquated, approaching its
18 design life, stinks, is in downtown
19 Lawrenceburg, both facilities. We want to
20 get them out of town. It was an opportunity
21 that we took. The gaming companies want the
22 wastewater plant out of town, as all of the
23 community wants it out of town, so we used

1 this as an advantage in our negotiations to
2 have the gaming companies come forward with
3 monies to, indeed, assist not only
4 Lawrenceburg but the entire county in this
5 issue. The existing facilities could
6 continue to be utilized with some
7 improvements, but they're still downtown,
8 they're still going to stink, they're still
9 not desirable.

10 MS. BOCHNOWSKI: And this does
11 serve, though -- the people who use this are
12 not just residents of Lawrenceburg?

13 MR. RALSTON: Oh, yes. And the
14 plant is designed for at least 10 years,
15 we're projecting about 12 years of growth
16 with the gaming company coming into town,
17 plus it's expandable by 2.5 million gallon
18 increments to hold a capacity of 10 million
19 gallons which is a 100,000 population
20 equivalent which would serve the county
21 forever.

22 MS. BOCHNOWSKI: So, that really
23 is a benefit to the county?

1 MR. RALSTON: Yes, ma'am.

2 MR. SUNDWICK: Are they going to
3 be part of the district the same as
4 Seagrams, the gaming company? Are you going
5 to require them to be a part of the
6 district?

7 MR. RALSTON: No, they will not.
8 The gaming corporation?

9 MR. SUNDWICK: Yeah.

10 MR. RALSTON: No, they will not.
11 The city will build and then dedicate these
12 plants in its entirety including the
13 property to the district.

14 MR. SUNDWICK: That's what I
15 mean. They'll be a part of the district?

16 MR. TREADWAY: It will be serviced
17 by the district.

18 MR. RALSTON: Yes, they will be
19 serviced by the district but will not be a
20 part of the voting body.

21 MR. THAR: They won't have the
22 same rights at Seagrams?

23 MR. RALSTON: No, sir, they will

1 not.

2 MR. THAR: What is the benefit in
3 that?

4 MR. RALSTON: I don't know how to
5 answer that question, if it came up.

6 MR. THAR: I mean, if a company
7 is paying for the whole thing.

8 MR. RALSTON: They didn't request
9 it, first the all.

10 MR. SUNDWICK: We don't really
11 care.

12 MR. DORNETTE: Jeff Dornette,
13 special counsel for the city. I was
14 involved in South Dearborn Regional Sewer
15 District activities before any of this came
16 up. When the district was originally
17 formed, Seagrams signed on to underwrite the
18 bond issue. They have a been a member from
19 the beginning. They're also an extremely
20 large user, something about their process, I
21 don't know what it is, causes them to use a
22 great deal. So, because of that status,
23 they're different from any other industry in

1 Dearborn County, and that's why they became
2 a member originally. I think Shindling
3 Distilleries was also an original member,
4 and they did close and relocate out of town.
5 So, there are concerns that as costs go up,
6 companies can find better places to go. And
7 we're interested in protecting existing
8 industry.

9 MR. THAR: So, then, the
10 riverboat group will, in essence, be
11 protecting Seagrams, they won't have to
12 underwrite a bond and they still can sit on
13 the board?

14 MR. DORNETTE: The riverboat
15 group will not sit on the board. They're
16 just going to be customer of the district.
17 Seagrams has a different status because of
18 their founding status. They were the ones
19 who needed this in the first place for
20 environmental reasons and etcetera
21 approximately 20 years ago when it was
22 started. They contributed money, signed on
23 and actually guaranteed the bond issues so

1 that they could form it and build the
2 existing plant in Lawrenceburg.

3 MR. SUNDWICK: You wouldn't have
4 a problem if the game company decided they
5 wanted to be on the board and participate?

6 MR. DORNETTE: Politically, I
7 could not answer that. I don't know that
8 that would be, I don't know if that would be
9 something that would be considered.

10 MR. SUNDWICK: Maybe they'll want
11 to be.

12 MR. KLINEMAN: I bet those
13 meetings are really exciting.

14 MR. SHERIDAN: Jeff Sheridan,
15 city of Lawrenceburg. It has been
16 discussed, the possibility of modifying the
17 membership. Quite frankly, the other
18 members of the sewer district express a
19 desire not to have that happen as a part of
20 the riverboat taking over the community.

21 MR. VOWELS: There is a letter
22 May 19, 1994, from Seagrams to Mr. Thar, and
23 it says, talking about proposed plan with

1 reference to the regional sewage treatment
2 plant, that this proposed funding would
3 increase Seagrams sewage cost by 60 percent
4 or an additional \$30,000 per year. Which
5 would be correct, then?

6 MR. SHERIDAN: I believe there's
7 two numbers in calculating their cost as a
8 participant in the sewer district because
9 they are a founding member. There is a
10 formula that's somewhat complicated that
11 deals with them paying so much to have the
12 right, to have use of the sewer plant based
13 on the construction cost. And then there's
14 another calculation that's based on what
15 they actually used. I think both numbers
16 are correct, but I think they refer to two
17 different calculations. Does that make
18 sense?

19 MR. VOWELS: I guess. It makes
20 as much sense as this company wants some
21 other company to come in and pay for
22 everything. If they won't, they'll leave
23 the community and go somewhere else and get

1 their sewage, I guess, until it's no good
2 any more.

3 MR. SUNDWICK: Somebody
4 mentioned, commented in presentation that
5 they were, that the companies that they
6 endorsed either reduced their marina slip or
7 eliminated them all together?

8 MR. REPA: Right. John Repa,
9 Peat Marwick representing the city. In our
10 firm's analysis of the proposals from the
11 Phase 1 to the Phase 2 application, we went
12 back to the gaming companies and said, you
13 know, there's certain things already within
14 the market that are adequately supplied by
15 your development coming in with a
16 substantial number of marina slips. We're
17 going to take away from the local community,
18 and that's not the purpose of being here.

19 MR. SUNDWICK: How many slips --
20 are there sufficient slips?

21 MR REPA: Yes. Right now there
22 are only at 60 to 70 percent capacity.
23 Typically, a marina is in the 85 to 90

1 percentile range.

2 MR. SUNDWICK: Are there more
3 slips than hotel rooms?

4 MR. REPA: Yes, there sure is.

5 MR. SUNDWICK: I think I talked
6 to somebody on your counsel, without naming
7 anybody, and I asked them about the 300
8 hotel rooms, and they couldn't figure out
9 where they were.

10 MR. REPA: Well, I was there for
11 quite a while, and I can't tell you, either.

12 MR. SUNDWICK: Thanks.

13 MR. VOWELS: There was something
14 yesterday about Seagrams and Anchor being
15 concerned about the additional traffic, and
16 I think there was some newspaper article
17 that was flashed up there, that they might
18 leave because of that. Have you heard
19 anything about that?

20 MR. TREADWAY: I personally have
21 not. I think both of those employers, which
22 are large employers, are concerned about
23 traffic in Dearborn County and, I think,

1 were interviewed and expressed those
2 concerns in a newspaper article. I'm not
3 aware of anyone threatening to leave
4 Lawrenceburg because of that.

5 MR. THAR: Two things, a
6 follow-up on that one. It is my
7 understanding that Seagrams has recently
8 added a facility had a puts a semi on the
9 road every 20 minutes; is that correct?

10 MR. SHERIDAN: Jeff Sheridan with
11 the city of Lawrenceburg. I'm not familiar
12 with that statistic. I know they have made
13 significant improvements in their
14 warehousing operation. That's a major part
15 of the Lawrenceburg operation. There are a
16 great deal of semi trucks and travel.

17 MR. THAR: Are they shipping more
18 frequently?

19 MR. SHERIDAN: I believe they are
20 bringing in and out, yes, more frequently.

21 MR. THAR: Are they going to do
22 anything to help alleviate the increased
23 traffic that they have?

1 MR. SHERIDAN: Seagrams has
2 cooperated with the city of Lawrenceburg a
3 great deal to deal with that number of truck
4 traffic. There is a combination of truck
5 traffic and rail traffic.

6 MR. THAR: Are they going to
7 participate in alleviating the traffic
8 problems that we've heard about?

9 MR. SHERIDAN: We have no
10 commitments from Seagrams, but they have
11 been cooperative historically, so I would
12 expect them to continue to do so.

13 MR. THAR: Based on their prior
14 actions, you would expect them do so
15 something?

16 MR. SHERIDAN: I would expect
17 them, yes.

18 MR. THAR: If we could talk about
19 your city process for a second. Two
20 companies which seem to have good
21 reputations in the industry, Harris and
22 Golden Nugget, dropped out of process, why?

23 MR. TREADWAY: First, I was here

1 the day that Golden Nugget offered the
2 explanation for why they dropped out. I
3 have no reason to doubt their explanation.
4 The only perspective I can add to that is I
5 negotiated development agreements with
6 Golden Nugget. They made a number of what
7 we deemed to be unreasonable demands on the
8 city. They asked the city to finance in
9 part their project by bond financing. They
10 asked the city to condemn private property
11 for their footprint. There are a number of
12 those kinds of things that the city simply
13 was unwilling to do or, in fact, negotiate.
14 Golden Nugget was made aware of those
15 things. They were extremely resistant and
16 upset. We simply told them we would not
17 sign a development agreement with those kind
18 of provisions in them, and that resulted in
19 Golden Nugget, I think, withdrawing from the
20 process.

21 With regard to Harris, I am
22 uncertain exactly why Harris withdrew from
23 the process. During the negotiation of the

1 development agreements, things were moving
2 along mine and, quite candidly, we believe
3 they became involved in another project, and
4 for a period of approximately two weeks we
5 didn't hear from them. It is my
6 understanding they formally withdrew because
7 of their involvement with Indian Gaming in
8 the northern part of the state.

9 MR. THAR: That is true. But you
10 are aware there were a series of letters on
11 which I was cc'd on that went between Harris
12 and city and yourself, I believe?

13 MR. TREADWAY: Yes.

14 MR. THAR: And expressing a
15 certain amount of disappointment, I think,
16 on all three parts, depending upon who the
17 author of the letter is. Can you explain
18 what caused that?

19 MR. TREADWAY: Well, I think
20 clearly Harris or Promus was unhappy with
21 the demands being made by the city. Quite
22 candidly, they were on an island. I mean,
23 their reaction to the negotiations was

1 unlike any of your other gaming development
2 companies, endorsed or not endorsed. I
3 can't explain why they took those
4 positions. They simply wanted no input from
5 the city on the project. They were not
6 concerned about what the city thought about
7 in terms of how the project looked and
8 impacted their city, things that certainly
9 weren't acceptable to the city.

10 We think this project is going to
11 have a profound impact on this city, and the
12 city has to have some degree of control over
13 what the project looks like and how it
14 impacts their city. And Harris was not
15 interested in any involvement. That simply
16 may be their corporate philosophy. I do not
17 know.

18 MR. SUNDWICK: Maybe you've
19 answered this and I just missed it. As far
20 as a suitability of the areas, east side and
21 west side, we're going to hear from the
22 corps of engineers. Is it your opinion that
23 it will be a longer time between, what is

1 the term I'm looking for?

2 MR. TREADWAY: To obtain corps
3 permits?

4 MR. SUNDWICK: Yeah, for the east
5 side. It sounds to me from just the
6 testimony we've heard the last two days, you
7 could be at business a little bit quicker if
8 you're on the west side?

9 MR. TREADWAY: I am personally not
10 aware of specific reasons. Although, I can
11 tell you if you look at those two sites,
12 common sense tells me that there may be
13 fewer issues on the west side site to deal
14 with from a corps permitting perspective,
15 yes.

16 MR. SUNDWICK: Something that
17 could take a couple years to get approval?

18 MR. TREADWAY: I have seen
19 nothing to suggest to me that it will take a
20 couple years to permit an east side site.
21 And I believe our engineer has considered
22 those issues well, and I don't believe he
23 thinks it would take a couple years to

1 permit an east side site.

2 MR. SUNDWICK: Is there anything
3 you've heard in the testimony over the last
4 two days, and I'm not going to say change
5 your mind about picks, but is there anything
6 that you heard from the other companies that
7 were changes --

8 MR. TREADWAY: Yes.

9 MR. SUNDWICK: -- in
10 representations? What would that be?

11 MR. TREADWAY: From non-endorsed
12 companies?

13 MR. SUNDWICK: Yeah.

14 MR. TREADWAY: I could give you a
15 couple of examples. I'm certain I can't
16 recall all of them because, candidly, there
17 were very many.

18 MR. SUNDWICK: The major one that
19 would impacted your decision?

20 MR. TREADWAY: I don't know that
21 I heard any that would cause, at least from
22 my opinion, cause this council to change
23 their position. In fact, I think it would

1 be just the opposite. It reaffirms the
2 decision they have made. As an example,
3 with the Empire group, all of the
4 individuals that you saw before you, we've
5 never heard of those folks. We've never
6 seen them. We spent the better part of the
7 year meeting with these folks and
8 negotiating. Many of those individuals
9 we've never heard of, we've never met.
10 Their financing has changed. It changed
11 almost daily when we were negotiating the
12 agreements. And Mr. Klineman described it
13 as a moving target, it was a moving target
14 back then as well. So, I think the things
15 we've heard reaffirmed our decision in terms
16 of our endorsed candidates.

17 MR. KLINEMAN: We're not trying
18 to ignore Switzerland or Ohio Counties.
19 Don't get that idea. But, obviously, you
20 people had solved a lot of problems that
21 we're asking Lawrenceburg to work on on the
22 revenue sharing. Please don't feel
23 slighted.

1 MR. TREADWAY: I suspect they're
2 enjoying this.

3 MR. SUNDWICK: I don't have any
4 more questions. I have a comment. I would
5 -- I don't know how the city is going to
6 make sure that this football rivalry doesn't
7 go any further. And I know you put a good
8 effort with 50 percent of that. It seems to
9 me that when you make up 10 percent of the
10 community, and you're going to end up with
11 50 percent of the income, that that might be
12 not only re-looked at, because it's
13 certainly out of fairness. And, also, I
14 would just ask you to make sure that that's
15 a continual appliance of frequent
16 involvement in that county.

17 MR. TREADWAY: And I think that I
18 can represent to the Commission that it will
19 be because I think I know the attitude of
20 the current government. I appreciate your
21 comments.

22 MR. VOWELS: In reference to the
23 evaluation and endorsement process, I'm not

1 completely clear from the readings here. My
2 understanding as far as the makeup of what
3 the vote, who actually had voting power as
4 far as making the endorsement?

5 MR. TREADWAY: The endorsement
6 was made solely by the city council.

7 MR. VOWELS: Completely by the
8 city council?

9 MR. TREADWAY: Completely. Each
10 company seeking license decided to go
11 through the city process, simply appeared at
12 a city council meeting one evening and were
13 placed before the city council for a vote on
14 an endorsement. Three companies were
15 endorsed.

16 MR. VOWELS: So, is that after
17 the consultants were hired to assist the
18 advisory board?

19 MR. TREADWAY: That council
20 meeting occurred at the very end of the
21 process after approximately two years of
22 working evaluating gaming, evaluating the
23 companies, and really was the last step of a

1 process that lasted over two years.

2 MR. VOWELS: My understanding is
3 there were seven citizens of the city
4 advisory board, and they were invited to
5 make contact with people in the community
6 and report back to the city council; is that
7 correct?

8 MR. TREADWAY: Yes.

9 MR. VOWELS: And was that report
10 to the city council a public forum?

11 MR. SHERIDAN: Jeff Sheridan,
12 city of Lawrenceburg. Yeah, that report was
13 held in a public forum. That was fairly
14 early in the process, approximately in
15 February of '94. The report issued by that
16 advisory committee to the city council
17 contained 22 recommendations. The city
18 council adopted the 22 of the 23 with only a
19 minor modifications to the last one and
20 followed those criteria in making their
21 evaluation and endorsement.

22 MR. VOWELS: Do any of those
23 seven citizens of the advisory board have

1 any -- have they since that time, were they
2 then associated with any of the applicants
3 at all?

4 MR. SHERIDAN: No. In fact, as a
5 part of that process, we asked them to sign
6 an affidavit confirming that they had no
7 connection to any gaming company, and those
8 are, I believe, on record with the gaming
9 commission.

10 MR. VOWELS: Are you aware of any
11 of them being off at any point?

12 MR. SHERIDAN: No, I'm not.

13 MR. VOWELS: So, how many, five
14 members of the city council?

15 MR. SHERIDAN: There are five
16 members of the Lawrenceburg City Council.

17 MR. VOWELS: And they were the
18 body that did the endorsement for the three
19 applicants that were endorsed; is that
20 correct?

21 MR. SHERIDAN: They are the body
22 that considered the endorsement of all the
23 companies that went through the city

1 process.

2 MR. VOWELS: And came up with the
3 three; Ameristar, Boyd and Indiana Gaming?

4 MR. SHERIDAN: That is correct.

5 MR. VOWELS: I think I saw in
6 here they gave a point ratio or something to
7 the applicants. Is that how they did it?

8 MR. SHERIDAN: No, the city
9 council did not use any type of a scoring
10 formula.

11 MR. VOWELS: Okay. There's just
12 so much here, my brain is about to blow up
13 on what I've read and heard.

14 MR. SHERIDAN: Believe me, I
15 understand.

16 MR. SUNDWICK: Somebody named
17 Hammer?

18 MR. VOWELS: There was a
19 consultant, Thomas Hammer.

20 MR. SUNDWICK: He did the
21 points?

22 MR. SHERIDAN: Correct.

23 MR. VOWELS: Because I'll spend

1 all of next week reviewing this.

2 MR. SHERIDAN: Have fun.

3 MR. THAR: When it's all said and
4 done, is it the city of Lawrenceburg's
5 position that they would like to have a
6 riverboat or they would like to have a
7 riverboat only if it is an endorsed
8 company?

9 MR. TREADWAY: I think first and
10 foremost Lawrenceburg would like to have a
11 riverboat, but more importantly they'd like
12 to have a riverboat of one of their endorsed
13 candidates because we think that does the
14 most for southeastern Indiana.

15 MR. VOWELS: I don't understand
16 that that question -- I mean, I don't
17 understand the answer.

18 MR. TREADWAY: First response is,
19 first and foremost we want a riverboat, but
20 we think it's key and essential it be with
21 an endorsed candidate because we think the
22 benefits will greatly exceed any other
23 scenario if it's with one of the endorsed

1 candidates.

2 MR. VOWELS: Well, the question
3 was if you could have a non-endorsed
4 riverboat or nothing, which would you
5 choose?

6 MR. TREADWAY: We'll take the
7 riverboat.

8 MR. MILCAREK: If another county
9 gets a license, how would that change your
10 revenue sharing?

11 MR. TREADWAY: I believe the way
12 it is drafted, if another county gets a
13 boat, they would drop out of the formula and
14 everyone else's numbers would
15 proportionately increase.

16 MR. SHERIDAN: Jeff Sheridan.
17 That's correct.

18 MR. SUNDWICK: That's before or
19 after the 50 percent reconsideration?

20 MR. TREADWAY: They enjoyed that
21 as well.

22 MR. SUNDWICK: I don't have any
23 more questions of the city.

1 MR. TREADWAY: Thank you.

2 MR. VOWELS: I have one of Rising
3 Sun.

4 In reference to your revenue
5 sharing program, it talks about a dollar per
6 patron to the cities, towns and counties has
7 been laid out. That is prorated per capita;
8 is that correct?

9 MR. DENBO: This is Monte Denbo,
10 Rising Sun. Lane Siekman will handle that.

11 MR. VOWELS: I've seen the list
12 here. I'm just curious if it's prorated per
13 capita?

14 MR. SIEKMAN: Yes, Mr. Vowels.
15 I'm Lane Siekman, city attorney for Rising
16 Sun. In terms of our riverboat revenue
17 sharing, there's a TV commercial that says
18 put it in writing, and we put it in writing
19 a year ago. And the way it's set up, there
20 are two one dollars, let me make that clear
21 to you. The first dollar is 50 cents from
22 the dollar allocated to Rising Sun, 50 cents
23 to the dollar allocated to Ohio County.

1 We've agreed early on to share this money
2 throughout Ohio County on a fair, even
3 basis.

4 MR. VOWELS: All this really
5 leads up to is this question: If there is a
6 boat in Dearborn or Switzerland County, are
7 they in or out of the plan?

8 MR. SIEKMAN: Okay. The
9 resolution passed by the city council,
10 county council and county commissioner
11 states that if a community or county becomes
12 eligible as a home dock or becomes eligible
13 to primarily share in the proceeds. And
14 what I mean by primarily share; if it's in
15 Lawrenceburg, Lawrenceburg and Dearborn
16 County will be removed from the formula, and
17 the money will go out to the remaining
18 cities, towns and counties. If it's in
19 Switzerland County, Switzerland County will
20 be removed from the formula and would go
21 back out and so forth. And, ideally, there
22 are people here in Ripley County that want a
23 boat in each county so they can get all the

1 revenue sharing.

2 MR. VOWELS: In reference to
3 that, we talked to Lawrenceburg about this
4 interlocal agreement that was binding. Is
5 that the same thing you have?

6 MR. SIEKMAN: We have already had
7 preliminary meetings with cities and town
8 and some of the counties involved, and we
9 had a terrible handicap because of the
10 questioning over the two boats and so
11 forth. But we believe that upon the
12 issuance of the certificate of suitability,
13 we will be able to immediately enter into
14 agreements with these cities and towns.
15 After all, all they have to do is agree to
16 accept the check.

17 MR. VOWELS: And it is under the
18 interlocal agreement package and that would
19 be binding?

20 MR. SIEKMAN: That would be under
21 the interlocal agreement portion of the
22 riverboat package.

23 MR. SUNDWICK: I just have a

1 comment. When I was first aware of this
2 revenue sharing idea from Rising Sun, and I
3 think that all counties now have some sort
4 of program, I think it's absolutely super
5 that you've done that. I think each county
6 ought to be proud of themselves and their
7 citizens for what they've done. I think
8 it's really super. I've never heard that
9 anyplace before. It seems to be everybody
10 want to share in this, so you all ought to
11 be all commended for that.

12 MR. SIEKMAN: Mr. Sundwick, and
13 when the dust clears from the riverboat, I
14 have no doubt that the counties in
15 southeastern Indiana will get together and
16 make the whole process work for all of us.
17 Thank you.

18 MR. THAR: Wait, wait. I didn't
19 follow something. Let's assume for the
20 moment that a riverboat goes into
21 Lawrenceburg. Does Aurora, Greendale,
22 Dillsboro, do they still share in the
23 revenue?

1 MR. SIEKMAN: They still share on
2 a per capita basis.

3 MR. THAR: So, the county of
4 Dearborn has an entity and Lawrenceburg has
5 an entity, would not the remaining cities
6 towns in Dearborn County that you have
7 signed up with you would get money?

8 MR. SIEKMAN: They will get
9 money, yes.

10 MR. THAR: How does it work in
11 Switzerland County?

12 MR. SIEKMAN: In Switzerland
13 County, obviously Switzerland County, since
14 they do not have any city that gets the
15 dollar per head or anything like that, we're
16 going to have to add some equitable
17 provisions in there to make this fair. If
18 Switzerland County get a vote, obviously
19 Switzerland County as an entity will be
20 removed from the formula.

21 MR. THAR: What about Vevay or
22 Florence?

23 MR. SIEKMAN: Well, Florence is

1 not an incorporated community, as I
2 understand. Just Patriot and Vevay are the
3 two towns in Switzerland County. Those two
4 towns still remain in the formula at the
5 present time.

6 MR. THAR: Okay.

7 MR. SUNDWICK: I'm confused
8 again, because if Lawrenceburg gets the
9 boat, and you've heard these people say
10 they're going to share with the other
11 cities, and you would also share, so the
12 people of --

13 MR. SIEKMAN: If Lawrenceburg
14 gets a boat and shares and Rising Sun gets a
15 boat and shares, Vevay will get sharing from
16 both, I presume. We have no strings
17 attached. We're going to be sending the
18 checks out.

19 MR. SUNDWICK: And everybody is
20 doing the same thing?

21 MR. TREADWAY: On behalf of
22 Lawrenceburg, that's exactly the scenario
23 which would occur, is we would receive a

1 double payment from two separate accounts.

2 MR. SUNDWICK: That should also
3 be Switzerland County the same way?

4 MR. TREADWAY: Yes.

5 MR. VOWELS: About the road
6 improvement that you spoke of, you said you
7 would repave seven miles from Rising Sun to
8 Ohio County. Is that east or west, I'm not
9 sure where Ohio County sits?

10 MR. DENBO: Monte Denbo, Rising
11 Sun. Basically, the road runs north and
12 south because the river is running north and
13 south through that area, so it would be from
14 (inaudible) Creek Bridge to the site to the
15 city limits.

16 MR. VOWELS: I don't know Rising
17 Sun. How far does it sit from this part of
18 the county line and this part of the county
19 line?

20 MR. DENBO: The county is, on 56
21 stretch, is only about nine miles total.

22 MR. VOWELS: So, just two miles
23 will not be repaved; is that correct?

1 MR. DENBO: The two miles is on
2 the south end of Rising Sun where we don't
3 expect a lot of traffic coming through.

4 MR. KLINEMAN: And what is the
5 timing on the project vis-a-vis the
6 possibility of a temporary boat opening.

7 MR. DENBO: Well, obviously we're
8 like most of the cities, you know, we're
9 sitting in the situation -- in fact, I heard
10 something yesterday that Lawrenceburg is
11 dealing with the corps of engineers. I was,
12 very frankly, told by the corps that we
13 would be treated just like a gaming company,
14 so we haven't moved any further on the
15 temporary boat issue. Obviously, from all
16 of the preliminary investigations via our
17 two gaming companies, via the fact that if
18 we're talking at the end of Main Street, at
19 one time it was pole barge unloading area.
20 The river itself --

21 MR. KLINEMAN: My question deals
22 with the road.

23 MR. DENBO: Oh, I'm sorry. I

1 thought you said the temporary site.

2 MR. KLINEMAN: No, vis-a-vis the
3 opening of a boat, and I added temporary.
4 What is the highway improvement program?

5 MR. DENBO: How long would it
6 take?

7 MR. KLINEMAN: Timingwise.

8 MR. DENBO: You know,
9 approximately 12 to 15 months.

10 MR. KLINEMAN: To do the road.

11 MR. DENBO: To go through the
12 permitting processes with INDOT, to do the
13 design issues, etcetera, and to do the
14 construction parts. Surprising enough, the
15 construction part is the minor part of that
16 issue. They're saying that's a three-month
17 process.

18 MR. KLINEMAN: Is a right-of-way
19 available on that road?

20 MR. DENBO: That's -- we've got
21 50-foot of right-of-way down through there.
22 I'm not going to tell you that there's not
23 going to be at close points. But at this

1 point, we don't feel that there's any land
2 that would have to be acquired.

3 MR. KLINEMAN: That, of course,
4 is really crucial, I think, and the
5 applicants agree, and I guess you do too, to
6 get that road up to the highest standard
7 that it could get to.

8 MR. DENBO: Uh-huh. That would
9 bring it to what we think totals our three
10 standards by INDOT. And I'm sure, they are
11 speaking this afternoon they'll give you a
12 better clarificaton of that. It's almost
13 possible for us to deal with the road and
14 look at it and say it's going to be a
15 four-lane highway, but we can deal with the
16 safety issues. The fact that we do have a
17 little different type of project down there,
18 I think, and the road system is considered a
19 scenic byway now. What we want to do is
20 improve it, make it safer, but certainly I
21 don't see a four-lane highway coming down
22 through there.

23 MR. MILCAREK: What would be the

1 timing of this construction? Would that be
2 going on after the temporary boat opened and
3 traffic would really be --

4 MR. DENBO: It's a possibility.
5 You know, it certainly if -- you know, you
6 folks in the major cities see a lot of
7 orange barrels. I'm sure there will be a
8 few orange barrels down there.

9 MR. MILCAREK: With a two-lane
10 highway and the traffic, temporary traffic
11 coming, it seems pretty difficult to handle
12 that much with one lane or whatever you
13 would do.

14 MR. DENBO: Well, I'm not a
15 traffic engineer, but obviously we feel like
16 the temporary boat is probably a 90 day to
17 120 day kind of process. My guess is that
18 we, you know, you're going to have some
19 uncomfort for maybe a, six, seven-month
20 timeframe. But in the fact that we think we
21 can get in the water pretty quickly, and
22 certainly we only have seven miles of road
23 that we have to deal with, my opinion is

1 that the gaming patrons will get there and
2 will get there fairly safe. We may slow
3 them down a little bit, but they'll get
4 there.

5 MR. THAR: We have some
6 (inaudible) people here to listen, and on
7 occasion they raise questions which are far
8 beyond my comprehension, but I'm going to
9 ask them anyway.

10 MR. DENBO: Probably beyond mine,
11 too, then.

12 MR. THAR: They question why you
13 would want to use taxes for the financing
14 with regard to the road, why wouldn't you
15 want to use either commissions or gaming
16 taxes for the improvements? The primary
17 concern is if you were to establish that and
18 the riverboat company pulls out, where does
19 that leave Rising Sun and Ohio County?

20 MR. DENBO: We're in a situation
21 where -- and I won't tell you this is
22 totally complete, but it will be by June
23 30th. We're in a situation where we are

1 negotiating right now to make sure that from
2 a contractual standpoint that if you have a
3 five-year window on gaming, that
4 contractually speaking the company would be
5 obligated in some way, shape or form to
6 guarantee the performance of those bonds.
7 If they pull out early, obviously the net
8 guarantee remains in force.

9 MR. BAYT: Phil Bayt, Ice Miller
10 for Rising Sun. We have worked with each of
11 the applicants, and both have agreed to post
12 letters of credit that would fully cover the
13 bonds in case they pulled out. In addition,
14 possibly also a backup reimbursement
15 agreement that would take care of that
16 situation with respect to shortfalls. But
17 we think that the letters of credit alone
18 will be sufficient to cover any bond issue.
19 That's sort of covers it.

20 MR. THAR: Unless, of course,
21 they went belly up?

22 MR. BAYT: Letter of credit would
23 be independent, would be issued immediately

1 upon certificate of suitability issuance,
2 and that would serve to have as a
3 beneficiary the city of Rising Sun and Ohio
4 County, so that letter of credit would be
5 independent and issued by a third-party
6 financial institution.

7 MR. THAR: What about the
8 potential lost of revenue by townships,
9 school corporations when the new development
10 is removed from the tax base, does that
11 occur? When you put something into a tiff,
12 does that remove it from the other tax
13 base?

14 MR. BAYT: Only the increment is
15 focused on, and the tax increment with
16 respect to this particular project would be
17 tightly drawn around the project itself.
18 So, right now the taxing area is primarily
19 agriculture not generating much tax at all.
20 The increment will be enormous, but the
21 incremental district will be tightly drawn
22 around this particular project.

23 MR. THAR: Then that project

1 wouldn't be included in the otherwise
2 existing governmental entities, it would be
3 in the township, wouldn't it?

4 MR. BAYT: It's the increment
5 that is going to be focused -- only the
6 additional money gets pledged. Whatever
7 dollars were there before as tax revenue
8 will continue to be filled out and allocated
9 in exactly the same way as before.

10 MR. THAR: Are you comfortable
11 with this?

12 MR. BAYT: Are we comfortable
13 with this? We believe that this particular
14 method of financing is the quickest and
15 easiest and really quite a temporary
16 solution to a problem.

17 MR. THAR: When would you start
18 realizing the money from this?

19 MR. BAYT: When would we start
20 realizing money from this? Gary Malone from
21 H.J. Umbaugh & Associates has undertaken
22 some comprehensive studies based upon the
23 development timetables. And I don't know if

1 he's here or not, but we've included some
2 materials in your packet, and she can
3 provide you some background information on
4 that.

5 MS. ROONEY: I'm Loren Rooney
6 from H.J. Umbaugh & Associates. We're
7 financial advisors, and we've been doing tax
8 increment financing, bond issues in Indiana
9 for the past 10 to 12 years. And we
10 prepared a preliminary tax increment
11 feasibility study. The timing that you
12 asked about, we have assumed that the
13 developments will be partially assessed by
14 March 1, 1997, or taxes payable in '98 and
15 then fully completed and assessed by March
16 1, 1998 payable in 1999. Therefore, if
17 bonds were issued sooner, then part of the
18 proceeds of the bond issues are put aside
19 into a special fund to pay interest that's
20 due on the bond before the tax increment is
21 collected and starts paying the bonds. It's
22 pretty typical. It's called capitalized
23 interest.

1 MR. THAR: So, when do you get
2 the money?

3 MS. ROONEY: When do they get the
4 actual bond proceed money?

5 MR. THAR: When do they get the
6 money so they can start the road
7 improvements? I'm kind of lost here.

8 MR. BAYT: We believe that
9 sometime late this year or early 1996,
10 thanks to the letter of credit that will be
11 issued promptly upon the certificate of
12 suitability issuance, the bond proceeds
13 would become available right away.

14 MR. THAR: If you had a buyer for
15 the bonds?

16 MR. BAYT: We believe that with a
17 third-party financial institution, we will
18 have an immediate buyer for the bonds.

19 MS. BOCHNOWSKI: Would you be
20 able to go through some of this permitting
21 and all of this other process meanwhile
22 while you're waiting for this money to come
23 through, or does that have to wait?

1 MR. BAYT: Pill Bayt. This can
2 all be parallel. We can do things
3 simultaneously.

4 MR. MILCAREK: Do you have some
5 idea of the cost of widening this road?

6 MR. DENBO: Monte Denbo, Rising
7 Sun. We've been told approximately \$240,000
8 a mile. We factored in a flood factor
9 there, and we're really looking at about
10 \$300,000 a mile.

11 MR. MILCAREK: And that's the
12 seven miles?

13 MR. DENBO: That's the seven
14 miles.

15 MR. KLINEMAN: To change the
16 subject just a minute. Do you have a
17 non-compete in your development agreement
18 with your developers?

19 MR. BAYT: Phil Bayt. We do
20 not. But we would be delighted to if you
21 might ask them.

22 MR. DENBO: I think both
23 developers have already sent a letter to Mr.

1 Thar. Maybe I'm wrong on that.

2 MR. THAR: Not that I'm aware
3 of. That doesn't mean that they didn't, I'm
4 just not aware of it.

5 I want to kick back again. The
6 increment, though, would be lost for like
7 the school district or something like that?

8 MS. ROONEY: No, because like, as
9 Phil pointed out, the area right now has a
10 level, there is a certain incremental
11 assessed value. There's certain assessed
12 value that would be part of the base, and
13 whatever taxes are being collected would
14 continue to go to the different tax
15 increments. When the new development
16 happens, there will be this increased
17 assessed value. But we would assume that
18 this development would not happen, anyway.
19 So, if it never happened, the schools and
20 the other taxing units would never have
21 gotten the benefit. So, by this development
22 happening, the tax increment being collected
23 to do the roads that help facilitate the

1 development, that increment is collected and
2 does not go to the other units, but they
3 wouldn't have had it if the development
4 never came.

5 MR. THAR: I understand. But the
6 school district may not be burdened by the
7 additional children if the development does
8 not come here?

9 MS. ROONEY: The school
10 district's funding formula is very
11 complicated, but the schools have a certain
12 set amount of cost per pupil that is the
13 goal with the different schools. And so,
14 actually, what the school does is receive
15 locally, they receive state funding.

16 MR. THAR: Can Rising Sun absorb
17 500 more students in the present school
18 district now with the present funding that
19 it has, currently existing school district?

20 MR. DENBO: Could they absorb
21 that?

22 MR. THAR: Yeah.

23 MR. DENBO: Absolutely not.

1 MR. THAR: But you would not be
2 able to look, then, at the new development
3 now, their tax base, to pay for that; is
4 that right, they pay for any increase in
5 schools?

6 MR. BAYT: Phil Bayt. Let me
7 answer in two respects. Respect number one
8 is is that we believe by drawing the tax
9 increment boundaries very tightly, that
10 other economic development that will occur
11 in Rising Sun, for example, downtown and
12 other ancillary areas, will not be captured
13 by the increment, will not be captured by
14 the bond issue. And, therefore, those tax
15 revenues, those increased tax revenues will
16 be available for a variety of services that
17 will be provided to the citizenry of the
18 community.

19 In addition, because we're talking
20 about a fairly short tax increment finance
21 vehicle, there's going to be quite an
22 abundance of tax revenues available in a
23 very short period of time, relatively

1 speaking, with respect to these kinds of
2 projects. We believe it is a short fuse,
3 short-term arrangement with respect to this
4 financing.

5 MR. THAR: Let me get down to the
6 end. If the Commission doesn't like the
7 idea of using the tiff, would you consider
8 something else, or do you figure you're
9 locked in?

10 MR. BAYT: No. Phil Bayt. We
11 have a variety of different financing
12 sources and have actually been discussing
13 with gamers a more direct participation by
14 the gamers in that arrangement. We believe
15 that there's a variety of different
16 financing vehicles that would be able to
17 solve the problem associated with financing
18 road improvements on very short notice.

19 MR. DENBO: I assume you might
20 have a suggestion on that?

21 MR. THAR: I'm finished.

22 MR. KLINEMAN: This is a very
23 interesting discussion. If you read in the

1 papers here, had Mayor Goldsmith figured out
2 where he was going to get the money to pay
3 the United bonds, he wouldn't be scrounging
4 around at the present time trying to find a
5 way to pay the bonds, and so United starts
6 coming on board. So, this is really a very
7 apropos discussion. Anything else?

8 MR. THAR: I do have another area
9 just very briefly.

10 You have indicated through your
11 presentation that Rising Sun has, in fact,
12 given thought to the added increase in the
13 amount and cost of government. Both
14 Dearborn County and Ohio County and
15 Switzerland County are all rural counties,
16 but Dearborn County is more probably urban
17 than either Ohio or Switzerland Counties.
18 Are the people of Ohio County really ready
19 for the change that could occur with the
20 riverboat project?

21 MR. DENBO: I think the mayor
22 ought to answer that. Mark.

23 MR. GUARD: Mark Guard, mayor of

1 Rising Sun. Absolutely. We're prepared. I
2 think the people are prepared. They're
3 prepared for the mere fact that we've done a
4 lot of planning in the last two years.
5 We've also set up a lot of committees, a lot
6 of task force members have come together
7 from different entities. And to be actually
8 honest with you, the city and county
9 officials have come together the first
10 Sunday of every month and sat down and kept
11 going through and kept throwing out on the
12 table, what can we expect and have we got
13 this covered. Ordinances have been enacted
14 to deal with many different things on this
15 type of development, and I really think that
16 it's been an interesting process that the
17 people in the community have really come out
18 in support of.

19 Going back to actually the voting
20 part of it, 69 percent of the voters came
21 out and voted with the biggest win margin on
22 the Ohio River. Actually within the city
23 limits of Rising Sun we had a 58/42 percent

1 yes vote. And then the grass-roots, you
2 know, people from the Rising Sun First
3 group, they have -- they want this, and we
4 want it. And I think it's a chance that
5 I'll never see again, or maybe no one in the
6 community will ever see again, any kind of
7 development. Because this has been a
8 situation in which we've felt that this was
9 an opportune chance because of the Ohio
10 River. Like we mentioned several times not
11 too many communities have the advantage of
12 having the Ohio River flowing next to them,
13 so I think we're really ready.

14 MR. THAR: Understanding that you
15 can't guarantee your answer, but being the
16 mayor of the city and having your hand on
17 the pulse of what's going on in the county
18 to a certain degree, if the referendum were
19 to occur today with the people knowing what
20 they know today, would it pass with a higher
21 margin, pass with a smaller margin or not
22 pass?

23 MR. GUARD: It would pass. Just

1 from the comments you hear in the public,
2 It would definitely pass, probably a larger
3 margin because of the process we've taken
4 the honesty and integrity involved in every
5 individual that's been involved in this
6 process. I think the community of Rising
7 Sun will testify to that, you know, we would
8 vote for this again. It has been a long
9 process. It's something they thought maybe
10 would happen in a couple months, but I think
11 in a couple months that we, being a long
12 process, has given us a longer time to
13 prepare.

14 MR. THAR: So, you think you're
15 ready?

16 MR. GUARD: Yes.

17 MS. BOCHNOWSKI: I almost hate to
18 even suggest this, but there is the
19 possibility that you don't get the license.
20 After all of this, everything you've done,
21 where do you go from here if you don't get
22 license? I mean, do you think this will be
23 devastating to the community, what I'm

1 saying is do you think you can move on?

2 MR. GUARD: Yes. I think there
3 will be a lot of disappointed people. We'd
4 try to move on, but our downtown area --
5 this is what we're really looking forward to
6 is our downtown being revitalized, and I
7 don't think we can do that without the
8 riverboat. We just can't do it without the
9 money. We've talked to companies.
10 Companies want you to build buildings. They
11 want you to do everything for them. Well,
12 it's just the opposite with this kind of
13 development. They want to do things for you
14 because they want to make it work, and we
15 want to make it work. Yeah, it will be
16 devastating if we do not get a vote.

17 MR. VOWELS: Do you have any
18 thoughts about if Rising Sun would receive a
19 boat and Switzerland and Dearborn would
20 receive a boat and some, particularly at
21 Dearborn, the amount of money that they're
22 talking about investing and that aspect,
23 does it concern you about being eaten up

1 with cannibalism along the way there? Would
2 it just be devastating if we granted Rising
3 Sun a license and it went under because it
4 couldn't compete with the other two
5 counties?

6 MR. GUARD: Would it just as
7 devastating?

8 MR. VOWELS: Or would it be
9 better to have loved and lost than never
10 loved at all?

11 MR. GUARD: That's exactly -- as
12 to the scenario of maybe of Dearborn County
13 not wanting and Switzerland County not
14 wanting --

15 MR. DENBO: I'm Monte Denbo of
16 Rising Sun. I think Mark used the word
17 devastated, it obviously would be. When
18 you're sitting in the middle and the revenue
19 sharing packages that have put on the table
20 by the other two counties probably would not
21 be sufficient to help our infrastructure to
22 do the things necessary to control the
23 issues. And we're bound to have growth. I

1 mean, Ohio County is a beautiful little
2 county. There are people going to move in
3 there that are accepting new jobs in the
4 area because of the riverboat project. So,
5 I think it would be devastating without some
6 funding mechanism.

7 MR. VOWELS: As far as zoning, if
8 you were to receive a riverboat there, and
9 that was the first time I'd ever been there
10 in April when we went through there. And
11 I'm from southern Indiana and there's not
12 that many areas along the river from where I
13 come from that look as good as where you are
14 all. And I'm not sure what my attitude
15 would have as a voter in your county about
16 wanting this boat to come and change things.
17 My concern is, and you voted it in so it's
18 no none of my business about that. But as
19 far as zoning and being able to control the
20 situation so it doesn't overtake you and at
21 least you can roll with that, what thoughts
22 have you given to that what are in place to
23 ensure that doesn't happen?

1 MR. DENBO: I'll take it a stab
2 at it and maybe Mark can add something here.
3 One of the things that I found interesting
4 about this whole process is that, you know,
5 the perception that larger communities can
6 handle this more effectively or more
7 efficiently. I'm not so sure of that. As a
8 businessman, I've watched this process, and
9 not part of city council or city government
10 other than the development commission. I've
11 watched this process. It's pretty
12 efficient. These people are very
13 effective. They are willing to spend their
14 time. You have the Sunday meetings these
15 folks are all attending, and they're sitting
16 there talking about zoning.

17 When the city passed nuisance
18 zoning laws here three or four, five, weeks
19 ago, the meeting, obviously the county
20 looked at it very hard and said, look,
21 they've got nuisance zoning in the city, you
22 know where it's going to chase them, it's
23 going to chase them to the counties, so

1 maybe we better do something. So, I've
2 watched a process work that I think is very
3 efficient. A small town doesn't necessarily
4 mean it's ineffective. I've also watched --
5 they're very careful in trying to maintain
6 the integrity of the neighborhoods. You
7 know, I mean, I live in one of those
8 neighborhoods, and I certainly am not too
9 old to get a divorce at this point in my
10 life. So, we're working real hard at that,
11 to make sure that the integrity of our
12 community is remaining.

13 And if you think about the
14 project, you know, it sets at the edge of
15 our town, you know, 80 to 90 percent of the
16 traffic is going to be coming down 56. It
17 will be headed off before it ever gets to
18 our downtown. Now, we do want some business
19 downtown, that's the reason we're
20 redeveloping it. But, you know, if we get
21 10 percent of two and a half million people,
22 that's enough to energize our community.
23 So, we've set up some pretty strict zoning.

1 I think these people are absolutely ready to
2 handle this project.

3 MR. VOWELS: I would just say
4 from myself, the presentations that I've
5 seen from Dearborn, Switzerland and Ohio
6 Counties have been very impressive in their
7 professionalism and articulation of the
8 local people. And that should send a
9 message to the rest of the state, and I
10 thought it was the same in Evansville and
11 Gary. But particularly in this area that
12 I've never been, I always went to 64 to 71
13 up to Cincinnati when I went that way, and I
14 never went through that area. And I was
15 incredibly impressed with all three of the
16 counties and all the presentations from the
17 local people. And so somebody should never
18 underestimate your ability to handle the
19 situation. It's my concern is, like I said,
20 if I was from there, of course if I was from
21 there, an employee making decent money, I
22 would definitely have the attitude that
23 maybe I wouldn't want this place to change.

1 And it would be kind of sad for me to see it
2 become overwhelmed. I just want to make
3 sure that if licenses are given, in
4 particular in your area, and along with
5 other areas, that you are able to control
6 the situation and it doesn't overwhelm you.
7 Somebody the other day in one of the
8 presentations talked about the band uniforms
9 and having no tape measure. I just want to
10 make sure if they don't have a tape measure
11 that you guys do.

12 MR. KLINEMAN: I will echo that.
13 It is very important. A week from tomorrow
14 we hope to make a decision. Once that's
15 done there's going to be a lot of scrambling
16 around. If you don't have zoning in place
17 in Switzerland and Ohio Counties, I presume
18 Dearborn has some form that they should take
19 a look at, too. You're going to get into a
20 situation where people are going to have dug
21 one footing and said that that was going to
22 be a grueling show, or whatever it is, and
23 you can't change it even though you put the

1 zoning in place. So, I think it's very
2 important that everyone take a hard look at
3 that stuff.

4 MR. DENBO: Lane Siekman, our
5 city attorney, would be more than happy to
6 go over some of the zoning we've just put in
7 place. Is that necessary?

8 MR. KLINEMAN: I'm not really
9 here to tell you what kind of zoning you
10 should have. I'm just telling you to have
11 some zoning so that you can control the
12 growth that will immediately start.

13 MR. SIEKMAN: Mr. Klineman, I'm
14 Lane Siekman city attorney and I'm also
15 counsel to Rising Sun Planning Commission.
16 Rising Sun and Ohio County have had a
17 comprehensive plan and comprehensive zoning
18 ordinances in the county of Ohio since 1964.
19 That ordinance has been updated recently.
20 In 1989 we had updates dealing with these
21 developments and --

22 MR. KLINEMAN: I don't mean to
23 interrupt you, but if you're satisfied, I'm

1 satisfied.

2 MR. SIEKMAN: It is very
3 important. We are very proud of our zoning.

4 MR. KLINEMAN: Same thing with
5 Switzerland, I hope you people have your
6 zoning in place.

7 MR. JONES: Yes, we already have
8 it in place.

9 MR. VOWELS: I don't have any
10 questions of Switzerland County maybe
11 because they give us the smallest
12 supplement, but I don't want them to be feel
13 slighted because I didn't have any
14 questions.

15 MR. KLINEMAN: I do have with one
16 question. Are we through with Rising Sun
17 right now?

18 Okay. Mike, could you bring me up
19 to date on anything you know about the road
20 construction, the planning in Kentucky to
21 build that ancillary road that needs to come
22 off 71 and the interchange and all of that
23 good stuff?

1 MR. JONES: Right. Mike Jones,
2 president of Switzerland County Council.
3 Chairman Klineman, I have been in contact
4 with the Kentucky Department of
5 Transportation, and that project has been
6 funded and put on the list. It's presently
7 on a five-year list. Our understanding from
8 talking to the people in the Kentucky
9 Department of Transportation and the people
10 in the new industries that have come over
11 there, it's more like a two- to three-year
12 period. Because it was part of a package,
13 incentive package from the state of Kentucky
14 to the help attract the new industry. By
15 the way, Gallatin County through that growth
16 is now, is becoming, if not now, the fastest
17 growing county in the state of Kentucky.
18 So, I think that is going to speed that
19 process up.

20 In fact, I have a letter which I
21 think was sent to Chairman Klineman from
22 Clarence Davis the county judge executive.
23 And I'm sure you all -- Kentucky government

1 is a little different than Indiana
2 government in that one person, a judge
3 executive, who is elected at large in the
4 county, more or less does the work of the
5 county commissioners. And then each the
6 districts elect a magistrate, and those
7 magistrates make up the county fiscal court
8 which is similar to our county council. And
9 the Gallatin County fiscal court has
10 endorsed our project. And in this letter
11 that he sent to you, Chairman Klineman, he
12 talks about that road and the access road.

13 MS. BOCHNOWSKI: Does he give any
14 timetable on that?

15 MR. JONES: No, he did not in
16 this. But, again, I've been told that it's
17 been funded, it's on a five-year list, but
18 more than likely two to three years.

19 MR. KLINEMAN: Anything else?

20 MS. BOCHNOWSKI: Well, you
21 started to talk about yourself, we should
22 probably ask you the same question that we
23 asked the people from Rising Sun. Do you

1 feel prepared for such a large project to
2 come into your community and feel that
3 you're ready to handle that and any of these
4 little businesses that you might not want?

5 MR. JONES: Yes, we do. And we
6 have had a countywide zoning plan I think
7 was done in 1964. We're currently, and we
8 have one of our county commissioners here,
9 they are presently ready hopefully by
10 September to have that fully approved. But
11 there have been ordinances already in the
12 plan passed by the towns of Vevay and
13 Patriot and the county as far as restricting
14 some kind of behaviors that might,
15 activities that might not be desired. Do
16 you have any data on the zoning?

17 MR. ALLISON: Jim Allison,
18 president of the commissioners in
19 Switzerland County. We have our 1964
20 zones. We are in the process of completely
21 revamping it. In the process that we're
22 using, the company that we contracted with,
23 is that they are bringing in different

1 pieces of the ordinances to get to an end by
2 September. And we are well into getting
3 this taken care of and updating the 1964
4 ordinance.

5 MR. JOHNSON: Just to add --

6 MR. KLINEMAN: Do you want to
7 state your name, Craig?

8 MR. JOHNSTON: Craig Johnson,
9 Gaming Development International. We want
10 to recommend to the county over a year ago
11 that they get all the details done prior to
12 the boat, obviously, coming into place. The
13 county has had over 25 years of countywide
14 zoning, and the target is to get a very
15 forward-looking and as sensitive zoning
16 situation as possible particularly given the
17 historic nature of the town. And the
18 historic preservation criteria will be very
19 important factors we're dealing with. The
20 contract with Metropolitan Zoning has worked
21 around the area here in Ripley and Jeff
22 County. I believe they live in Ohio
23 County. And it's something I'm very

1 sensitive to because I live in Zionsville
2 because Zionsville has one of the tightest
3 zones in the state.

4 MR. KLINEMAN: Anybody else have
5 anything?

6 MR. THAR: Couple of quick
7 questions. The resolution of June 14th,
8 the resolution states that yet in the event
9 that Switzerland County is awarded the
10 riverboat gaming license, the following
11 Switzerland County gaming and admissions tax
12 revenue, distribution shall be implemented.
13 Is that both the gaming tax and the
14 admissions tax, then?

15 MR. JONES: I want to let our
16 county council attorney Evalina Brown
17 respond to that.

18 MS. BROWN: It really isn't
19 admissions tax.

20 MR. THAR: Well, this is just
21 within the county.

22 MS. BROWN: I'm sorry?

23 MR. THAR: Within the county.

1 MS. BROWN: Oh, within the county
2 it is, yes. I'm sorry, I thought you were
3 referring to the interlocal agreement.

4 MR. THAR: Paragraph 1 defines,
5 then you go onto county budgets, countywide
6 governmental units, incorporated towns,
7 township trustees. That seems to add up to
8 94.21 percent.

9 MR. JONES: Well, now, I
10 think --

11 MR. THAR: You have 74.21 percent
12 of revenue entity. Do you have the
13 resolution in front of you?

14 MR. JONES: I don't have it right
15 here, but I think, Mr. Thar, that carrying
16 over on that, what we were going to do with
17 the part of that that would be applied to
18 the regional revenue sharing would equal out
19 to like 5.79 percent of the total which
20 would make it 100 percent.

21 MR. THAR: That's what it's
22 supposed to do. But when it gets to the
23 regional sharing among the seven counties,

1 it says 10 percent of gaming tax revenue and
2 then it's got 5.79 percent. So, what are
3 you doing, are you taking the admissions tax
4 out?

5 MS. BROWN: Yes, that's right, on
6 the interlocal agreement, the revenue
7 sharing of the seven counties, the
8 admissions tax.

9 MR. THAR: I'm not much of a
10 mathematician, but on one line it says 10
11 percent and on the other line it says 5.79
12 percent. Which one is it? What are you
13 sharing, 10 percent or 5.79 percent?

14 MR. BROWN: It's 10 percent of
15 the gaming operations on the boat. It's not
16 the head tax on the interlocal revenue
17 sharing plan.

18 MR. THAR: What does the 5.79,
19 then, represent?

20 MS. BROWN: I think that
21 represents the total of the revenue. In
22 other words, that's why there's a difference
23 because the five percent --

1 MR. THAR: One wouldn't know
2 that, though, that's speculative. And I
3 don't know how you can come up with those
4 percentages.

5 MR. ROWE: Matt Rowe, Crowe
6 Chizek. We assisted the county in
7 developing that. That's a rough number of
8 what we approximated based on an estimate of
9 gaming revenue of 8 million dollars for the
10 boat, what that would amount to.

11 MR. THAR: Why would you even
12 need to do that since all you're doing is
13 percentages? If I look at the resolution, I
14 see one line is 10 percent, the next line is
15 5.79 percent.

16 MR. ROWE: They're going to be
17 sharing 10 percent of the gaming tax revenue
18 with the other five, six counties in the
19 area.

20 MR. THAR: Seven counties will be
21 sharing in 10 percent?

22 MR. ROWE: That's correct.

23 MR. THAR: What's the need for

1 the 5.79 percent?

2 MR. ROWE: It's just there for
3 informational purposes to -- it's 5.6
4 percent of the total amount of funding
5 coming into Switzerland County is going out
6 into other those other counties. That is
7 the only reason it was there.

8 MR. THAR: I'm missing you.
9 You're making a difference that has no
10 distinction, or making a distinction that
11 makes no difference to me. Ten percent
12 doesn't equal 5.79 percent.

13 MR. ROWE: Ten percent of the
14 gaming tax revenue that is anticipated at an
15 8 million dollars adjusted gross revenue is
16 equal to 5.6 percent of the entire gaming
17 and admission tax expected under that
18 scenario.

19 MR. THAR: You can get rid of the
20 5.79 percent?

21 MR. ROWE: Absolutely.

22 MR. THAR: Would you do that?

23 MR. JONES: We're committed to 10

1 percent.

2 MR. ROWE: Ten percent of the
3 gaming tax revenue. It is a distinction
4 without a difference, you're absolutely
5 correct.

6 MR. JONES: So we could do away
7 with that number.

8 MR. VOWELS: What did you say
9 about the two taxes, the admissions tax and
10 the wagering tax?

11 MS. BROWN: The admission, or I
12 call it the per capita or head tax, that
13 wasn't in the interlocal agreement. And we
14 went with 10 percent of whatever the gaming
15 operations on the vote would bring in, not
16 the head tax.

17 MR. VOWELS: But there's two
18 taxes, the admission tax and the wagering
19 tax?

20 MS. BROWN: Well, maybe we're
21 using the same term. I'm trying to remember
22 the statute, but it's the one on the boat.

23 MR. VOWELS: Let me tell you what

1 it says. The statute says dollar per patron
2 for the admission tax and then 25 percent of
3 the wagering tax, that goes to Indianapolis,
4 25 percent of it comes back, so that 25
5 percent of the wagering tax --

6 MS. BROWN: That's the 10 percent
7 number.

8 MS. BOCHNOWSKI: The 10 percent
9 of the 25 percent?

10 MS. BROWN: Right, the 10 percent
11 of the 25 percent that we would get we would
12 share with the other counties but it would
13 not include the head tax.

14 MR. JOHNSTON: My name is Chris
15 Johnston with Crowe Chizek. The Switzerland
16 County Council has agreed to share 10
17 percent of the wagering tax. The rest of
18 the calculation involves a combined amount
19 of the admissions tax and the wagering tax.

20 MR. VOWELS: This resolution,
21 paragraph 1 it says, in the event that
22 Switzerland County is awarded riverboat
23 gaming license, the following Switzerland

1 County gaming and admissions tax revenue
2 distributions shall be implemented. Does
3 that seem to be both the admissions tax and
4 the wagering tax?

5 MR. JOHNSTON: In the interlocal
6 agreement I believe it says 10 percent of
7 the adjusted gross receipts tax which would
8 be the wagering tax. That's how wagering
9 tax is defined. It's based on the adjusted
10 gross receipts.

11 MR. VOWELS: Would this first
12 paragraph be correct, ambiguous, or need to
13 be correct, or what is your opinion?

14 MR. JOHNSTON: It states that
15 they are sharing 10 percent of the adjusted
16 gross receipts tax. I believe that is what
17 they are intending to do.

18 MR. VOWELS: That's not what it
19 says. It says the gaming and admissions tax
20 revenue distributions shall be implemented.
21 That would be gaming and admissions tax.

22 MS. BROWN: Excuse me, that is
23 not the interlocal agreement, sir. That is

1 the distribution, we call it the county
2 distribution plan. And I tried to get these
3 gentlemen to name these things different so
4 you could understand all of these because
5 they've got the same words on all of them.
6 But really the first one is the county
7 distribution plan and within it there's a
8 regional revenue sharing plan with the
9 counties. And I did, I tried to get them to
10 change that. But, anyway, what it is, we
11 have an overall plan that's intracounty and
12 then intercounty at the end. And he's
13 right, you know, the 5 percent figure there
14 is -- we're wanting to share --

15 MR. KLINEMAN: Well, first, it's
16 a guesstimate, the 5.79 is a guesstimate, so
17 it really doesn't belong in there because it
18 becomes confusing.

19 MR. THAR: If a boat was put in
20 your county by this Commission, would you
21 redraft the resolution so it wouldn't
22 confuse me?

23 MS. BROWN: I will do anything

1 you want to, yes.

2 MR. JONES: We can have it for
3 you after lunch.

4 MS. BROWN: No, but we do want to
5 share with everyone, and we tried to come up
6 with something that would be a wider
7 reaching. Like I said, of those seven
8 counties and get into Jefferson is Jennings
9 and some of those others, Franklin. They
10 were real pleased they were thought of.

11 MR. KLINEMAN: Anything further?
12 Well, if not, we thank you all for coming
13 and making your presentations. It was very
14 interesting and question and answers.

15 Do you want to take about 45
16 minutes lunch time or do you want to go a
17 little more?

18 (At this time a break for lunch
19 was taken with the hearing to recommence at
20 1:15.)

21

22

23

ORIGINAL

BEFORE THE INDIANA GAMING COMMISSION

PUBLIC MEETING
AFTERNOON SESSION

TRANSCRIPT OF PROCEEDINGS

DATE: June 22, 1995

PLACE: Indiana Government Center Auditorium
302 West Washington Street
Indianapolis, Indiana

REPORTED BY: Kathleen L. Cast, Notary Public

MEMBERS OF THE COMMISSION

Alan I. Klineman, Chairman
Thomas F. Milcarek
Donald R. Vowels
Ann Marie Bochnowski
Robert W. Sundwick

ALSO PRESENT

John J. Thar, Executive Director,
and Members of the Staff

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1 MR. KLINEMAN: We've had a rather
2 long week, as some of you probably who have
3 been with us know. And we've really gotten
4 to the place where the Commission has decided
5 it probably would not be very effective to
6 have follow-up questions to the presenting
7 applicants or the cities or anything else
8 this afternoon.

9 What we have set up, and we still
10 might not have anything that's bothering us,
11 but we would ask the applicants to come back
12 next Friday when we get ready to go into the
13 session where we will start the awards for
14 licenses.

15 So I'm sorry for the inconvenience
16 for those of you who stayed since your
17 presentation to follow up with questions.
18 But we just feel it wouldn't be effective at
19 the present time.

20 It's just been too long a period and
21 too long a time, and we feel that it would be
22 more effective to review some of the material
23 that we had submitted to us during the

1 presentations and so forth that we haven't
2 really had time to look at, and then come
3 back a week from Friday. And if we still
4 have any questions that are bothering us, we
5 can get them answered at that time.

6 So I'm sorry for the inconvenience of
7 those of you who stayed for the question
8 period this afternoon. But you're released;
9 you can go on your way.

10 I guess we're all present now. I
11 have asked Mrs. Bochnowski to take over this
12 afternoon, and she's the vice chairman, vice
13 chairperson.

14 MS. BOCHNOWSKI: Whatever.

15 MR. KLINEMAN: I'm not politically
16 correct. I'm also running out of gas myself.
17 So she will preside this afternoon.

18 MS. BOCHNOWSKI: Thank you. This
19 afternoon, to begin with, I guess our first
20 group is the Oxbow, Oxbow, Incorporated,
21 Oxbow Indiana, Incorporated.

22 Instead of having the Oxbow and
23 Sierra Club speak to us during the public

1 comments, we felt this was an important issue
2 and should be set aside to a special time. So
3 we're giving you twenty-five minutes if you
4 want to make your presentation.

5 MR. MARA: Thank you, Madam Chairman.
6 We appreciate the opportunity to testify
7 before your Commission. My name is Timothy
8 Mara. I'm the attorney for Oxbow. With me
9 this afternoon are Norma Flannery, president
10 of Oxbow, and Dave Armentrout, president of
11 Environmental Assessment Services, Inc.,
12 consultant to Oxbow.

13 Previously, I have sent to the Gaming
14 Commission a copy of the comprehensive study
15 of the Oxbow area completed by Mr.
16 Armentrout's firm in August, 1994. I have
17 also sent to the Commission a smaller updated
18 report, which I understand has been copied
19 for each member of the Commission.

20 We will attempt in the time allotted
21 to us to briefly summarize these reports and
22 add to that observations and comments that
23 may help you in making this difficult

1 decision about licensing in Lawrenceburg.

2 When we refer this afternoon to the
3 Oxbow Wetlands, we will be referring not just
4 to the land owned by our organization, but to
5 the entire area of low-lying lands east of
6 Lawrenceburg that functions as a single very
7 important and delicate ecosystem.

8 Please turn briefly to Exhibit 1 in
9 the packet of our exhibits. It's a group of
10 maps. The Oxbow Wetlands includes the entire
11 area bounded on the south by the Ohio River,
12 on the west by the Lawrenceburg levy, on the
13 north by U.S. 50 and extending to the east
14 well into the state of Ohio.

15 This is an area susceptible to
16 frequent flooding from both the Ohio and
17 Great Miami Rivers. In fact, the area of
18 most immediate concern to your deliberations
19 is the area, of course, within Indiana. And
20 that area is usually under water for much of
21 the late winter and early spring each year,
22 as happened this year.

23 Mr. Armentrout will explain how these

1 wetlands function and how the rise and fall
2 of the waters interact with the plant and
3 animal life to form a very special web of
4 life which is not duplicated anywhere else.

5 Much has been done to preserve this
6 important environmental resource. In Ohio,
7 the Hamilton County Park District has
8 purchased most of the wetlands outright. It
9 has acquired conservation easements over most
10 of the remaining wetlands, which effectively
11 limits use of this area to agricultural
12 purposes.

13 Now, on Exhibit 1, the area owned by
14 the county park district is the area in dark
15 brown, and the area of their conservation
16 easements is in the orangeish color.

17 The future of the Oxbow Wetland on
18 the Ohio side seems reasonably secure. To
19 preserve the Oxbow Wetlands in Indiana, the
20 Oxbow organization was founded some ten years
21 ago. And today we have approximately one
22 thousand members, mostly in Indiana, Ohio and
23 Kentucky.

1 During this time, Oxbow has purchased
2 more than three hundred acres in the area
3 immediately east of the conservancy district
4 site, as shown on Exhibit 1. That's the area
5 with the tree pattern shown there.

6 We have also acquired conservation
7 easements over an additional three hundred
8 acres. And on that same map, you'll see the
9 other pattern adjacent to the conservation
10 district and Oxbow properties, as well as
11 further to the northeast by the Ohio state
12 line. Those are two areas over which we have
13 conservation easements.

14 IDNR, the Indiana Department of
15 Natural Resources, has also purchased a small
16 tract of land within this area along the
17 shore of the Great Miami River.

18 All together in Ohio and Indiana,
19 more than one and a half million dollars has
20 been spent to preserve the Oxbow Wetlands.
21 We are here today because we believe that all
22 that has been accomplished is at risk.

23 Each of the gaming facilities that

1 have been described to you during these
2 hearings has the potential to irreparably
3 harm the delicate Oxbow ecosystem, to undo
4 the balance that has been achieved between
5 nature and human activity.

6 Now, I'm going to turn to Dave
7 Armentrout, president of Environmental
8 Assessment Services, to tell you about how
9 the Oxbow Wetlands function. Dave?

10 MR. ARMENTROUT: Good afternoon. I'm
11 Dave Armentrout. I assume that you all have
12 worked your way through these reports at one
13 time or another and you remember them well.
14 Well, let me tell you something about what's
15 in these reports.

16 The first seven pages -- I'm not
17 going to ask you to reread these to refresh
18 your memories about what's in them. But the
19 first seven pages is an executive summary.
20 And I am going to ask you before you reach a
21 decision in this case to revisit those seven
22 pages, please, and just take a quick look at
23 those pages and remind yourself about what's

1 in them. They include the key information
2 that we're trying to get across in this
3 entire study.

4 My company was contracted by Oxbow,
5 Inc. to do a study of the Oxbow Wetlands.
6 And to do that, we included people from
7 outside the company, a team of consultants
8 that we put together that consisted of
9 diverse specialized professionals who were
10 specialized experts from academic circles,
11 specialized in various aspects of aquatic and
12 terrestrial botany as well as vertebrate and
13 invertibrate species evaluation.

14 And we had them work both on-site on
15 the Oxbow property as well as do some fairly
16 extensive literature review and research on
17 issues of concern here with respect to the
18 surrounding area.

19 This study in this area does center
20 around the Oxbow Lake, which was formed as a
21 cutoff a long time ago of a meander of the
22 Great Miami River. But the Oxbow property
23 itself is not the extent of the total what we

1 should refer to as the Oxbow Wetlands.

2 The Oxbow property is part of a much
3 larger area, as Tim Mara just pointed out,
4 and, in fact, is considered to be the largest
5 wetland area within a hundred miles up and
6 down the Ohio River.

7 We think that this is classified as a
8 jurisdictional wetland based on three
9 criteria. And those include hydric soil,
10 hydrophytic vegetation and hydrology, which
11 includes frequent and long duration flooding.

12 Wetlands in general -- and this
13 wetland area is not an exception to this --
14 typically function to purify ground water.
15 They function to moderate flooding effects,
16 and they function in general to recharge
17 ground water. It's a very important thing to
18 keep in mind with respect to all wetland
19 areas.

20 The Oxbow Wetlands, however, are not
21 typical. Typical, you know, you hear about
22 mitigating loss of wetlands. And what they
23 do when they mitigate loss of wetlands is

1 they actually go in and create a new wetland
2 somewhere else to fill the same functions;
3 that is, those purification, recharging
4 functions. And that's a physical process.

5 The Oxbow Wetland is not typical
6 though; it's a little different. And this is
7 a key point that I want you to remember.
8 It's different in that it's not just a swamp.
9 It's not just a bird sanctuary. It's a
10 diverse ecosystem. There's more to this than
11 just recharging the ground water and looking
12 at the engineering and hydrogeologic effects
13 of changes in the flood plain.

14 If you read our report, if you recall
15 our report, you'll recall that it deals in
16 depth with a great diversity of natural
17 resources within this area. And that
18 includes two hundred and seventy-six plus
19 waterfowl species that reside or migrate
20 through this area, as well as scores of
21 vertebrate and invertebrate species, as well
22 as scores of different terrestrial, as well
23 as aquatic vegetation species.

1 And all of these are interrelated in
2 a very intricate and, I will point out, very
3 delicate relationship. It's a total
4 biosystem. And I want to remind you that as
5 a total biosystem, it can't be duplicated.
6 And I don't care with what gaming companies
7 say. I don't care what the engineers say.
8 It can't be duplicated.

9 You're familiar with Biosphere 2000,
10 the project out in Arizona. I have been to
11 visit that, and I was really impressed. I
12 thought that was a hot deal. They have had
13 some significant problems maintaining the
14 relationships of the various species in the
15 chemical and physical processes that they
16 need to keep that going. And that represents
17 just a small fraction of the total of what
18 we're talking about in this biosystem that
19 we're dealing with here in the Oxbow
20 Wetlands.

21 So if you consider the problems that
22 that group of scientists is having
23 maintaining Biosphere 200, and multiply that

1 by probably twenty, maybe even fifty times,
2 you get a feel for the enormity of the
3 problem that you have in maintaining this
4 ecosystem that we're talking about here.
5 This is a natural phenomenon, and it's a
6 nationally recognized natural phenomenon.
7 It's not a theme park.

8 The flood plain obviously dominates
9 the hydrology of this area, and the flood
10 plain serves to recharge the wetlands and
11 recharge the Oxbow Lake itself. The
12 frequency and duration of the flooding are
13 critical in that they can affect the
14 sedimentation that occurs in fields that are
15 used for agriculture.

16 If the proper sedimentation does not
17 occur or if the flooding is of too long a
18 duration, it will affect crops. Affecting
19 the crops will affect the ground cover that's
20 available for the life within that biosphere.
21 And it will affect the food sources that are
22 available to migrating species that come
23 through there.

1 It's a very -- maintaining the proper
2 flooding sequence and the proper duration of
3 flooding is extremely important here in that
4 annually there is a connection made between
5 the Ohio and Miami Rivers and the wetland
6 itself and, in fact, with the Oxbow Lake
7 itself.

8 That connection is very important in
9 maintaining the life of this ecosystem. Just
10 as an example, there are fishes that migrate
11 into the wetlands as a result of the flooding
12 sequence. And those fish, fishes, as a
13 matter of fact -- I'm used to saying fish.
14 Let's say fish. Those fish, as a matter of
15 fact, serve as a major food source for
16 migrating birds in the early spring that come
17 through this area.

18 So if you affect that flooding,
19 affect the level of the flooding, you can
20 affect the vegetation. You can affect the
21 sedimentation. And that will have a
22 synergistic effect on the wildlife that
23 resides in this area. That's something that

1 we need to keep in mind.

2 Because of the importance of flood
3 plains and wetlands and their interactions,
4 the federal government and most of the
5 state -- well, all of the states have adopted
6 legislation to protect these areas.

7 Because this is a jurisdictional
8 wetland, I believe that it comes under the
9 Clean Water Act as far as protection is
10 concerned. And the Corps of Engineers
11 certainly has some responsibilities to see
12 that it is protected.

13 The Corps of Engineers has some
14 policies with respect to protection of
15 wetlands and flood plains, and those are
16 codified in the Code of Federal Register. I
17 understand that the Corps is going to do a
18 presentation here, so certainly I don't want
19 to speak for them.

20 But I believe they do have some
21 policies with respect to the cumulative
22 effect of flood plain changes and the fact
23 that those changes may result in significant

1 degradation of flood plain values and
2 functions as defined in the federal register
3 and in increased harm, increased potential
4 for harm to upstream and downstream
5 activities.

6 I would note that an example of the
7 increased potential for harm through
8 development of flood plain areas is obvious
9 as a result of what we saw along the
10 Mississippi River over the last couple of
11 years with the flooding devastation that
12 occurred all along that river.

13 There are some predictable effects of
14 flood plain development. There are some
15 nonpredictable effects also with respect to
16 how long it's going to take to impact the
17 ecosystem that we're concerned about in this
18 area. But I believe that certainly
19 intuitively at least we can conclude that
20 there will be some devastating effects if the
21 flood plain functions are interrupted.

22 Because there are some federal
23 regulations and state regulations that apply

1 to development of flood plain areas and
2 development of wetlands, I have a
3 suspicion -- and I'm not an attorney here, so
4 this is only -- I just only put this out as
5 my own thoughts. In addition to building a
6 flood plain maybe being a little bit stupid,
7 it may be illegal.

8 And that's something that we haven't
9 visited in depth here in our report, but
10 certainly something that once the permitting
11 process here that certainly will follow once
12 you've made your decision and once those
13 processes have started, I'm sure that whole
14 issue will be visited in depth.

15 When we consider changes to flood
16 plain hydrology, keep in mind that we're
17 talking about physical prediction models
18 being applied to the data. And I believe
19 that the results of those models are not
20 precise enough to give us real answers to
21 what's going to happen to the habitants,
22 inhabitants of this ecosystem.

23 This ecosystem has a specific

1 balance. And if you read through this
2 report, you'll notice what some of those
3 balance relationships are. You'll notice
4 that some of those relationships are very
5 delicate.

6 What I want to do here really through
7 all of these comments is make four specific
8 points. One is that we're talking here about
9 not just a wetland as a physical area, but
10 we're talking about protection of an entire
11 ecosystem. We're talking about protection of
12 an ecosystem that doesn't stop at the
13 property boundary of Oxbow, Incorporated, but
14 it has far greater reaches than that, and
15 also includes interstate implications.

16 This area also is nationally
17 recognized as an educational and cultural
18 resource, and it's recognized that it's
19 irreplaceable because of its diversity in the
20 natural relationships that are exhibited
21 here.

22 You know, the people who did this
23 study for us included a lot of people who are

1 familiar with -- much more familiar with each
2 of the individual aspects of this study than
3 I personally am and who specialize in each
4 area. And they were amazed when they
5 reviewed what's going on in the Oxbow Lake
6 and around that entire area at the total
7 diversity of what's going on.

8 They identified some species that
9 previously had not been recognized or
10 identified. They did not identify any
11 endangered species, but I'm going to talk
12 about that in just a second.

13 In addition to noting that this is a
14 nationally recognized educational and
15 cultural resource, I want to point out
16 finally that federal law, federal policy,
17 state and local law and state and local
18 policies all recognize the importance of
19 natural resources. And there are mechanisms
20 in place for the review and protection of
21 those natural resources.

22 And, as I stated earlier, the
23 permitting process that we will be involved

1 with as a follow-up to the decisions that you
2 make aren't as simple as I think maybe some
3 folks may have presented them to you
4 heretofore.

5 I have been in the environmental
6 business for twenty some years now, and I
7 have dealt with a lot of environmental
8 agencies. And I can tell you that nothing
9 moves on time. Now, maybe that says I'm a
10 poor consultant, but I think it speaks to the
11 process. And these things do get slowed
12 down.

13 I think that the project that you
14 select here, I think if it is the project
15 that has the least implications, or no
16 implications even would be even better, for
17 impact on this wetland and flood plain area,
18 I think that entire process could be speeded
19 up significantly.

20 I have a sneaking suspicion in
21 reading some of these proposals that you are
22 dealing with that some of the people who put
23 these things together were the victims of

1 some really poor advice.

2 You know, in a consulting business,
3 it's easy and not unusual to come across a
4 client who asks you for your scientific or
5 professional opinion and then proceeds to
6 tell you what that opinion is. And I think
7 that's happened here.

8 And I think that if it hadn't
9 happened, and I think that if maybe the
10 gaming companies who are making these
11 proposals that you're dealing with right now
12 had realized the extent and the importance
13 and the impact of what this ecosystem is and
14 what it involves, I think you would have seen
15 some significantly different proposals than
16 what you're evaluating right now.

17 I think we're dealing with a lot of
18 people who are engineers. They're not
19 biologists, they're not naturalists, they're
20 not conservationists, and they just don't get
21 it. I don't think they recognize what's
22 going on here.

23 We recognize what's going on here. I

1 hope you get it. I think you do get it, and
2 I hope that you'll keep all of these
3 considerations in mind when you make your
4 final decisions.

5 We've looked at a couple of recent
6 reports that have been put out that deal
7 with -- here's one that deals with endangered
8 and threatened species habitat assessment,
9 Lawrenceburg, Indiana.

10 What they did here was they looked
11 at -- they looked at three potential
12 endangered species, the sandhill crane, the
13 Indiana bat and the bald eagle. And they
14 said, well, you know, we don't see these
15 things residing here, and so they don't
16 reside here. And really, you know, this
17 is -- this area is so close to the populated
18 area of Lawrenceburg that the development of
19 Lawrenceburg really is not -- does not
20 present a very good opportunity for habitat
21 for these species.

22 Well, there are two things that I got
23 out of that. One is certainly the bald

1 eagle, even though it may not be nesting or
2 residing in that area, it uses that area as a
3 stopover point, as is noted in David Styer's
4 book Birds of the Oxbow. And it was
5 sighted -- a bald eagle was sighted in this
6 area as recently as May 23rd, 1995. Norma
7 didn't think I'd remember May 23rd, but I
8 did.

9 The other thing, the other thing that
10 I want to point out from this kind of a study
11 is that, you know, they say, well, we don't
12 have endangered species here, and this really
13 doesn't represent a good habitat area for an
14 endangered species because of all of the
15 development. But we're going to develop this
16 some more.

17 And I'm not advocating that you don't
18 develop the area in order to attract
19 endangered species. But what I am saying is
20 if you think that this isn't a good habitat
21 area for an endangered species because of all
22 the development, what makes you think that it
23 would be a good habitat area for a

1 nonendangered species because of all the
2 development? That doesn't make any sense to
3 me.

4 What I want to do, I know that every
5 place you go, people are asking you for
6 something; right? The only thing I have
7 asked you for is I have asked you to revisit
8 our report. And I didn't even ask you to
9 read the whole thing. I asked you to revisit
10 the first seven pages, the executive summary.
11 Please do that. That's all I've asked of
12 you.

13 And I'm going to do something a
14 little different today. I'm going to give
15 you something. I'm going to give you a gift.
16 And this isn't a bribe. You know, out of
17 adversity comes opportunity. And I'm going
18 to give you the gift of opportunity.

19 I'm going to give you the opportunity
20 to recognize a significant, historical,
21 future, cultural and natural resource and its
22 importance to the residents of Indiana as
23 well as Ohio and Kentucky.

1 And I'm going to give you the
2 opportunity to make a decision when you make
3 your decision to select a gaming company and
4 do some development in the Lawrenceburg area.
5 And I think it doesn't make any sense for me
6 to stand here and think that you won't make
7 that decision, but I'm assuming that you
8 will.

9 I'm going to give you the opportunity
10 when you make that decision to pick an
11 alternative that either has no impact or
12 certainly minimizes the impact on this
13 historic resource.

14 And I'm going to give you the
15 opportunity that after you have done that,
16 you can separate this project from all of the
17 other projects that you have ever dealt with
18 and maybe from all the other projects that
19 you ever will deal with on this subject.

20 And you can go home and you can tell
21 your spouse, you can tell your children, you
22 can tell your grandchildren, you know, we
23 made some economic decisions here, and it was

1 good for the community. But we recognize at
2 the same time that there were some historical
3 and cultural resources to be preserved, and
4 we wanted to be a part of that, and we are a
5 part of that, and that's really our gift to
6 the community.

7 Thank you for your time.

8 MS. BOCHNOWSKI: Thank you very much.

9 MR. MARA: Thank you. By the way,
10 in case any of you are wondering, I can
11 confirm that all one thousand members of
12 Oxbow, Inc. are under five foot six in
13 height.

14 Now, I hope that you now agree with
15 us that after reading the materials we sent
16 to you and after hearing what we have had to
17 say to you today that the Oxbow is, indeed, a
18 very unique and valuable resource to the
19 state of Indiana.

20 But each of the gaming proposals has
21 the potential to upset the delicate balance
22 that has allowed the Oxbow ecosystem to
23 survive in the middle of so much human

1 activity.

2 Encroachment into the Ohio River
3 flood plain could affect the frequency,
4 duration and depth of seasonal flooding that,
5 in turn, could destroy the habitat that
6 certain plants and animals depend upon, but
7 in which they could not survive if the
8 habitat changed.

9 More buildings and more parking lots
10 will increase not only the amount of storm
11 water runoff into the Oxbow, but that storm
12 water is more likely to be contaminated with
13 oil and salt from parking lots and buildings.

14 Noise and lights at night could
15 disturb nesting activities of birds and bats.
16 Increased air pollution from increased
17 traffic and traffic jams could affect many
18 species. And that is just from the gaming
19 facilities themselves.

20 If gaming is as successful as the
21 potential licensees say it will be, and if it
22 stimulates the economy as this commission
23 presumably hopes it will, then spinoff

1 developments have even greater potential for
2 damage to the Oxbow Wetlands.

3 By way of example, I'll ask you to
4 turn to Exhibit 2. And I'm running -- I'll
5 move on. A number of billboard companies
6 have proposed as many as sixty billboards in
7 the Oxbow area. That's just an example of
8 the kind of thing that's spinning off from
9 this development.

10 If you look at Exhibit 3, you can see
11 that a citizen in the area who is a major
12 landowner has proposed a new highway along
13 the river, a new interchange with 275. These
14 examples point out to you the pressures for
15 further development as spinoffs from gaming.

16 Now, I'm not convinced that local
17 officials, particularly zoning authorities,
18 understand what is happening and are prepared
19 to take the steps necessary to insure quality
20 development. It is particularly alarming to
21 note that most of the Oxbow Wetlands in
22 Indiana are in the unincorporated area of
23 Dearborn County, and that the county has

1 zoned these wetlands for industrial
2 development. At this late hour, I don't know
3 whether the county has the legal ability or
4 determination to stop development in this
5 critical area and channel it elsewhere.

6 This Commission knows that after you
7 choose a licensee, that gaming company must
8 obtain permits from the various regulatory
9 agencies. We urge you to look beyond the
10 pretty pictures represented by the gaming
11 companies and be sure you pick a licensee who
12 you feel is committed to doing whatever it
13 takes to minimize damage to the Oxbow
14 ecosystem and to the area's archeological
15 resources.

16 We anticipate a period of intense
17 negotiation between us and whatever licensee
18 you choose. We will insist that nothing go
19 forward unless reasonable efforts are made to
20 minimize damage and protect the environment.

21 If necessary, we will use the
22 permitting process as a means of stopping any
23 undesirable proposal which would harm the

1 ecosystem. It is conceivable that if you
2 choose a licensee who turns out not to be
3 committed to the environment, that company's
4 proposal will be stopped in the permitting
5 process or in the courts and may never be
6 implemented. And I'm sure none of us wants
7 to go through this process another time.

8 It was my intention to stop there. I
9 would be happy to do so if you wish.
10 However, we're available to offer comments
11 regarding each of the proposals based on what
12 we learned the last few days.

13 MS. BOCHNOWSKI: Why don't we go
14 ahead and stop there? We'll have questions
15 for you. I'm sure that that will probably be
16 a question that will be asked.

17 MR. MARA: Thank you.

18 MS. BOCHNOWSKI: Thank you very much.

19 I think the way we have it scheduled,
20 we're going to hear from the Sierra Club and
21 then have a question and answer period
22 following that presentation.

23 MR. MARA: Thank you,

1 MS. BOCHNOWSKI: Now, it's my
2 understanding that you would prefer that we
3 sit down ---

4 MS. HAILE: You're fine.

5 MS. BOCHNOWSKI: We can stay here?
6 Okay. Thank you.

7 Just to stay on schedule, we've given
8 you fifteen minutes.

9 MS. HAILE: That's fine.

10 MS. BOCHNOWSKI: And the question and
11 answer period will go for however long.

12 MS. HAILE: Chairman Klineman,
13 Members of the Commission, Director Thar and
14 Staff, thank you for this opportunity to
15 appear before you today. My name is Lisa
16 Haile, and I'm the conservation chairperson
17 of the River Hills Group Sierra Club in
18 Southeast Indiana.

19 With me today are other members of
20 the River Hills Executive Committee, Richard
21 Wolker, Bob Carroll, Susan Coriell, Sharon
22 Carroll, as well as members of the Hoosier
23 Chapter Executive Committee, Bill Hayden,

1 Christine Pederson and Tom Ransburg.

2 I am here this afternoon because we,
3 the River Hills Group, and the Hoosier
4 Chapter of the Sierra Club, are very
5 concerned about how some riverboat gambling
6 development proposals would damage an
7 invaluable natural resource in our community,
8 harm air quality and diminish the quality of
9 life in Dearborn County.

10 Our purpose in being here today also
11 is to encourage you to consider the
12 alternatives before you. We are not here to
13 repeat what you heard from the Oxbow Group.
14 Like us, they work very hard to insure that
15 wetlands are preserved and that you remember
16 the environmental consequences of your
17 decision.

18 Instead, we will focus on some of the
19 other values of wetlands. I'll use our time
20 to explain our views on five key issues: The
21 Wetlands, flood control, air quality,
22 transportation alternatives and quality of
23 life.

1 As you know, wetlands are a natural
2 tool that control flood waters when rivers
3 overflow. The result is that fewer homes and
4 businesses are damaged or lost thanks to
5 wetlands and the protection they offer from
6 natural disasters.

7 Each year, floods destroy as much as
8 four billion dollars in property. And given
9 the floods along the Mississippi River this
10 spring and in recent years, that figure is
11 probably higher. The problem is that too
12 often development creates unnatural
13 disasters. We are trying to avoid an
14 unnatural disaster in Dearborn County.

15 In Indiana, wetlands are an
16 endangered natural resource. Of the original
17 five point six million acres of wetlands that
18 covered twenty-five percent of Indiana two
19 hundred years ago, eighty-six percent are
20 gone forever. And each year, we lose another
21 five percent of what's left because
22 development drains, fills and alters wetland
23 areas.

1 Several gaming companies seeking the
2 Dearborn County license have admitted to you
3 that they will destroy existing wetlands to
4 build their hotels, parking lots and access
5 roads. They say they'll create new wetland
6 areas to make up for the loss of what already
7 exists. Mitigation, they said, is the
8 answer. It's the way to have the development
9 and wetlands, too.

10 But, Chairman Klineman and Members of
11 the Commission, you should know that many
12 mitigation efforts don't work or fall short
13 of the goal. Many projects aren't completed
14 according to plan. Some aren't even started.

15 As so-called wetland restoration
16 experts across the country are learning in
17 humbling and expensive lessons, no one knows
18 a sure way to recreate the functioning
19 ecosystem. There is no shortage of examples
20 of wetland restoration failures, nor is there
21 any shortage of lawsuits that seek to
22 preserve wetlands.

23 Wetlands mitigation is not contained

1 in the development agreements. It seems
2 mankind has a misplaced arrogance to believe
3 it can improve on what nature provides. The
4 Clean Water Act mandates avoidance as a first
5 choice in these matters.

6 You have a first choice in Dearborn
7 County, and it is not what several developers
8 propose. We urge you to make a decision that
9 avoids taking wetlands and risky mitigation.
10 Projects which would develop the Oxbow
11 Wetlands and somehow replace what they take
12 through mitigation are unacceptable.

13 As a recently created governmental
14 body, your responsibility is very similar to
15 what faced the Lawrenceburg flood control
16 district when it was created nearly fifty-six
17 years ago. The flood control district's job
18 was to protect the city and its residents
19 from another flood like the one that
20 devastated Lawrenceburg in 1937.

21 Like the flood control district, your
22 job is to protect Dearborn County from
23 floods. Some might even suggest your job

1 also is to protect citizens from the
2 misplaced priorities of local officials.

3 In 1983, the flood control district
4 was replaced by the Lawrenceburg conservancy
5 district, which has broader flood control and
6 prevention responsibilities. The district
7 also has the ability to lease conservancy
8 property to a municipality such as
9 Lawrenceburg, which they apparently intend to
10 do if you select a wetlands development.

11 The municipality has the ability to
12 sublease the property to a third party.
13 However, the property must be used for flood
14 prevention and control.

15 There is no question that the city of
16 Lawrenceburg's intention to lease the
17 conservancy property to a gaming company
18 violates the state statute which created the
19 conservancy district. And we have submitted
20 a written legal opinion confirming this to
21 the Commission in the packet provided.

22 Who would have us believe that paving
23 over eighty acres of wetlands, building a

1 hotel, parking lots, shopping malls and other
2 permanent structures will prevent and control
3 flooding? Who would have us believe that all
4 that concrete is a water base recreational
5 facility? Only those whose primary concern
6 is gaming revenue.

7 Given all that, it should come as no
8 surprise to you or anyone else that the
9 Conservancy District Board includes three of
10 the five members of the Lawrenceburg City
11 Counsel, which endorsed gaming companies that
12 want to build on conservancy land.

13 We'll never know what the original
14 members of the Lawrenceburg flood control
15 district would say about this conflict of
16 interest and threat to flood control and
17 prevention. With your decision, however,
18 we'll know what you have to say about it.

19 You also have something to say about
20 air quality, an issue that's often overlooked
21 in a discussion about the environmental
22 consequences of riverboat development. The
23 United States Environmental Protection Agency

1 has very clear strict guidelines about
2 allowable levels of such air pollutants as
3 carbon monoxide, lead, nitrogen dioxide,
4 sulfur dioxide and inhalable particulate
5 matter.

6 A major source for these pollutants
7 is vehicle exhaust. Dearborn County is part
8 of the tri-state area that includes Northern
9 Kentucky and Southwest Ohio. It's also a
10 region that is in violation of federal air
11 quality standards. To use bureaucratic
12 jargon, it's in moderate nonattainment
13 status.

14 In particular, Dearborn County has
15 exceeded acceptable levels for sulfur
16 dioxide, and the entire region is in
17 nonattainment status for ozone. This week's
18 hot weather has brought ozone warnings to the
19 tri-state region, and last summer, the area
20 was one warning day away from being
21 classified as a serious nonattainment area, a
22 ranking that could lead to the loss of
23 federal funds, including highway dollars.

1 Bringing in thousands of additional
2 cars each day, millions of them over a year's
3 time, and forcing them to use an already
4 overburdened U.S. 50 will make matters worse.
5 On hot days like we've had this week, the
6 Ohio River Valley traps emissions. And when
7 the prevailing wind blows east, pollution to
8 the east, it goes toward Cincinnati, which
9 cannot afford even one more day in violation
10 of the Clean Air Act.

11 In Ohio, Hamilton County's air
12 quality division is developing comprehensive
13 cost-effective solutions to enable the
14 tri-state area to meet air quality standards.

15 Working with the Ohio Kentucky
16 Indiana Regional Council of Governments, to
17 which Dearborn County does not currently
18 belong, but has expressed an interest in
19 rejoining, officials are investigating the
20 potential of commuter rail service. They
21 even have bought property with existing but
22 inactive rails for the purpose of creating a
23 commuter rail line.

1 The Sierra Club strongly supports
2 these efforts, and we urge Dearborn County
3 officials to work with OKI to develop
4 solutions to air quality problems. Proposals
5 which rely on bus and auto traffic on U.S. 50
6 are a step in the wrong direction.

7 This week, we've been pleased to
8 notice your interest and concern about the
9 traffic problems several riverboat proposals
10 will create. These proposals will do nothing
11 more than redirect traffic and do not solve
12 the problem of reducing traffic.

13 There is no question that increased
14 traffic, more cars, more buses, will be a
15 very serious problem for the entire county.
16 And, as you know, from the impassioned
17 testimony of Greendale officials during our
18 public hearings in Vevay, it's also an issue
19 that has the attention of some, but not all,
20 municipal leaders.

21 Traffic on U.S. 50 is a major
22 problem. But let's not forget traffic
23 overflow on the secondary roads when U.S. 50

1 backs up due to an accident or other problem.
2 Even without gaming, this is a big problem
3 now. Imagine what it will be like with a
4 riverboat development that relies on U.S. 50
5 as the main access road.

6 This week, you have heard from
7 applicants who say widening U.S. 50 to
8 add a left-turn lane is the answer. Others
9 would have you believe the solution is a new
10 road, one that cuts through the wetlands
11 along the rail bed.

12 These are not long-term solutions.
13 They are not even short-term fixes. The plan
14 to add a turning lane on U.S. 50 will not, as
15 one developer said the other day, increase
16 capacity for existing traffic, let alone
17 riverboat traffic.

18 And other gaming companies already
19 facing a lengthy permit process for their
20 land base facilities now propose to extend
21 the process further by attempting to build a
22 new roadway in the flood plain.

23 These projects, as unlikely as they

1 may be, would take years to build, and they
2 won't help Dearborn County deal with traffic
3 during the several months, perhaps much
4 longer, that a temporary facility would be
5 open.

6 When you consider the alternatives,
7 the irony is that these far-fetched proposals
8 to build new roads, lanes and ramps are more
9 expensive to build, more dangerous and
10 require higher maintenance costs. Like the
11 environmental choices you have, you also have
12 choices when it comes to traffic and the
13 impact on our daily life in Dearborn County.

14 Which brings me to a final comment.
15 No matter which riverboat proposal you
16 select, things will not be the same in
17 Dearborn County. Please understand, our
18 purpose in coming here today is not to debate
19 the reality of riverboat gambling. We
20 neither support nor oppose riverboat
21 gambling.

22 That decision has already been made.
23 Therefore, your decision should be guided by

1 which development is compatible with the
2 lifestyle we have worked very hard to create
3 and preserve in Dearborn County.

4 If your choice ultimately makes life
5 in Dearborn County worse because traffic
6 chokes our streets, because the wetlands are
7 destroyed, because the character and culture
8 of Dearborn County are lost, then we haven't
9 gained anything. We won't be better off no
10 matter how much tax revenue flows into
11 municipal budgets. We are not blindly
12 opposed to progress, but we do oppose blind
13 progress.

14 Chairman Klineman, Members of the
15 Commission, your decision comes down to the
16 handful of issues we have presented to you
17 this afternoon, preserving the wetlands, the
18 legal ability to make conservancy land
19 available for permanent change that has
20 nothing to do with flood prevention and
21 control, air quality, transportation
22 alternatives and changing forever the quality
23 of life in Dearborn County.

1 You have an enormous responsibility,
2 one that requires you to consider those
3 issues and balance them with the needs of the
4 citizens of Dearborn County and the State of
5 Indiana.

6 You have demonstrated during these
7 hearings a willingness to look at all the
8 evidence, to consider all the options. We
9 trust you will continue on that path and make
10 a wise decision. Thank you.

11 I would just like to add that
12 included for your needs and for any audience
13 needs, included in our packet that we have
14 submitted is a history of the Sierra Club
15 accomplishments on behalf of public health
16 and safety and preserving the earth's natural
17 resources in wild places; the July 23, 1994,
18 Hoosier Chapter Resolution stating that this
19 Commission select a riverboat operator whose
20 development plans best address the
21 environmental issues; a summary of the issues
22 we feel the Commission must resolve prior to
23 the issuance of the certificate of

1 suitability; a short list of examples of
2 wetland restoration project failures; a
3 comment letter and resolution from the
4 Hoosier Environmental Counsel, a coalition of
5 seventy environmental organizations in
6 Indiana representing forty-five thousand
7 individual members; and, lastly, a written
8 legal opinion from the Indianapolis law firm
9 of Bamberger & Feibleman outlining our
10 opinion with regard to use of conservancy
11 district property for gambling business
12 purposes.

13 Thank you.

14 MS. BOCHNOWSKI: I mean, you're on
15 time. Thank you very much.

16 Okay. Now, we can go right to the
17 question and answer period. And as you
18 answer the questions, please repeat your name
19 and your affiliation so that our court
20 reporter doesn't have to stop you.

21 MR. VOWELS: We heard something
22 earlier this week that the Oxbow area was
23 actually created when the levy system was

1 built. Would you care to respond to that?

2 MR. MARA: Well, it's difficult to
3 say with certainty. Clearly at the time the
4 levy was built, they had to get borrow from
5 somewhere. And I suspect that some of the
6 low-lying areas were, indeed, created. That
7 would be the ones on the conservancy district
8 property only.

9 If you want to look at Exhibit 1, the
10 area right above -- see where I have printed
11 Conservancy District, the C in conservancy,
12 right above there is a rectangular area.
13 It's a depression. And clearly that is a
14 man-made depression or wetland. The others
15 are less certain.

16 But there is no doubt that this
17 particular area -- and I want to use this
18 map -- this particular area was, indeed, a
19 wetland historically over the millenium
20 before the levy was created.

21 MR. SUNDWICK: I look at this plot of
22 land in the district. What percent -- I
23 mean, the hotel certainly is a relatively

1 large project. But in light of the amount of
2 property and land, they really are a
3 relatively small percent.

4 MR. MARA: Well, you have a good
5 point.

6 MR. SUNDWICK: My question is is
7 that, you know, does that small percent
8 really harm the ecosystem? You said there
9 wasn't anything there that was -- appeared to
10 be an endangered species.

11 MR. MARA: Well, the problem, of
12 course, is not so much just the loss of that
13 particular acreage, but its impact on the
14 entire ecosystem. As Mr. Armentrout pointed
15 out, everything is so intimately tied
16 together, if you affect one thing, there's a
17 chain reaction potential.

18 And also, just to deal with the very
19 specific things that occur, increased storm
20 water runoff, salt and oil from the parking
21 lots, the parking garages into the water of
22 the wetlands, that could affect the entire
23 area.

1 They haven't proven to us in their
2 analysis that they've really done an in-depth
3 study how to deal with salt and water from
4 parking lots, how to deal with noise and
5 light pollution and so on.

6 I think they're all talking a good
7 story here, but we're not getting any
8 specific measures that they are taking to
9 minimize the impact on the environment.

10 Now, having said that, I think we've
11 got their attention. And a number of these
12 companies have changed their plans over time
13 to try to address the Oxbow Wetland concerns.
14 And so all the gaming companies' plans as
15 they stand today are far better than they
16 were a year ago when they originally started
17 with this submission process. They're moving
18 in the right direction; they just haven't
19 gotten there yet.

20 MR. SUNDWICK: Yeah. That brings us
21 to is there any one of the proposals that you
22 would deem more appropriate than another?

23 MR. MARA: I knew you would ask that

1 question, and I'd rather not pick one. But
2 if you want, I can make a few observations
3 about each of them. That might be helpful to
4 you.

5 With regard to Ameristar, they
6 propose to use the conservancy district site.
7 And that's the site that potentially has the
8 greatest impact upon the environment.
9 Ameristar has been very careful to work with
10 us over time. They spent a lot of time. We
11 have a certain comfort level with them. And
12 they've altered their plan drastically.

13 If you look at Exhibit 1 again,
14 you'll see right above the -- or below this
15 time the conservancy district label is a
16 drainage ditch which bisects the conservancy
17 district site.

18 Originally, they proposed to use all
19 that land for development. But after we
20 worked with them, they deleted development to
21 the northeast and limited it to the left side
22 of that drainage ditch, the west side.

23 MS. BOCHNOWSKI: The drainage ditch

1 is that long --

2 MR. MARA: That long blue line.

3 MS. BOCHNOWSKI: Right down here.

4 MR. MARA: That's correct.

5 MS. BOCHNOWSKI: So they're talking
6 about in here.

7 MR. MARA: That's correct.

8 So they limited development to the
9 southwest of that blue drainage ditch there.
10 And even then, they have proposed to use that
11 area only for an RV park. And we're going to
12 do some arm-twisting if they get the license
13 to get them and the city to agree to delete
14 the RV park, and hope you'll go along with
15 that deletion as well.

16 And they propose by way of mitigating
17 the loss of wetlands along the river itself
18 to use that northeast area for recreated
19 wetlands. And although that may not be
20 ideal, we think that's a very positive thing.
21 And so we feel pretty good. There's a lot
22 more we need to hear from them, but they've
23 worked in the right direction.

1 Now, with regard to Argosy, they,
2 too, originally proposed to use the
3 conservancy district site. But when we and
4 others spoke up, the Sierra Club and Oxbow,
5 about the wetland problem, Argosy then
6 switched plans and put their main development
7 inside the city levy, in that little area,
8 that triangle right -- see where it says
9 BM489, just to the left of that. That's an
10 area inside the levy. So to that extent,
11 they were not encroaching upon conservancy
12 district property. And that was a very
13 positive step.

14 They do, however, have an area right
15 where it says Old Town where they're going to
16 be doing their docking facilities. And
17 they'll be affecting some wetlands there,
18 which they'll have to mitigate.

19 And the one negative thing I can say
20 about that is that they have not presented a
21 mitigation plan. And they said they would do
22 so in the presentation to you, but we haven't
23 seen any. So we don't know how good that

1 plan would be or how serious they are about
2 that. But certainly they have made some
3 positive steps.

4 With regard to Boomtown and Boyd,
5 they are certainly to be commended for
6 picking a site remote from the Oxbow
7 Wetlands. That's a very positive thing to
8 see that. And certainly the only thing we
9 would ask of them is we'd like to see their
10 computer modeling to show that their
11 encroachments into the flood plain don't
12 cause a backup of the water and affect the
13 duration, frequency or depth of the flooding
14 in the Oxbow Wetlands.

15 The one negative aspect of Boomtown
16 and Boyd in using a downstream site is that,
17 of course, the traffic situation may be such,
18 as was alluded to by the people from the
19 Sierra Club, that the traffic will back up
20 into town through U.S. 50 near to the Oxbow
21 Wetland area, and we may have an air
22 pollution problem.

23 We would like to see a lot more study

1 done on the air pollution implications of
2 using those downstream sites. I know from
3 being in that area that there's a traffic jam
4 today. And we add more traffic, there's
5 going to be more traffic, more pollution in
6 the future.

7 With regard to Empire, initially
8 Empire came to us and wanted to work with us
9 and the Indianapolis Zoo and the Cincinnati
10 Zoo and the Cincinnati Museum of Natural
11 History with its wetland interpretive center.

12 It sounded like a good idea until we
13 learned more and more about it. And we're
14 not enthused about it. And I think because
15 of our concern, the Cincinnati Zoo and the
16 Museum of Natural History dropped out of that
17 proposed partnership. And we're very uneasy
18 with the concept of destroying wetlands to
19 create a wetland interpretive center.
20 There's just something not quite right about
21 that process.

22 And I have to tell you, there were a
23 number of things said to you during their

1 presentation about working with Oxbow which
2 were simply not true. Dr. Maurer of the
3 Indianapolis Zoo described communication with
4 us as being an ongoing dialogue. That is not
5 the case.

6 Dr. Miller described communication
7 with us as being on a constant basis. That
8 is not the case. We have had very little
9 communication with Empire in the last several
10 months since that interpretive center fell
11 through. And we don't want you to think
12 we're working with them. We are not. And we
13 have concerns about that.

14 With regard to Lady Luck, they, too,
15 are to be commended for picking a site
16 somewhat removed from the Oxbow Wetlands,
17 though their site is on the edge of the Oxbow
18 Wetlands. And we think it's wonderful that
19 they're considering an alternative to moving
20 people around on the railroad and so on.
21 That has to be commended.

22 We are concerned that they have some
23 property on the south side of U.S. 50 which

1 they described to you as being available for
2 future expansion. That is land within the
3 Oxbow Wetlands. They also propose to use
4 part of that for storm water runoff
5 retention. And that water will go into the
6 Oxbow Wetlands, and we're bothered by that.

7 And we are concerned also with their
8 proposal to raise the level of the Indiana
9 railroad line by about four or five feet so
10 it would serve the duplicate purpose of
11 floodproofing the Greendale industrial park
12 area.

13 If that area is floodproof because of
14 the nature of the river coming up and the
15 ground water coming up and the water coming
16 up through the ground and flooding that area,
17 like Lawrenceburg, they will have to use
18 pumps to pump the water from that flooded
19 area to keep the industry dry into the Oxbow
20 Wetland area.

21 And we're concerned about the
22 quantity of the water, whether that affects
23 the water levels. And we're very concerned

1 about the quality of that water which would
2 be coming off the roofs of factories and
3 parking lots. And that's oil and salt.

4 These are things that need to be
5 studied. I don't know how they're going to
6 complete that kind of study within the
7 timetable for this particular gaming project.

8 Those are my quick observations on
9 each of those gaming proposals. I hope that
10 helps you.

11 MS. BOCHNOWSKI: Maybe -- Lisa Haile,
12 maybe your group -- have you looked at that
13 at all on these proposals?

14 MS. HAILE: My name is Lisa Haile.
15 I'm with the River Hills Sierra Club. I'm
16 sorry. I didn't hear you.

17 MS. BOCHNOWSKI: Okay. I'm sorry.
18 What I'm wondering, could you make some
19 similar observations from the Sierra Club
20 point of view? And can you speak up also
21 because of our court reporter? In fact, I
22 didn't do that either. Maybe you could offer
23 some similar observations.

1 MS. HAILE: Okay. Do you want me to
2 just start with each company as Tim did?

3 MS. BOCHNOWSKI: You don't have to
4 maybe in such detail.

5 MS. HAILE: Not as specific. Not as
6 specific.

7 MS. BOCHNOWSKI: Right.

8 MS. HAILE: We met with those
9 companies that we had specific concerns about
10 the -- their development in the wetlands. We
11 did not meet or were not asked to meet -- and
12 I can say that the companies we did meet with
13 that they requested that we meet with them.

14 We did not meet with the companies on
15 the -- that are proposing on the west side,
16 unless they were -- in our opinion, unless
17 they were prepared to move their site
18 completely to the east side of town outside
19 the conservancy district land. I don't think
20 we were given the impression that they were
21 going to be willing to address any concerns
22 that we had.

23 MS. BOCHNOWSKI: So I'm confused.

1 Are we getting east and west mixed up?

2 MS. HAILE: Okay. We did not meet
3 with the west side sites.

4 MS. BOCHNOWSKI: Isn't the west
5 side --

6 MR. KLINEMAN: The Tanner Creek area.

7 MS. HAILE: Okay. I'm saying we did
8 not meet with the west side sites. We did
9 meet with the east side.

10 MS. BOCHNOWSKI: And you did meet
11 with the conservancy district area ones.

12 MS. HAILE: Yes.

13 MS. BOCHNOWSKI: Okay. And including
14 Lady Luck?

15 MS. HAILE: It's not on the
16 conservancy property.

17 MS. BOCHNOWSKI: Okay.

18 MR. VOWELS: When did you meet with
19 west side?

20 MS. HAILE: We did not meet with
21 Boomtown specifically. I'm sorry. We did
22 review all of their applications of Phase 1
23 and Phase 2 completely independent of the --

1 MR. VOWELS: What's your position on
2 their site?

3 MS. HAILE: The west side?

4 MR. VOWELS: The west side by
5 Boomtown and Boyd.

6 MS. HAILE: They do have a small, not
7 a significant, problem to deal with with
8 Wetland mitigation. But still it is
9 mitigation which, you know, we have taken the
10 position that there are alternative sites
11 that avoid mitigation, and those are the only
12 sites that should be considered.

13 MR. VOWELS: Where would that be?
14 Where would be the most acceptable site? If
15 there had to be a boat and you had to choose
16 in Dearborn County, where would that be?

17 MS. HAILE: We would choose the east
18 side site outside the conservancy district,
19 which would be Lady Luck.

20 MR. VOWELS: Okay.

21 MS. BOCHNOWSKI: Thank you.

22 MR. VOWELS: What are the settling
23 ponds that I see on Exhibit 1, land

1 preservation map? Keep in mind I know
2 nothing. Is this water above land or water
3 under land, the settling ponds on the left?

4 MR. MARA: Are you referring to the
5 ones on the west site?

6 MR. VOWELS: Correct.

7 MR. MARA: I'm not sure I can answer
8 your question about settling ponds. What are
9 they?

10 MR. VOWELS: Are they something I can
11 go up to and there's water standing there?

12 MR. MARA: I think it has something
13 to do with the power plant and their
14 material, but I'm not clear on that.

15 MR. VOWELS: Settling ponds, that's
16 not anything of any concern to your group?

17 MR. MARA: Not to the Oxbow Wetland
18 Group, no.

19 MR. VOWELS: As far as environmental
20 concerns.

21 MR. MARA: I'm afraid we have not had
22 the luxury of resources to study the west
23 side as we have the east.

1 MR. VOWELS: I don't know what a
2 settling pond is.

3 MR. MARA: It's something to do with
4 the power plant. But I don't know if anybody
5 has anything more specific.

6 MR. VOWELS: It's not something
7 that's a concern of an environmental group?

8 MR. MARA: No.

9 MR. SUNDWICK: In your opinion -- we
10 talked about, you know, lawsuits have been
11 mentioned, the law regarding using the
12 district for other than flood control or
13 water.

14 MR. MARA: We have not studied the
15 legalities of using the district. The Sierra
16 Club has, but we have not.

17 MR. VOWELS: Are you licensed to
18 practice in Indiana?

19 MR. MARA: We have Indiana counsel,
20 and we've not asked him to do that.

21 MR. VOWELS: Okay. Are you an
22 attorney?

23 MR. MARA: Yes, I am.

1 MR. VOWELS: Okay. Where?

2 MR. MARA: Cincinnati.

3 MR. VOWELS: Cincinnati?

4 MR. MARA: I'm Oxbow's corporate
5 attorney.

6 MR. VOWELS: That's fine. Looking at
7 this statute that talks about the purposes of
8 establishing districts, conservancy
9 districts, have you looked at that at all in
10 the Indiana codes in reference to that?

11 MR. MARA: Only at a glance. And I
12 wouldn't want to express an opinion. Mr.
13 Douglas Denmure is our attorney in Aurora,
14 and he's not here today. I'm sorry. But we
15 would refer such a question to him.

16 MR. VOWELS: It would seem to be that
17 it all turns on Subparagraph 6 that speaks of
18 recreational facilities where people clash
19 with fish and water management.

20 MR. KLINEMAN: You said something
21 about Ameristar, and I guess I didn't
22 understand completely what your opinion of
23 Ameristar's program was.

1 MR. MARA: Well, we have a high level
2 of comfort with Ameristar, and we're pleased
3 that they have made such a drastic change in
4 their proposal to the point that they almost
5 deleted use of the conservancy district
6 property for any of the activities and,
7 instead, have substituted mitigation of a
8 large area of wetlands. I believe it's
9 thirty-two acres they propose to create. I
10 think it's a rather dramatic proposal on
11 their part, and we're pleased with that.

12 MS. BOCHNOWSKI: So even though
13 mitigation may not always work, they're
14 not -- they're mitigating wetlands that
15 aren't directly in the Oxbow area.

16 MR. MARA: Yes. The only wetlands
17 that they're destroying, if you will, is the
18 area between the railroad track and the Ohio
19 River, which doesn't function quite as part
20 of the Oxbow Wetlands, and is certainly
21 separated by the railroad, which impacts that
22 area.

23 That wetland along the river -- and

1 this would be true of other gaming
2 companies -- is probably not of a quality
3 similar to the Oxbow Wetlands.

4 MS. BOCHNOWSKI: What's the -- when
5 these people come in to do these developments
6 and you've got bulldozers and all this kind
7 of stuff, is there a way to -- what's the
8 impact of that? Is there a way to keep them
9 in a certain area? Is there -- what about
10 when they start digging and dredging? Does
11 that drain water from the wetlands?

12 MR. MARA: It's a serious problem.
13 And what we intend to do, once you've picked
14 a licensee, is to get with them on the
15 specifics of construction. Because just
16 getting to the site may inadvertently destroy
17 some wetlands.

18 And I should add, we didn't talk
19 about archeology. We've done an archeology
20 study. The area is loaded with archeological
21 artifacts and sites. And we're very
22 concerned that those will be destroyed in the
23 process.

1 We are going to insist that whatever
2 gaming company gets a license in this area
3 that they hire an archeologist suitable to us
4 who will be on-site at certain critical times
5 to observe the excavations and confirm that
6 they are not uncovering any archeological
7 artifacts that are of significance, and that
8 if they do, they then proceed to follow the
9 Indiana state law regarding contact of the
10 state agency in charge of such matters, and
11 see to it that the proper relocation for
12 identification and recording of those
13 artifacts is performed.

14 Also, there have been uncovered human
15 remains in this particular area.

16 MS. BOCHNOWSKI: So are you saying it
17 may be a burial site?

18 MR. MARA: It could very well be a
19 burial site. So we don't expect it to be a
20 large thing. But when they come across human
21 remains, you know, you got a guy behind a
22 bulldozer, and he just when nobody's looking
23 keeps on moving, we want to make sure that

1 kind of thing doesn't happen.

2 MR. KLINEMAN: Getting back to your
3 comments on Boyd and Boomtown, you said that
4 they might cause flood problems. The only
5 way they would cause flood problems is if
6 they were doing something that blocked the
7 river and, therefore, backed it up.

8 MR. MARA: That's correct.

9 MR. KLINEMAN: Do you see anything on
10 their plans that would give you concern that
11 they are going to create such a water
12 barrier?

13 MR. MARA: Yes. During the
14 presentations, there was talk of a
15 substantial fill. I think I remember the
16 figure of seventeen feet on the building
17 site, five feet in the parking area.

18 We would like to see -- I presume
19 they've done it. We would like to see their
20 computer modeling. We have an expert, an
21 hydrology expert, that we retained who could
22 review that material and decide whether, in
23 fact, the effect upstream is significant or

1 not significant.

2 For example, the Oxbow Lake that you
3 see on the map that's the center of all this,
4 that's a lake that's only about three feet
5 deep in a large area.

6 Now, if the impact of that fill
7 downstream is such that it raises or lowers
8 the level of flood waters in the vicinity of
9 the Oxbow Lake by a foot or two, that could
10 be significant in terms of the kinds of life
11 that exist in that lake.

12 There are certain creatures that like
13 shallow lakes and certain that like deep
14 lakes. We want to see from them what the
15 impact is on the flooding upstream, and we
16 haven't seen any such thing to date. They
17 may have it; we'd like to review it.

18 By the way, at one point, we did
19 write to all eight gaming companies involved
20 at that time, telling them of our concern
21 about the effect on hydrology, asking if
22 they'd all pool their resources to do one
23 hydrologic study so we could find out once

1 and for all what the story was.

2 And one or two said they'd
3 participate, and the others said they would
4 not. So that's why we don't have our own
5 independent analysis to give to you at this
6 time.

7 MR. SUNDWICK: Somebody used the term
8 devistating effect. What are those?
9 Devistating, you know, I mean.

10 MR. MARA: You're asking me almost to
11 review that entire thick report.

12 MR. SUNDWICK: The end of the world.

13 MR. MARA: Well, we get a little
14 dramatic to make a point.

15 MR. SUNDWICK: Well, maybe they are.
16 I just don't know what they are.

17 MR. MARA: Our concern is, as Mr.
18 Armentrout pointed out, that all these
19 things, these creatures, interact in the
20 Oxbow Wetlands. He talked about the fishes
21 that come in and the birds that come and eat
22 the fish.

23 And the fish have muscle. There's

1 muscles in the Oxbow Lake. Some of them are
2 not endangered, but they're fairly rare.
3 Those muscles attach themselves to the fish
4 with their eggs.

5 And all this is related. We don't
6 know how any one of these proposals affects
7 that chain of life. And if one critical
8 element of that chain is removed, then, if
9 you will, there will be devistating effect on
10 that ecosystem in that area. It won't be the
11 special area it is today.

12 And I should point out that this area
13 is an area of migrating birds from the South,
14 Florida, up to Canada. And they stop at this
15 particular area. It's a special location.
16 So it's of some national significance.

17 MR. KLINEMAN: If we choose a
18 licensee, you say you then intend to send a
19 letter to them and get into some kind of a
20 program to review what they're going to do
21 and so forth and so on.

22 I guess I would urge that to happen,
23 except that I also would wonder whether your

1 group would be -- or would understand that we
2 all maybe have to live together, and that the
3 optimum that someone would want would not be
4 possible.

5 See, I'd certainly like to avoid any
6 possibility of litigation. And so if
7 reasonable people go into a situation like
8 that in a reasonable manner, we could
9 probably avoid anything like that, although
10 the gauntlet's been thrown out a couple of
11 times in the presentation.

12 MR. MARA: I think you're absolutely
13 right, sir. Early on, the Oxbow Board met
14 and debated the question: Should we be
15 opposed to gaming or should we try to work it
16 out?

17 And we all decided we didn't want to
18 go through years of litigation. And as long
19 as the gaming companies would be reasonable
20 in dealing with the environment, we would go
21 along with them.

22 And I think that's clear from our
23 statements today, that we are not so

1 particular that we're going to insist that no
2 wetlands be lost in this process. For
3 example, we're not saying you can't use that
4 riverfront wetland area.

5 We will be reasonable as long as the
6 gaming companies have been reasonable.
7 They've all shown us pretty pictures. Some
8 of them have shown us very nice plans. We
9 have to fill in all the details in this
10 process.

11 MR. KLINEMAN: Some of them have
12 indicated a positive, to use your phrase.

13 MR. MARA: I'm optimistic. As long
14 as they don't leave next Friday's meeting
15 saying, Aha, I've got the license. We're not
16 going to talk to Oxbow anymore. As long as
17 they don't take that attitude, then we can
18 work things out.

19 MR. KLINEMAN: I think we might tell
20 them that is not the position that they
21 should take.

22 MS. BOCHNOWSKI: I think you've
23 gotten their attention, because everybody is

1 dealing with it in one form or another, at
2 least in front of us.

3 MR. MARA: And I think it's been very
4 helpful that this Commission has asked them
5 very pointed questions about the environment.
6 So we appreciate that.

7 MR. KLINEMAN: I'd just like to --
8 Lisa Haile, along the same lines, I mean, you
9 likewise have indicated that --

10 MS. HAILE: Right.

11 MR. KLINEMAN: -- you might get
12 involved in the permitting and so forth and
13 so on.

14 MS. HAILE: It's true, you know.

15 MR. KLINEMAN: We would very much
16 like not to have that happen.

17 MS. HAILE: We would prefer a spirit
18 of cooperation. That is true. But we are --
19 there are - you know, there are laws that are
20 on the books to protect the public health and
21 safety, and --

22 MR. KLINEMAN: For instance, I mean,
23 the conservancy district problem I

1 understand. But when you get into air
2 quality, I mean, whatever we're going to do
3 here is not going to represent such a
4 substantial degradation of the air quality in
5 the tri-state area.

6 I mean, how many cars would be going
7 to a boat would cause the whole thing to
8 tilt? I mean, I guess that's the sort of
9 thing that I think these people would have
10 absolutely no control over. That's my
11 answer. I mean, you can be against them on
12 that basis, and you'd never get any place.

13 MS. HAILE: I think that we would
14 consider a million cars a year on a very
15 short stretch of highway sitting, parked,
16 idling, waiting to get through, not much
17 different than what happens now, will have
18 significant impact on the air quality.

19 MS. BOCHNOWSKI: When you say that
20 this is a nonattainment area, is it a
21 nonattainment area such that -- you know, we
22 have that up north, where if you don't do one
23 thing, you can't have any businesses or so

1 on. Is it that?

2 MS. HAILE: Yes. The tri-state area
3 is. And right now, I don't believe that
4 that --

5 MS. BOCHNOWSKI: This probably
6 wouldn't follow under that.

7 MS. HAILE: The Ohio side of that
8 with Hamilton County being in nonattainment
9 status for ozone, that's not going to impact
10 Dearborn County.

11 But now if the county rejoins the
12 OKI, then it will become an issue. They will
13 be asked to try to comply with OK standards
14 that have been established.

15 MR. CARROLL: If I may comment on
16 that. Bob Carroll. The nonattainment area,
17 achieving nonattainment for Hamilton County
18 will have an effect on Dearborn County.

19 A big percentage of Dearborn County
20 commute to Hamilton County to work. And if
21 they achieve nonattainment, there will be a
22 restriction on the use of automobiles.

23 There is no alternative

1 transportation for us down there. So you
2 either have a fantastic increase in van
3 pooling or the cars are out. So it does
4 make a difference. It does affect Dearborn
5 County.

6 MR. KLINEMAN: But there's nothing
7 that these people can do except not operate.

8 MR. CARROLL: We can do something.

9 MR. KLINEMAN: If you're going to say
10 we like Lady Luck, that they have the
11 alternative, people still have to get to the
12 Lady Luck location by car or bus or
13 something. And that's going to create
14 pollution.

15 I mean, you're really leaving it to
16 the place where I believe there -- none of
17 the proposals are acceptable to you. And
18 that causes me concern.

19 MR. CARROLL: They don't have to sit
20 in a two-mile long parking lot, which is
21 essentially what's going to happen in that
22 area. With approximately a thirty to
23 thirty-three percent increase in cars,

1 that's going to make a significant impact on
2 the air pollution problem down there.

3 MR. KLINEMAN: The statistics on the
4 thirty-three percent increase in traffic, I
5 don't think I've seen anything that tells me
6 that. Are there studies that actually show
7 that?

8 MR. CARROLL: We're talking about --

9 MR. KLINEMAN: A million cars a year?

10 MR. CARROLL: They are projecting
11 eight to ten thousand additional automobiles
12 a day.

13 MR. KLINEMAN: Eighth to ten
14 thousand.

15 MR. CARROLL: A day.

16 MR. KLINEMAN: A day?

17 MR. CARROLL: Yes. That's somewhere
18 between a twenty-eight and a thirty-three
19 percent increase in automobiles.

20 MR. KLINEMAN: You know, if you
21 really have somebody who said that that's the
22 kind of volume of traffic that's going to
23 come.

1 Well, as I said when I started, I
2 mean, I can can be very sympathetic with some
3 of the goals that you have in your booklet.
4 But some of these I just -- it leaves us with
5 no place to go.

6 MR. SUNDWICK: You find yourself in a
7 Catch 22 in the fact that you say, well,
8 let's be sensitive to everything you want.
9 If we're sensitive to everything, you say,
10 well, we really don't like your place any
11 more, but you can't drive there. I mean,
12 what is it --

13 MR. CARROLL: Well, what we're saying
14 is that wherever possible, avoidance should
15 be what's the accepted norm, whether that's
16 traffic or whether that's wetlands.

17 I mean, you can talk about mitigating
18 wetlands. We believe that wetlands don't
19 have to be mitigated if you avoid the
20 wetlands. We don't think that you have to
21 contend with an increase in air pollution
22 that a thirty percent increase in automobile
23 traffic is going to produce if you have some

1 viable options for transportation. We're just
2 saying look at those things and choose those
3 things that give us the options.

4 MR. KLINEMAN: We're trying to.

5 MR. CARROLL: And we appreciate that.

6 MR. KLINEMAN: But --

7 MR. THAR: Let me ask you one other
8 question. If we take this to the logical
9 conclusion, let's assume for the moment the
10 Commission says all right, we won't put a
11 boat in Dearborn County. We'll just put a
12 boat in Ohio County.

13 What does that do with regard to your
14 concerns?

15 MR. CARROLL: You're going to have
16 the same problems with air pollution. Some
17 of the other environmental concerns naturally
18 are gone. But air pollution would be still a
19 significant problem.

20 I think when you look at the traffic
21 patterns probably for Switzerland County is a
22 lot less problematic than Ohio County. But
23 Ohio County, particularly with its very close

1 proximity to Dearborn County, would pose the
2 same kind of traffic problems with the same
3 kind of pollution if that's the only option
4 for people arriving at the riverboat.

5 MR. THAR: So your concerns with the
6 Sierra Club stretch beyond Dearborn County?

7 MR. CARROLL: That entire area is the
8 area that this River Falls Sierra Club
9 represents, Ohio County, Switzerland County,
10 Ripley County, Franklin County.

11 This is not just a Dearborn County
12 issue for us. It's a total issue. The main
13 issue, I think, for Ohio County for us is
14 what's going to happen trafficwise with air
15 pollution.

16 MR. THAR: Do you have any other
17 concerns with regard to Ohio County, either
18 Oxbow or Sierra?

19 MS. HAILE: There is a -- we do have
20 a concern about the Ohio County company's
21 proposal to dredge a new channel to -- for
22 the safety issue of the boat, the dredging,
23 the soil erosion. And we will be monitoring

1 that through the permit process.

2 MR. THAR: What about Switzerland
3 County?

4 MS. HAILE: We -- you have to please
5 bear in mind that we are a small grassroots
6 organization down there, and we have some
7 limited resources. We have kept track of the
8 site and the issues and the proposals down
9 there, and we chose to focus our attention on
10 Dearborn County.

11 MR. VOWELS: Well, speaking of the
12 traffic concerns and pollution concerns, were
13 those articulated during the referendum
14 campaign? Did you bring those to the public
15 and to the voters? Were they aware of those
16 issues?

17 MR. CARROLL: Could you repeat the
18 question, please? Bob Carroll.

19 MR. VOWELS: During the referendum,
20 did you articulate to the public or your
21 group bring out these issues, they were part
22 of the campaign and the voters were aware of
23 what the ramifications may be?

1 MR. CARROLL: Sierra Club was not
2 involved in the campaign relative to the
3 referendum.

4 MR. VOWELS: I don't mean for a yes
5 or no vote, but just to educate the public.

6 MR. CARROLL: Yes. We have educated
7 them by the local newspapers. We have
8 appeared before the Council, before
9 Lawrenceburg Council, before County Council
10 to express our concerns on the whole array of
11 environmental issues.

12 MR. VOWELS: Prior to the vote; is
13 that correct?

14 MR. CARROLL: Prior to the selection
15 process?

16 MR. VOWELS: No, prior to the
17 referendum in Dearborn County.

18 MR. CARROLL: No, it was not.

19 MR. VOWELS: Why not?

20 MR. CARROLL: To be very honest with
21 you, until we saw the magnitude and scope of
22 the proposals by the gaming companies, we had
23 absolutely no idea what kind of impact, if

1 any impact, was going to occur as a result of
2 riverboat gambling.

3 Until you see these plans laid out,
4 you had no idea impact was going to be. We
5 couldn't even guess it.

6 MR. VOWELS: From what I've heard,
7 there's only one satisfactory site in
8 Lawrenceburg. So it would seem to me if a
9 person was aware of the riverfront in
10 Dearborn County that bells and whistles would
11 go off that the public needed to be alerted
12 to all the other sites being a problem.

13 MR. CARROLL: We didn't have access
14 to any of those proposals prior to the
15 referendum process occurring. Those
16 proposals all came after that.

17 MR. VOWELS: Well, regardless of
18 whether there were proposals in existence or
19 not, it would seem to me with the riverboat
20 referendum coming up, a riverboat would be on
21 the river and dock next to the shoreline, and
22 the Lady Luck spot is the only one along the
23 entire shoreline, my point is is you should

1 have brought this up prior to the referendum
2 so the voters could have been more in tune to
3 the problems. Of course, the horse is out of
4 the barn.

5 MR. CARROLL: Well, I think it --

6 MR. VOWELS: There seems to be
7 something antidemocratic about what I'm
8 hearing.

9 MR. CARROLL: The issue at that point
10 would have been what -- you know, the
11 Dearborn County issue is more a moral issue.
12 The riverboat gambling itself, parking a
13 riverboat in the Ohio River is really not
14 problematic for us in and of itself if that's
15 all it entailed.

16 And if you look at some of the other
17 riverboat operations in Alton, Illinois,
18 that's about all it entails. You know, a
19 steel building to go in and pick up your
20 ticket and a riverboat. If that's all that
21 entailed, that would have been not a
22 significant problem for us. It's all this
23 land base development that causes the

1 concern.

2 MR. KLINEMAN: I thought it was the
3 traffic. I mean, people don't appear in
4 Alton without having driven there regardless
5 of what kind of building they go through.

6 MR. CARROLL: Well, you know, there
7 are a lot of issues that we did not know
8 about prior to the referendum, didn't
9 understand it, know about the environmental
10 impact.

11 As soon as we understood based on
12 what proposals were being offered, then we
13 became very active in letting our position be
14 known.

15 MS. BOCHNOWSKI: Any other questions?

16 Well, we thank you. You have not
17 made our job easier, but I wish you had. But
18 we appreciate your input. That's very
19 valuable.

20 And now it's time for us to take a
21 break, fifteen minute break. That puts us at
22 about five of, five of three.

23 (At this time, a break was taken.)

1 MS. BOCHNOWSKI: We'll get started
2 now. And first we're going to hear from the
3 Army Corps of Engineers. And we're got an
4 agenda here which everybody doesn't have in
5 front of them, so I guess we can do whatever
6 we want. But we'll go ahead and ask our
7 questions of you directly after your
8 presentation.

9 MR. CHRISTMAN: Okay. I appreciate
10 that.

11 MR. KLINEMAN: You can adjust that
12 lectern any way you want:

13 MR. CHRISTMAN: Okay. My name is
14 Bill Christman. I'm with the Corps of
15 Engineers.

16 As people who followed this process,
17 particularly in Evansville, are aware, the
18 Corps of Engineers developed a letter of
19 agreement with the Indiana Gaming Commission
20 in which we developed a procedure by which
21 the Indiana Gaming Commission would first
22 review the applicants within a given area and
23 make a preliminary selection or issue a

1 preliminary license to a chosen applicant or
2 applicants. And at that point, the Corps of
3 Engineers would take the applications from
4 those and process them.

5 In return, the Corps of Engineers
6 agreed early on in the process to talk to
7 each of those applicants and then to inform
8 the Gaming Commission as to what types of
9 problems we saw with individual applications,
10 and, in a sense, come to some conclusion
11 about not necessarily which ones could be
12 permitted or which ones couldn't, but to give
13 some kind of ranking as to how long we
14 thought different ones would take based on
15 what types of problems we could see coming
16 up. That's the process we're in right now.

17 First, I'd like to point out that
18 we're not really able to assess all
19 applications to the same degree of detail,
20 because of the nine applications that we have
21 seen, only three completely responded with
22 the information we needed in a manner timely
23 enough to allow us to fully review their

1 applications before this meeting.

2 Those three in alphabetical order are
3 the Boomtown Landing, Lady Luck and Pinnacle
4 Gaming. I have provided a handout to the
5 members of the commission listing each of the
6 nine that I'm referring to.

7 The degree of completeness of the
8 other six is indicated by the asterisks in
9 the application status column. The more
10 asterisks, the less complete the information
11 we were given. I point this out to assist
12 you in evaluating the estimates that we're
13 about to give you with regard to time.

14 In fairness, I should point out that
15 in the last week, three of the other six have
16 submitted additional information that they
17 feel completes their application. Those are
18 Ameristar, Boyd Gaming and Indiana Gaming. I
19 regret that those things came in so recently
20 and are so extensive that we haven't had time
21 to fully assess and see if they are complete
22 for our purposes.

23 The situation we're facing here is

1 clearly different from the only other one
2 that you've already handled in the Louisville
3 district, which is Evansville. In
4 Evansville, navigation was virtually the
5 overriding interest, navigation and enforced
6 public safety.

7 In this area of the river, we really
8 don't see that as a significant issue. As we
9 have heard already today, the two issues that
10 seem to be the most important here from our
11 point of view are the impacts to wetlands and
12 impacts to cultural resources, in particular,
13 archeological sites.

14 Developing mitigation plans for
15 either of these factors can be quite
16 time-consuming, and I know that's already
17 begun in many cases. But even a review can
18 be somewhat time-consuming.

19 That's especially true in the case of
20 cultural resources, where we view time spent
21 to stretch out for mitigation very often has
22 to be physically accomplished before work can
23 begin.

1 The handout we've given you is
2 essentially an evaluation matrix. You can
3 see we're not aware of the existence of
4 either of these two types of complications to
5 any significant degree -- that's wetland
6 impacts and cultural resource impacts -- in
7 the case of Lady Luck.

8 Three other applicants, Alpha Rising
9 Sun, Pinnacle Gaming and Rising Sun
10 Riverboat, are pretty close to that. There
11 may be some degree of complication there, but
12 not a significant amount.

13 In other words, while these issues
14 might be raised with any of those
15 applications, there's a fairly good chance a
16 cooperative applicant might clear those
17 particular problems with a minimal loss of
18 time.

19 I should point out that of the ones
20 named above, Pinnacle Gaming does have one
21 possible problem with a rather extensive bed
22 of aquatic vegetation at the proposed site.
23 It's not a wetland. But once we put out a

1 public notice, it could very well be classed
2 by some of the resource agencies as a special
3 aquatic site.

4 Our best guess is that the other five
5 applicants listed have a greater chance of
6 running into problems with one or both
7 factors, as indicated on the handout. I want
8 to stress again we're not saying that those
9 five stand any less chance of being permitted
10 in the end than the first four that I
11 mentioned. We're simply assessing potential
12 time frames based on the information
13 available as of this time.

14 I'm going to ask Doug Shelton, who
15 will be the only other presenter for us, for
16 a rough estimate of those time frames.

17 MR. SHELTON: I'm Doug Shelton. I'm
18 Chief of the North Section Regulatory Branch,
19 Louisville District.

20 About two years ago, people began
21 asking me how long will it take to process a
22 casino application. It seemed like a
23 reasonable question, and I thought I should

1 have a reasonable answer.

2 So I conducted a very informal study
3 and tried to anticipate sites that might be
4 potentially used for the casinos. I tried to
5 anticipate what resources might be at those
6 sites. And then I reviewed completed
7 actions, permit decisions that we had made
8 that had similar impacts to similar
9 resources.

10 And from that, it looked like the
11 cultural resource, indeed, did take a lot of
12 time to resolve the issues and make
13 decisions, and processing times could take as
14 long as a year to resolve the issues
15 associated with the cultural resources.
16 Wetlands, typically at this time we're taking
17 about eight to nine months to resolve issues
18 associated with wetlands.

19 Based upon that, I began answering
20 the question, it looks like it's going to
21 take six to twelve months to process casino
22 applications. I think that's still a
23 reasonable answer. I don't see any

1 significant changes in the processing
2 techniques or rules or procedures.

3 And so I would suggest that for some
4 of the applicants that you have information
5 and are considering at this time, for those
6 who have high potential for impacts to those
7 two resources, which, as Bill said, are
8 probably the two most controversial resources
9 that we have to analyze and make decisions
10 on, that those applications could take as
11 long as a year.

12 The other projects that have less
13 potential for impacts would have less
14 processing times. I believe that any
15 application that essentially has relatively
16 few impacts, potential impacts to any of the
17 resources within our review, because of the
18 public interest associated with the casino
19 applications, I think they'll take at least
20 six months.

21 So with that as a general guideline,
22 we would hope that would provide sufficient
23 information for the commissioners to make

1 assessments relative to the issues of
2 processing.

3 I think that concludes our
4 presentation. We'd be glad to answer any
5 questions that you may have.

6 MS. BOCHNOWSKI: Thank you very much.

7 Does anybody have any questions?

8 MR. THAR: Some of the applicants
9 indicated that they have temporary sites
10 aside from permanent sites. Does the data
11 that you presented us include temporary
12 sites?

13 MR. SHELTON: Yes, sir, it does.

14 MR. THAR: Do you see the Corps
15 giving a permit for a temporary site before
16 giving a permit for a permanent location?

17 MR. SHELTON: I don't think there's
18 any way that's going to happen. I think that
19 we have an obligation to process a single and
20 complete project. That project may have two
21 proposed sites, commonly referred to as a
22 temporary site and a permanent site.

23 But I think we need to subject the

1 applications to the proper procedures and
2 make decisions in regard to both sites at the
3 same time.

4 MR. THAR: It doesn't matter whether
5 the site is near the permanent site or
6 removed from the permanent site if you're
7 looking at both of them as one; is that
8 correct?

9 MR. SHELTON: We're looking at them
10 both as one application with two proposed
11 sites.

12 MR. THAR: Okay.

13 MR. SUNDWICK: You said that it could
14 be at the high point of this, for instance,
15 up to a year?

16 MR. SHELTON: Yes, sir.

17 MR. SUNDWICK: If they have high on
18 both wetlands and cultural, it wouldn't be
19 two years; it would just be a year.

20 MR. SHELTON: Right.

21 MR. SUNDWICK: All within the same
22 time.

23 MR. SHELTON: Yes, sir. We would try

1 to address both types of issues and any other
2 issues. We just concentrated on the two most
3 controversial types of resources. There may
4 be others involved.

5 But we would try to attempt to make
6 processing and decisions in regard to all
7 resources concurrently. Just whichever one
8 took the longest would be the critical path.

9 MR. SUNDWICK: From the time they
10 complete their application, it could take up
11 to a year to get approval.

12 MR. SHELTON: Yes, sir, correct.

13 MR. SUNDWICK: Is there any one of
14 these applicants that you look through this
15 as far as wetlands and you're familiar with
16 the site that almost looks like it would be
17 in an area that would never be approved? I'm
18 looking for an opinion; I'm not looking for
19 fact.

20 MR. SHELTON: Yeah, I understand. I
21 hope I can dodge the spot if I can. We're
22 not in a position at this time to make those
23 determinations. We have attempted to assist

1 the applicants to get their applications
2 complete.

3 I guess it's worthwhile to note that
4 we do deny permits on occasion. There have
5 been occasions because of environmental
6 impacts to wetlands that we, indeed, have
7 denied permits.

8 MR. SUNDWICK: Let me ask you a
9 question.

10 MR. SHELTON: Sure.

11 MR. SUNDWICK: If these applicants
12 visited with you personally, I mean, they --
13 you would give them some indication of this
14 is going to take approximately a year, and my
15 gut feeling is is that you're going to have a
16 problem.

17 Did they do that individually with
18 you?

19 MR. SHELTON: Yes, sir, they did.
20 And we did -- I did provide them with that
21 type of information.

22 MR. SUNDWICK: Most of them sit up
23 here and figure this is a walk in the park.

1 I mean, You don't think so.

2 MR. SHELTON: That's not my
3 assessment of the situation, no, sir.

4 MR. SUNDWICK: But you won't give me
5 the names of the ones.

6 MR. SHELTON: We're looking at
7 devoting a lot of the federal government's
8 resources in processing these applications.
9 There are very serious issues that need to be
10 addressed before decisions need to be made.
11 And it just takes these types of processes.

12 When I compare them to projects that
13 we've already completed, similar types of
14 impacts, it looks like it takes this long to
15 process these applications.

16 MR. SUNDWICK: And you can't even
17 guarantee at the end they're going to pass
18 muster anyway.

19 MR. SHELTON: No, sir. I never
20 guarantee anything. I don't mean that to be
21 humorous. I'm very serious.

22 MR. SUNDWICK: I agree.

23 MR. KLINEMAN: Well, I sent you some

1 money on April 15th. What did you do with
2 that?

3 MR. SHELTON: I'm sorry?

4 MR. KLINEMAN: I sent you some money
5 on April 15th. What did you do with it?

6 MR. SHELTON: I didn't receive it,
7 sir. Possibly you need to resubmit that.

8 MR. THAR: Let me run through some of
9 this, if I may.

10 MR. SHELTON: Yes, sir.

11 MR. THAR: When an applicant has, for
12 instance, a low low assessment --

13 MR. SHELTON: Right.

14 MR. THAR: -- what's your anticipated
15 time frame for resolution of those issues?

16 MR. SHELTON: We're getting to the
17 lower end, Mr. Thar, of that range, that six
18 to twelve month range.

19 MR. THAR: So you're talking around
20 six?

21 MR. SHELTON: I don't know that I
22 could really qualify it much better than
23 that.

1 MR. THAR: That's what I didn't catch
2 before. If somebody has a low high, you're
3 in the middle range?

4 MR. SHELTON: Yes, sir.

5 MR. THAR: So high high, you're at
6 the --

7 MR. SHELTON: You're at the top,
8 right.

9 MR. THAR: Some applicants have --
10 well, one city has represented that they had
11 been applying for potentially a temporary
12 spot in the city's name rather than the boat
13 company's name.

14 Will that get -- is that going to
15 expedite things for a temporary boat in that
16 location?

17 MR. SHELTON: I'm sorry. You better
18 ask me that question again. I'm not really
19 sure I understand.

20 MR. THAR: The City of Lawrenceburg
21 has represented that there has been an
22 application in that city's name for
23 potentially a temporary operation in the City

1 of Lawrenceburg's name.

2 Have you received that application?

3 MR. SHELTON: Mr. Thar, there's a
4 little confusion here. Part of it may lay
5 with me. But it's my opinion that in
6 accordance with the letter of agreement
7 between our two agencies that I could not
8 process an application for any potential
9 casino applicant until you, this body, issues
10 a license.

11 I'm not aware that the City is
12 pursuing a license to operate a temporary or a
13 permanent site. So I don't think I could
14 process that application.

15 MR. THAR: Another riverboat company,
16 Boomtown, has represented that they have a
17 temporary site that could be operational in
18 ninety to a hundred and twenty days.

19 Would you disagree with that
20 assessment?

21 MR. SHELTON: I'm aware of what's
22 been proposed at that site. Unfortunately,
23 I'm not that well acquainted with

1 construction times and constraints. And I
2 suggest maybe it would vary with the time of
3 the year that the construction took place.

4 The Ohio River may have a lot to say
5 about who constructed what, when and where.
6 So I'm not well enough informed to address
7 that. I'm sorry.

8 MS. BOCHNOWSKI: Anybody else?

9 MR. KLINEMAN: Could you tell me when
10 you decide that something has a low or a high
11 cultural resource problem, is that by
12 trenching the area and seeing what's there,
13 or is it just by some sort of a map that this
14 is probably an area that has cultural
15 resources?

16 MR. SHELTON: The assessment that I
17 described earlier on that I conducted was
18 based primarily upon what I would call a
19 literature search, basically just the maps of
20 the known resources within the area.

21 The type of investigation that you're
22 beginning to describe with the trenching
23 would be different variables of constants

1 that we might require the applicants to
2 conduct so that we properly identify what
3 resource is there and how important or
4 significant it is.

5 We're not to that level yet. To me,
6 that's processing an application. And we
7 agreed not to do that. So my assessment was
8 based upon what as I refer to as a literature
9 search.

10 MR. KLINEMAN: We have had some
11 applicants who say we trenched and we've done
12 this and hired experts to do this stuff, and
13 that they basically completed their work.

14 Would you then at the time that you
15 were starting to process this application
16 pursuant to our agreement, would you then
17 accept the work that had heretofore been done,
18 or would you say, you know, go get somebody
19 else to do it again or something?

20 I mean, Do you accept the material
21 that they have done beforehand?

22 MR. SHELTON: At this time, it's hard
23 to make that kind of determination. We are

1 aware that that testing has gone on. It's my
2 belief that that testing was coordinated with
3 the SHPO, the State Historic Preservation
4 Office.

5 There are certain state laws that
6 need to be addressed for that type of
7 subterranean testing. And so they, the
8 potential applicants, have coordinated with
9 SHPO. In lots of instances, SHPO and the
10 Corps agree. There are occasions when we
11 don't agree.

12 So we could have to make those
13 decisions after we begin processing to see
14 what level of testing had been completed,
15 where the testing had taken place and what
16 the results were.

17 Again, that's the things that we
18 would get into as we begin to process the
19 application.

20 MR. KLINEMAN: So something that's
21 marked high could, if you then saw that some
22 work had been done which was acceptable to
23 the State and looked okay to you, that

1 somebody in a high category might drop down
2 to low.

3 MR. SHELTON: Exactly, right. Again,
4 I don't guarantee anything. This was a quick
5 assessment based upon some assumptions that I
6 had to make. And you're very correct.

7 Likewise, the opposite might happen.
8 Someone that we have based upon our
9 literature search we think is low may pop up.
10 We'll determine those things as we begin
11 processing. But, yes, sir, that's a good
12 point.

13 MR. SUNDWICK: Going back to Mr.
14 Thar's question a little bit, I think he
15 asked the question if they say they can be
16 ready in ninety days to build, if, in fact,
17 they were capable of building the site
18 within ninety or a hundred and twenty days,
19 you're telling us there's no way that even if
20 they could build the site that they could do
21 anything with it.

22 MR. SHELTON: What I'm about to say,
23 I guess, may -- let me see if I can find a

1 different way to say it, because I don't want
2 to say what I was getting ready to say.

3 It's my opinion they can't build
4 anything without a permit that's related to a
5 casino, directly related to a casino. If
6 it's related to some other function, and then
7 could possibly be later at some other point
8 be utilized by a casino applicant, if we
9 permitted that, we authorized it, then they
10 can use that facility.

11 But we know what the proposals are.
12 We reviewed them. And I think we can very
13 quickly decide what is a casino project and
14 what is not. And I don't think the
15 applicants would contest that. I think it's
16 very easy to determine construction related
17 to a casino. And we would probably get that
18 stopped very quickly if we had not issued a
19 permit.

20 I don't -- did I explain that very
21 well?

22 MR. SUNDWICK: I think you did. I
23 guess my question is is even if they could

1 build it, you couldn't get them a -- if they
2 could build a project you approved in a
3 hundred and twenty days, you couldn't get an
4 approval for six months to a year anyhow.

5 MR. SHELTON: If I understand, yes, I
6 think that's right.

7 MR. SUNDWICK: Thank you.

8 MR. THAR: One last thing. The data
9 presentation sheet, is that a confidential or
10 a public?

11 MR. SHELTON: No. It's public. It's
12 public information.

13 MR. THAR: I might warn you to sit
14 here when you finish, because you might get
15 trampled.

16 MR. SHELTON: I'm used to that.

17 MR. SUNDWICK: Or leave now.

18 MR. SHELTON: Is there a back door?

19 MS. BOCHNOWSKI: Yes, there is.

20 MR. KLINEMAN: Are you in a position
21 to tell us anything about Evansville?

22 MR. SHELTON: The Aztar application
23 we're processing? Yes, sir, I can relay the

1 official status. We're very near completion
2 of that process, and we would hope to have a
3 decision relatively soon, possibly as soon as
4 thirty days.

5 MR. KLINEMAN: It's looking real
6 good.

7 MR. SHELTON: It looks like the end,
8 yes, sir.

9 MR. SUNDWICK: On your list, if
10 you're going to categorize Evansville on this
11 list, it must have been low low. I'm not
12 being facetious at all.

13 MR. SHELTON: No, sir; that's a good
14 question. We would have to create a new
15 category for the Evansville area, and that
16 would be navigational concerns.

17 MS. BOCHNOWSKI: And that would be
18 high.

19 MR. SHELTON: That would be high,
20 yes, ma'am.

21 MR. SUNDWICK: Relatively quick.

22 MR. SHELTON: I'm sorry?

23 MR. SUNDWICK: You know, if you

1 resolve this in thirty days, that's
2 relatively quick.

3 MR. SHELTON: Well, of course, we
4 started processing that application for Aztar
5 I believe the first part of March. So we're,
6 what, three or four months into that process.

7 MS. BOCHNOWSKI: Anybody else?

8 Okay. I guess that's it. Thank you
9 very much. You have really been quite
10 informative. I think they have.

11 Okay. We're all set.

12 MR. SCHERMERHORN: Thank you, Mrs.
13 Chairman, and members of the Indiana Gaming
14 Commission. I am Phil Schermerhorn,
15 Executive Assistant to Stan Smith,
16 Commissioner of the Indiana Department of
17 Transportation. Mr. Smith is in Boston today
18 on business and asked me to deliver INDOT's
19 presentation to the Commission.

20 Joining me are Dennis Faulkenberg at
21 the table, and Dennis is INDOT's Chief
22 Financial Officer. And two people in the
23 front row of the auditorium are Don Lucas,

1 INDOT's Chief Engineer, and Walt Land, who is
2 the Project Manager for the U.S. 50 project
3 in the Lawrenceburg area.

4 Mr. Faulkenberg will make a few
5 comments after me. Specifically he will note
6 how much money INDOT has to spend during the
7 next several years for highway work. While
8 Mr. Lucas will not make a presentation, he
9 can answer any construction questions which
10 commission members may have. And I believe
11 between the three or four of us, we can
12 answer any questions you may have.

13 INDOT selects, develops, builds,
14 maintains transportation projects which
15 provide mobility, stimulate economic growth
16 and improve the quality of life for Indiana
17 residents.

18 While INDOT encompasses all
19 transportation modes, highway, aviation,
20 public transit, railroads, my focus, at your
21 request, is highways and highway projects
22 INDOT has scheduled for the next several
23 years in Dearborn, Ohio, Switzerland and

1 Jefferson Counties.

2 In general, INDOT's schedule shows
3 more than forty million dollars worth of work
4 in this four-county area for the 1995
5 construction season, the construction season
6 we are in now, through 1997's construction
7 season.

8 INDOT has provided you with a list of
9 these projects which appears in the material
10 I just gave you. It is important that you
11 understand that this listing represents a
12 tentative schedule. It can and often does
13 change.

14 At this point in my remarks, I will
15 address certain projects in each county,
16 beginning with Dearborn County and moving
17 downstream to Jefferson County.

18 The most noteworthy project is the
19 added travel lane project on U.S. 50. INDOT
20 has provided you a brochure on this project.
21 And for your benefit, that is in this area
22 between Aurora and the Greendale interchange
23 with 275. Again, it's one that starts at

1 George Street in Aurora and ends at the U.S.
2 50-Interstate Route 275 interchange in
3 Greendale.

4 In particular, INDOT will build a
5 continuous left-turn lane complementing the
6 existing four-lane roadway for most of the
7 project's length. The exceptions include the
8 bridge over Tanners Creek, the area around
9 the floodgate near Tanners Creek and the
10 portion of the highway on top of the levy
11 east of downtown Lawrenceburg.

12 This project appears on INDOT's July
13 11 bid opening. And provided the department
14 receives an acceptable bid below the
15 engineers' estimate, it will award a contract
16 several days later. Hopefully, this two-year
17 construction project will begin on or around
18 August 1, 1995, and end on or around
19 September 1 of 1996.

20 INDOT developed this project in
21 response to safety concerns. INDOT will pay
22 the project's construction costs, an
23 estimated six and a half million dollars,

1 using state highway money which is primarily
2 derived from the state fuel tax revenue.

3 U.S. 50 between Lawrenceburg and
4 Aurora carries an average daily traffic of
5 twenty-three thousand four hundred vehicles
6 in a twenty-four hour period. And that is
7 according to our 1991 traffic counts.

8 This high traffic volume, combined
9 with a lack of a dedicated left-turn lane,
10 contributes to a high accident rate.
11 According to the statistics prepared by the
12 Dearborn County Chamber of Commerce, three
13 hundred and forty-six accidents occurred in
14 1994 on this stretch of U.S. 50, including
15 one hundred and forty-three personal injury
16 accidents. Also, local officials have told
17 INDOT a rear-end accident occurs every
18 twenty-four hours on U.S. 50.

19 Lawrenceburg, Greendale and Dearborn
20 County have taken the first steps to build a
21 local bypass project, which is this green
22 line right here. There is also a map in your
23 brochure. What appears on this diagram is

1 exaggerated. It's for the visual.

2 Because it's a local project,
3 Lawrenceburg has the most active information
4 about this project. However, I believe a
5 bypass will connect U.S. 50 immediately west
6 of Lawrenceburg's downtown business direct to
7 State Road 1 immediately north of
8 Lawrenceburg's downtown business direct.

9 This project envisions using a small
10 segment of State Road 48, which parallels
11 Tanners Creek. It then follows a local road
12 which also parallels Tanners Creek after
13 State Road 48 turns left.

14 A new bridge would span Tanners Creek
15 with an approach connecting the bridge to a
16 local street on the opposite bank. This
17 local street would then intersect with State
18 Road 1 to form the bypass.

19 I understand that the towns and the
20 county have a contract with Sieco, a
21 Columbus, Indiana, consulting firm, to study
22 this proposed bypass. This project carries
23 an estimated ten million dollar price tag,

1 with construction tentatively scheduled for
2 the year 2000, according to Sieco.

3 Also, INDOT plans to correct a slide
4 area on State Road 56 about two and a half
5 miles south of U.S. 50 running for about a
6 thousand feet. And that is the orange dot or
7 the red dot in this area.

8 The schedule shows a November, 1995,
9 ready for letting date, which means this
10 three point two million dollar project will
11 likely occur during the 1996 construction
12 season.

13 Moving on to Ohio County, major
14 improvements to State Road 56 from Rising Sun
15 to the Dearborn County line do not appear in
16 INDOT's schedule. Major improvements include
17 such activities as building a roadway,
18 rebuilding an existing roadway or adding a
19 travel lane such as in the case of U.S. 50 in
20 Dearborn County.

21 However, the schedule shows
22 maintenance activities which can best be
23 described as safety improvements, shoulder

1 stabilization and guardrail selection.

2 INDOT let a contract in May to
3 resurface State Road 56, State Road 156 on
4 the west side of Rising Sun to Patriot at a
5 cost of five hundred and eighty-six thousand
6 dollars. And that project is between these
7 two points in red.

8 Lastly, INDOT is rebuilding about a
9 mile and a half section of State Road 56
10 beginning at its intersection with State Road
11 156 at a cost of three and a half million
12 dollars, which is this area right here, this
13 blue.

14 In Switzerland County, INDOT has no
15 major road projects scheduled through 1997's
16 construction season in this county. However,
17 the commission's executive director asked
18 INDOT to address the roadway issue involving
19 State Road 101, the Markland Dam in the state
20 of Kentucky.

21 INDOT has no plans today to extend
22 101, which would be a new road, northward
23 from Markland Dam to a point near East

1 Enterprise at the junction of State Road 56
2 and 250. This is the Markland Dam here. And
3 East Enterprise is this dot on the map, in
4 this vicinity. And the proposal at one time
5 was to extend 101 from the Markland Dam up to
6 East Enterprise.

7 INDOT based its decision not to
8 proceed with this project for two reasons.
9 First, it believes the economic benefit or
10 return derived from this project is less than
11 the cost to build it.

12 Simply put, this project, with an
13 estimated cost of about forty million
14 dollars, returns less than a dollar for every
15 dollar spent to build it. Economics today or
16 in the foreseeable future do not warrant this
17 expenditure.

18 Second, while the Kentucky
19 Transportation Cabinet plans to widen
20 Kentucky State Road 184 between U.S. 42 and
21 Interstate Route 71, it will not do so at the
22 earliest until the year 2002 and beyond,
23 according to the senior manager within the

1 Kentucky Transportation Cabinet.

2 And that roadway began at the
3 Markland Dam. And we have just drawn in,
4 it's a green line from the Markland Dam down
5 to Interstate 71 that connects Cincinnati and
6 Louisville.

7 As an alternative to building a new
8 State Road 101, INDOT plans to improve State
9 Road 129 from about Moorefield to its
10 junction with State Road 56 west of Vevay,
11 which is this green line here.

12 The project consists of correcting
13 horizontal and vertical curves, widening the
14 travel lanes and, in general, making a safer
15 two-lane facility.

16 INDOT has just begun developing this
17 project. And given INDOT's typical highway
18 development process, it will take about four
19 years to bring this project to letting. I
20 have no estimated cost for this project other
21 than to say it will likely cost several
22 million dollars.

23 Jefferson County, INDOT has no major

1 roadway projects scheduled through the 1997
2 construction season in this county also. The
3 Kentucky Transportation Cabinet is actively
4 pursuing replacing the Madison,
5 Indiana-Milton, Kentucky bridge.

6 It has narrowed the alignment
7 location for this new structure to three
8 sites, and its project consultant is
9 conducting further analysis to determine the
10 preferred alignment or location for this
11 bridge. Realistically, Kentucky will build
12 this multimillion dollars structure some time
13 in the first decade of the next century.

14 Building and maintaining highways is
15 an expensive proposition. Indiana will
16 always have more infrastructure needs than
17 money to pay for these needs. And Mr.
18 Faulkenberg will discuss some financial
19 issues here shortly.

20 Further, INDOT holds generators
21 responsible for highway improvements that
22 they create the need for. As an example,
23 when a developer builds a shopping center

1 with an entrance on to a state or federal
2 highway, the developer bears the cost of
3 additional travel lanes, right or left-turn
4 lanes or traffic signals to facilitate safe,
5 efficient traffic movement in front of and in
6 and out of the shopping center. This should
7 not be a taxpayers' burden.

8 INDOT will inspect and look to other
9 sources to pay for improvements to highway,
10 the highway system, that these facilities
11 generate. The license recipient or
12 recipients can expect cooperation from INDOT.
13 However, INDOT cannot, with the financial
14 resources available to it, pay for all the
15 state's infrastructure needs.

16 And Dennis Faulkenberg now will
17 address you for a few minutes.

18 MR. FAULKENBERG: Thank you, Phil.
19 Members of the Commission, my name is Dennis
20 Faulkenberg, and I'm the Chief Financial
21 Officer for the Indiana Department of
22 Transportation. I want to give you a little
23 bit of specific information about the fiscal

1 resources available to the Department of
2 Transportation for our road building budget.

3 In 1994 and 1995, we have been at
4 record high year numbers for capital
5 construction in the state of Indiana for
6 highways. During those years, in 1994, INDOT
7 bid construction contracts of over four
8 hundred and sixty-three million dollars, its
9 highest year ever. And in 1995, the current
10 year, we're looking at about four hundred and
11 seventy-eight million dollars for road
12 construction.

13 But that's about where the good news
14 ends. We have been able to maintain such a
15 high level of capital construction because of
16 transfers we've made from operating budgets
17 into our capital budgets over the last two
18 years.

19 In fact, during the last two years,
20 we have moved from sixty to seventy million
21 dollars from operating into to capital
22 budgets to augment those capital budgets to
23 those levels. However, future transfers of

1 this magnitude are just not available in
2 future years.

3 So in 1996 and '97, the upcoming
4 biennium, the capital construction numbers go
5 down significantly. These lower levels for
6 construction result from basically our main
7 source of revenue, the gas tax, diesel tax,
8 are fairly no growth revenue sources.

9 Even though vehicle traffic is
10 increasing in the state of Indiana, as it is
11 nationally, fuel efficiencies for the fleets
12 in the state and in the nation pretty well
13 keep up with those increases in mileage. And
14 so there's no net gain in revenue to the
15 highway fund.

16 So with basically the same amount of
17 revenue in each of the future years, even
18 with minimal inflationary increases in our
19 operating budget for employee salaries,
20 utilities, road maintenance, supplies and so
21 forth, that reduces the remaining amount that
22 is available then for capital road
23 construction.

1 So in the coming biennium, '96 and
2 '97, we're going to be looking at a decrease
3 in the capital dollars for construction. In
4 1996, the coming year, we're going to be
5 looking at about a four hundred and nineteen
6 million dollar program. That's about fifty
7 million dollars -- more than fifty million
8 dollars less than the current year. Still a
9 respectable amount, historically that's very
10 much par with where we had been in recent
11 years. But it's a big drop from where we
12 were in the last two years.

13 And then next year, fiscal '97, we
14 would be at about the four hundred million
15 level. So with inflation and construction
16 costs and mounting road needs that we have in
17 our plan, that's not real good news for new
18 construction.

19 Basically it takes about three
20 hundred and fifty million dollars of that
21 capital program just to preserve and maintain
22 the system as is, no improvements to the
23 system.

1 So in coming years beyond '96 and
2 '97, that capital program will be reduced
3 each year down to just about the level where
4 we're expecting in the out years, in the
5 later years of this century, to be able to
6 just maintain and keep the existing system in
7 the shape that it's in.

8 From a federal front, we get -- in
9 Indiana, state and local governments get
10 about twenty-five to thirty percent of our
11 money for roadways from the federal
12 government, federal transportation funds.

13 I think everybody knows what's
14 happening on the federal front. I don't see
15 any new money coming from there. In fact, I
16 see some decreases and possibly some
17 significant decreases in federal
18 transportation funding.

19 Those decreases could begin as early
20 as October of this year and could quite
21 likely be very significantly decreased in the
22 out years of the Congress' seven year plan to
23 balance the federal budget.

1 With some of the projections that I'm
2 seeing, I'm seeing some significant
3 reductions in transportation funds in those
4 years. So any reductions at the federal
5 level would just further decrease the numbers
6 that I'm talking about here today.

7 So with that, I'll close. And if you
8 have questions for Phil or I or our
9 engineers, we'd be glad to answer them.

10 MS. BOCHNOWSKI: I think we'll go
11 ahead and ask questions of these people
12 before we move on. So does anybody have any
13 questions?

14 MR. KLINEMAN: Just about the U.S. 50
15 project, there was some indication that
16 somebody said it's going to be let next
17 month?

18 MR. FAULKENBERG: Yes.

19 MR. KLINEMAN: And it would be
20 completed by the end of the year? And you
21 told us September of '96.

22 MR. SCHERMERHORN: No. It's a
23 two-year project let this year, and completed

1 around September 1 of 1996. Hopefully sooner
2 if we get done, but that's the target date.

3 MR. KLINEMAN: And that's all
4 dependent upon the bids coming in below the
5 engineers' estimate; is that right?

6 MR. SCHERMERHORN: That is the
7 important factor. There's also some other
8 factors we have to check for, such as DBE
9 requirements.

10 MR. KLINEMAN: What?

11 MR. SCHERMERHORN: DBE, Disadvantaged
12 Business Enterprise requirements.

13 MR. KLINEMAN: The dot that you're
14 going fix a slide in the road on 56. And how
15 much did you say that was going to cost?

16 MR. SCHERMERHORN: I will find that.
17 It sticks in my mind it's several million
18 dollars.

19 MR. KLINEMAN: Yes. I put down three
20 point two million dollars.

21 MR. SCHERMERHORN: That's correct.
22 It's amazing how expensive highway work is,
23 and people don't realize how expensive it is.

1 MR. KLINEMAN: You don't even know
2 how large an area that is?

3 MR. SCHERMERHORN: It's about a
4 thousand feet, according to the information
5 that I have.

6 MR. KLINEMAN: And right now, it's
7 being operated on some kind of temporary
8 basis; is that it?

9 MR. SCHERMERHORN: I'm not sure.
10 Don?

11 MR. LUCAS: My name is Don Lucas.
12 I'm the Chief Highway Engineer for the
13 Department of Transportation.

14 And what we do right now, as an
15 active slide, an earth slide that drops down
16 some, we just bring in some asphalt and fill
17 the hole up. But it continues to accelerate.
18 And as the river goes up and down, why, it
19 causes water to get in. So it needs to be
20 fixed.

21 MR. KLINEMAN: The last question I
22 have then is on 56, that same area, 56 north
23 of Rising Sun towards 50. We have an

1 applicant in Rising Sun, two applicants
2 rather in Rising Sun. They are talking about
3 widening the road by three feet on each lane
4 and then putting six foot shoulders on each
5 side. And they're talking about doing that
6 through funding other than state money.

7 But, of course, it would be under
8 your state jurisdiction, and you would have
9 to approve anything that's done on the plans
10 and so forth.

11 Had you heard anything about that at
12 all?

13 MR. LUCAS: I haven't seen any
14 application to that effect.

15 MR. KLINEMAN: I don't think it's an
16 application. Has anyone talked to you about
17 it?

18 MR. LUCAS: No, they have not.

19 MR. KLINEMAN: They said this morning
20 they thought there was a fifty foot right of
21 way, so they would be able to do this without
22 acquiring much ground.

23 MR. LUCAS: I can't address right of

1 way. But did you say three million dollars?

2 MR. KLINEMAN: No. They were talking
3 about --

4 MR. THAR: Three hundred thousand per
5 mile.

6 MR. KLINEMAN: Three hundred thousand
7 per mile, and there's seven miles.

8 MR. RANSBURG: Two point one million,
9 I think.

10 MR. KLINEMAN: Did you understand?
11 They said they were going to widen each lane.

12 MR. LUCAS: Yeah, I heard what you
13 said.

14 MR. KLINEMAN: And then put six foot
15 shoulders on.

16 MR. LUCAS: That's a very -- it's a
17 long -- it's not a very straight road. It's
18 along the river, and it's a slide-prone area.
19 And if you widen toward the river, depending
20 on where you are, you can create a problem.

21 And so you can see that we have a
22 slide that goes down into the river itself.
23 There's a plain, a circular plain for a slide

1 that actually goes down into the river water.
2 And so they're not cheap to repair.

3 So if somebody wants to do that,
4 we're going to need some soils information,
5 some boring information that would indicate
6 what the conditions are, especially where
7 they're widening toward the river.

8 Our experience in the area is you
9 have to excavate. And it's a hilly area,
10 which the hills are pretty close to the road
11 in several places. And if you excavate into
12 those, there's real hard limestone and real
13 soft shale imbedded in alternate layers. And
14 it's prone to sliding. It's prone to
15 sliding. I would question the cost,
16 seriously question the cost.

17 MR. THAR: Part of the proposals by
18 some of the applicants to help alleviate the
19 traffic problems in Lawrenceburg with U.S. 50
20 is just to add a dual turn lane off of 275 to
21 back around U.S. 50.

22 Has that been discussed with INDOT
23 or is that part of INDOT's proposal with

1 regard to the improvement of U.S. 50?

2 MR. LUCAS: I think Phil talked
3 about -- Mr. Schermerhorn talked about
4 improving the existing U.S. 50 from Aurora up
5 to 275. And basically we're taking a
6 four-lane section and adding a center turn
7 lane so you can turn left, either eastbound
8 or westbound.

9 MR. THAR: Right. My question is,
10 some of the applicants have discussed to
11 further alleviate traffic problems on the 275
12 connector that runs from 275 to that
13 intersection, that as you come across from
14 275 to the intersection of 51, that there
15 would be a dual left-hand turn lane so you
16 can turn left towards Lawrenceburg on 50.

17 My question is, first, has anybody
18 proposed those plans to you, or, secondly, is
19 that part of the U.S. 50 improvement, because
20 I didn't see it?

21 MR. LUCAS: Walt, do you know
22 whether -- there is a dual left turn planned
23 there already, isn't there?

1 MR. LAND: Yes.

2 MR. LUCAS: I think we already have a
3 dual left turn planned there in our safety
4 improvement project.

5 MR. THAR: Off of 275?

6 MR. LUCAS: Off of 275 on to
7 westbound 50.

8 MR. THAR: That will be part of this
9 project?

10 MR. LUCAS: I believe that's correct.
11 I believe that to be correct.

12 MR. THAR: Then there would be one
13 straight or right-hand turn lane? There
14 would be three lanes on the 275 connector
15 as you approach that?

16 MR. LUCAS: I need to address -- I
17 need to go back and look at the plan. I
18 don't have all the intersections in my head.

19 MR. THAR: Okay. Between now and
20 next Friday, can I get that?

21 MR. LUCAS: Absolutely. We'll give
22 you a plan.

23 MS. BOCHNOWSKI: Anything else?

1 Okay. Thank you so much.

2 MR. SCHERMERHORN: Thank you.

3 MS. BOCHNOWSKI: I understand we're
4 going to hear from the Department of Natural
5 Resource also today. Okay. Great.

6 MR. SIMPSON: Thank you, Madam Chair,
7 Members of the Commission. I'm John Simpson.
8 I'm the Director of the Division of Water
9 from the Indiana Department of Natural
10 Resources. I have with me my Assistant
11 Director, Mike Neyer, who is in charge of the
12 regulation branch for the division, and also
13 Dan Fogerty, Director of the Division of
14 Historic Preservation. And Mike will be
15 making a few comments in addition to mine.

16 MS. BOCHNOWSKI: That would be great.

17 MR. SIMPSON: And Dan and Mike will
18 both be available to answer any questions.

19 Let me just overview for you just
20 briefly the Natural Resources Commission and
21 the Department of Natural Resources. The
22 Natural Resources Commission is a
23 policy-making body for the department dealing

1 with policy Approving or dealing with
2 objections, various things that come before
3 the department. And so they overview, and
4 they are a policy-making body.

5 The Department of Natural Resources,
6 of course, we administer the laws, and we
7 answer to the Commission. And on a
8 day-to-day basis, we administer laws that the
9 legislature has given to us to administer.
10 So that's a brief overview of the commission
11 and the department.

12 Specifically, two laws that we
13 administer that are applicable to this issue
14 before you today is the 1945 Flood Control
15 Act as one law, and the other is the Waterway
16 Act.

17 And just briefly going over the 1945
18 Flood Control Act, that particular act gives
19 us three things that we need to look at. It
20 says that any construction within a floodway
21 of a stream requires a permit from the
22 Department of Natural Resources.

23 And the three things that we're

1 supposed to look at are does the project
2 adversely affect or unduly restrict the
3 capacity of the channel over bank to carry
4 flood water. Regulatory flood, and that's
5 been defined by the rules of the hundred year
6 flood.

7 The second is we are to look at the
8 matter from the safety of life and property,
9 hazards of life and property. And then a
10 third thing we look at is whether it's
11 unreasonable, detrimental to fish and
12 wildlife and botanical resources.

13 The impact on the floodway
14 efficiency, of course, we assess the
15 hydrology fact of the hundred year flood on a
16 construction project within the floodway. A
17 project could be fill, excavation, a levy,
18 bridge, a building. Any construction within
19 the floodway is what we look at.

20 And we look to see whether that
21 particular project will raise the stages of
22 the hundred year flood unreasonably. The
23 Commission has defined unreasonably as more

1 than fifteen hundredths of a foot. On the
2 Ohio River, that takes some major fill to
3 raise the stages that much.

4 The other thing is the threat to
5 safety of life and property, the impact of a
6 levy or a dam as far as possible safety, also
7 induced flood damage off-site if a levy or a
8 dam impound water that would affect somebody,
9 of course, the potential for loss of life.

10 Detrimental impacts on fish and
11 wildlife and botanical resources, we're
12 dealing with the breeding and spawning
13 habitat, endangered species, wetlands, forest
14 land, natural areas and native preserves,
15 recreational impacts, erosion, sediment
16 control and that type of thing.

17 But let me make it clear that this
18 act only gives us jurisdiction on the
19 floodway. I mean, a lof of folks -- there's
20 a floodway and then there's what we call the
21 flood fringe area, areas that are subject to
22 flooding, but they aren't essential to carry
23 flood water. I mean, water will back into

1 the flood fringes.

2 The total area is called the flood
3 plain. This is kind of confusing. But the
4 total area is referred to as the flood plain,
5 which is broken up into two components, the
6 flood fringe and the floodway.

7 But we don't have under the law
8 jurisdiction over anything outside the
9 floodway. So it has to be defined
10 specifically within the floodway of the
11 stream. So some folks think we probably
12 ought to have more jurisdiction than what the
13 law gives us, but we don't.

14 Now, the Waterway Act, that provides
15 we need to look at the impact of
16 navigability, of boating safety, significant
17 harm also to the environment and natural or
18 cultural or archeological resources and again
19 also hazard to life and property.

20 The Flood Control Act specifies
21 that -- specifically says that there are to
22 be no boats or residences in a floodway of a
23 stream. Therefore, it's prohibited,

1 according to law, to have a boat or a
2 residence in a floodway.

3 It's my understanding that there are
4 some applicants that are proposing to
5 construct hotels within the floodway. And
6 I'm advised through the Chairman of the
7 Natural Resources Commission for the
8 department that if the Gaming Commission does
9 award a certificate of suitability to an
10 applicant who proposes to construct hotels in
11 a floodway, that applicant should through the
12 department go before the Natural Resources
13 Commission.

14 And as I understand it, they are at
15 least willing to listen to the potential
16 of -- the Flood Control Act does provide that
17 the Commission can establish what is referred
18 to as a commission floodway.

19 So the Commission is willing to
20 entertain that. They are willing to address
21 that issue. But if there is one of the
22 applicants or more than one applicant that
23 has that situation, then they will need to go

1 before the Natural Resources Commission for a
2 determination.

3 I think that's all of my comments for
4 the moment, and I'm going to turn it over to
5 Mike Neyer for further comments. And then
6 we're available to answer questions.

7 MR. NEYER: Thank you. I am Mike
8 Neyer, Assistant Director of the Division of
9 Water. And I run the permitting program
10 dealing with the Flood Control Act and
11 Navigable Waters Act. What I'd like to do
12 briefly is outline to you the applications
13 that we do have in in the three-county area.

14 About a year ago, there was a
15 regulatory seminar for the gaming interests
16 presented here in the auditorium. And at
17 that seminar, both the Corps and DNR and IDEM
18 and the other entities there encouraged the
19 applicants to meet with us ahead of time to
20 discuss their applications and potential
21 problems.

22 As a result of that, we have met with
23 several gaming applicants at their request.

1 Several decided not to opt for that
2 discussion. We have had applications coming
3 in since about July of last year, some as
4 recently as last week.

5 In the Dearborn County area, we have
6 received applications from Lady Luck,
7 Boomtown, Indiana Gaming, Boyd, Empire and
8 Ameristar. In Switzerland County, we have
9 received an application from Pinnacle. And
10 we have no application on file for Rising Sun
11 or Ohio County.

12 Many of these applications are in
13 various stages of review. Some were
14 complete, and some are not complete. The
15 review time that we are targeting once the
16 certificate is issued by the Gaming
17 Commission is ninety days once the applicant,
18 successful applicant, gives us a complete
19 application package. And that is assuming
20 that there is not a request for a public
21 hearing, because we do have timing to
22 schedule that hearing.

23 Many of the issues that we will be

1 looking at are the same issues as the Corps
2 of Engineers for various sites. One
3 additionally that I don't believe the Corps
4 mentioned is we will be looking at for those
5 applicants who are in the vicinity of the
6 Lawrenceburg levy any impacts which their
7 construction may have on the integrity of
8 that levy system.

9 I'd be glad to answer any questions
10 the Commission may have.

11 MR. KLINEMAN: Some of the
12 applicants, at least one that I can remember,
13 is talking about raising by fill a site right
14 along the river by seventeen feet.

15 You would have jurisdiction over that
16 kind of a program, would you not?

17 MR. NEYER: If that fill is within
18 the floodway, yes, we do have jurisdiction.

19 MR. KLINEMAN: And would you then be
20 looking at the question which has been raised
21 by the people who are connected with the
22 Oxbow, which is upstream of this particular
23 location, whether or not that fill would

1 cause an additional flood problem upstream,
2 not downstream, but upstream?

3 MR. NEYER: Within the limits of our
4 jurisdiction, yes. The assessment that the
5 department has to perform is on a one hundred
6 year flood event or a flood that has a one
7 percent chance of occurrence in every year.
8 We will assess that.

9 Now, if the Oxbow is concerned about
10 lesser frequency events or an annual flood or
11 an every two year flood, that's outside of
12 our jurisdiction.

13 MR. KLINEMAN: You mean that if it's
14 something that might not happen, you'll look
15 at it, but if it's something that happens all
16 the time, you won't? I guess I
17 misunderstood.

18 MR. NEYER: We are charged -- we are
19 charged with the responsibility of regulating
20 the Flood Control Act with respect to what's
21 known as the regulatory flood, which is the
22 one hundred year flood.

23 To take an action on approval or

1 denial of an application would be based on
2 that assessment. Once we make that
3 assessment, the tool is there to look at
4 lesser frequency events, a two year or an
5 everyday event or whatever you want to call
6 it.

7 So, yes, we could look at it.
8 Whether or not we had the authority to
9 approve or deny an application based on a
10 lesser frequency event, I don't believe so.
11 But we could assess it for the Oxbow.

12 MR. MILCAREK: I'm building in a
13 flood plain. Can the classification be
14 changed? Do you have a method to change, if
15 something is considered a flood pain, an
16 applicant can go through a certain procedure
17 and prove to you that it isn't in a flood
18 plain? Is that a possibility?

19 MR. NEYER: There is a process both
20 at the state -- it's a combination state and
21 federal process called a letter of map
22 revision or a letter of map amendment. If
23 the Federal Emergency Management Agency has

1 already studied the area, there is a process
2 to do that, yes.

3 If the feds have not studied the area
4 and the state has, the applicant or someone
5 building in the flood plain certainly has the
6 right to hire a competent consultant to
7 assess the property and demonstrate to the
8 state that it is not flood plain.

9 MR. MILCAREK: I think that was
10 brought up yesterday.

11 MR. KLINEMAN: You're not in the
12 archeological business. That's another
13 division in your department?

14 MR. NEYER: Yes. I mean, I'm not.

15 MR. THAR: Mike, before you sit down,
16 you indicated that of the applications you
17 have received, some are complete and some are
18 not.

19 Are you in a position to advise the
20 commission which of those applications you
21 consider to be complete and which you do not?

22 MR. NEYER: I think -- well, if I
23 said that, I misspoke. There are different

1 states of completeness. Many of them do not
2 have technical analysis, hydrolic analysis
3 submitted yet, so we are awaiting that. And
4 we have spoken with those applicants about
5 the deficiency.

6 MR. THAR: And with regard to the
7 archeology, Mr. Fogerty is here?

8 MR. FOGERTY: I'm Dan Fogerty,
9 Director of the Division of Historic
10 Preservation and Archeologist.

11 Do you have a question about
12 archeology?

13 MR. KLINEMAN: Oh, I'm sorry. Yes.
14 Were you here when we were discussing the
15 matter with the Corps?

16 MR. FOGERTY: A little bit earlier
17 today?

18 MR. KLINEMAN: I beg your pardon?

19 MR. FOGERTY: Just a little earlier
20 today?

21 MR. KLINEMAN: Yes.

22 MR. FOGERTY: Yes.

23 MR. KLINEMAN: Okay. One of the

1 questions I had was that we have been told by
2 some of the applicants that they have
3 actually gone on the site and done trenching
4 and so forth and so on, and that that has
5 been done under your supervision, I guess.

6 MR. FOGERTY: Yes. All the
7 applicants, before they can do an
8 archeological investigation, have to get a
9 permit. And there have been several permits
10 given and several studies undertaken.

11 MR. KLINEMAN: Okay. And could you
12 tell us who has applied for permits and --

13 MR. FOGERTY: I might be able to.
14 I've got a report here. I'm going to have to
15 dig through it. This has gone on over some
16 period of time. Let me try to identify these
17 for you.

18 We have one subsurface and surface
19 investigation in Lawrenceburg. I cannot
20 identify from my data who that applicant was,
21 but I can certainly get it to you later. But
22 there's been both surface and subsurface, so
23 it would be a fairly thorough investigation

1 at that level.

2 MR. KLINEMAN: Well, if you could
3 give us that information.

4 MR. FOGERTY: I can tell you -- let
5 me look through here quickly. There is one
6 applicant for another Lawrenceburg site which
7 is in the office which is under review for a
8 permit.

9 That's basically it, at least in this
10 area along the Ohio River, City of
11 Lawrenceburg. But I can get the information
12 for you of those specific applications.

13 MR. FOGERTY: Okay. You can get us
14 the names then?

15 MR. FOGERTY: Yes, certainly.
16 They're all filed.

17 MR. KLINEMAN: Have any of the
18 reports, based upon the permits that you
19 gave, have you made any conclusions as to
20 whether or not there are significant
21 archeological --

22 MR. FOGERTY: Not yet. There are
23 some -- clearly some known sites in some of

1 these areas, in other words, that have been
2 identified earlier. And some of the
3 reconnaissance work, I understand, has
4 identified those and found some other
5 artifacts. So those are under review now by
6 the state archeologist which is in our
7 division.

8 MS. BOCHNOWSKI: Now, unlike some of
9 the other licensing agencies, you don't have
10 to wait for us to grant a certificate of
11 suitability; correct? You just go ahead and
12 process these as they come in?

13 MR. FOGERTY: Well, let me make
14 clear. If you're talking about the permit to
15 undertake an archeological investigation,
16 those are processed just periodically
17 whenever there's a call for that.

18 And, again, we have done some of
19 those already. So there's no -- that doesn't
20 tie to the permit given by the Gaming
21 Commission.

22 MS. BOCHNOWSKI: Okay. Now, would
23 you have to give a subsequent permit once the

1 archeological work is done or the
2 investigation is done?

3 MR. FOGERTY: Well, it's possible
4 that the investigation could uncover other
5 evidence which would further have to be
6 investigated. It's also possible that even
7 once the report was finalized and signed off
8 on that artifacts or human remains could be
9 uncovered during the construction period.

10 In that case, there would have to be
11 a notification given, work would have to stop
12 and notification would have to be given
13 within two days to our office. So even when
14 the archeological investigation is accepted
15 and closed, the study, you still have a
16 chance you could encounter an archeological
17 site.

18 MS. BOCHNOWSKI: As you dig.

19 MR. FOGERTY: Right; during
20 construction.

21 MS. BOCHNOWSKI: Okay. Thank you.

22 Any other questions?

23 MR. FOGERTY: I just want to

1 mention -- can I mention one other thing
2 while I'm here?

3 MS. BOCHNOWSKI: Yes, please.

4 MR. FOGERTY: A lot of the cultural
5 resources have focused on archeological
6 resources. But we're also very concerned
7 about historical resources. And we have a
8 number of communities in this area that have
9 national register listed districts, and we're
10 very concerned about that and the impacts
11 that might occur to those. So this isn't all
12 just archeological resources.

13 MS. BOCHNOWSKI: Would you then get
14 into permitting in that regard also? How
15 would you come into play depending on where
16 they're located?

17 MR. FOGERTY: We have two roles here.
18 One is at the state level, and it's an
19 advisory capacity essentially to the Gaming
20 Commission to offer views on the impacts to
21 cultural resources, historical and
22 archeological, of the various applications.

23 We also -- our agency has a special

1 relationship with all federal agencies to
2 undergo what's called a 106 Review. So it's
3 possible we could be offering advice on
4 applications at the state level to the Gaming
5 Commission, and also the Corps may consult
6 with us on any cultural resources that might
7 be encountered there. So actually we could
8 come in at two different levels.

9 MS. BOCHNOWSKI: Well, here's what's
10 going to happen now. We are meeting back
11 here in a week to grant a license. If
12 there's a special concern, it might be
13 something we need to know within the next
14 week, wouldn't you think?

15 MR. THAR: I agree. Dan, can we meet
16 again and discuss this?

17 MR. FOGERTY: Yeah. I was going to
18 say, we've had some meetings already to try
19 to address this. I'm not sure we have it
20 totally addressed.

21 MS. BOCHNOWSKI: Okay. Because I
22 don't want for us to be in a position of
23 granting a license and then find out there's

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something we could have done.

MR. FOGERTY: That's our concern,
too. We feel the same way.

MS. BOCHNOWSKI: Great.

Is that it? Okay. Well, I'll
probably turn this back over to you, Mr.
Chairman, if you want to finish up. You've
done such a good job all week.

MR. KLINEMAN: I just wonder if
anybody in the audience would like to move
that we adjourn. I will entertain motions
from the audience.

(Whereupon, a motion was made to
adjourn.)

MR. KLINEMAN: It's been moved. Is
there a second?

(Whereupon, the motion was seconded.)

MR. KLINEMAN: Thank you. We
adjourn. Thank you all.

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