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BEFORE THE INDIANA GAMING COMMISSION

PUBLIC MEETING

TRANSCRIPT OF PROCEEDINGS

DATE: February 21, 1997

PLACE: ISTA Building  
150 West Market Street  
2nd Floor Conference Center  
Indianapolis, Indiana

MEMBERS OF THE COMMISSION

Alan I. Klineman, Chairman  
Ann Marie Bochnowski, Co-chairman  
Thomas F. Milcarek  
David E. Ross, Jr., M.D.  
Donald R. Vowels  
Robert W. Sundwick  
Robert Swan

ALSO PRESENT

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

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1 CHAIRMAN KLINEMAN: I will call the  
2 meeting of the Indiana Gaming Commission to  
3 order. Let the record show that all of the  
4 commissioners are present and we, therefore,  
5 have a quorum to conduct business.

6 The first item on our agenda is  
7 approval of the minutes. I guess those would  
8 be the minutes of the telephonic meeting that  
9 we had on January 27th, 1997.

10 Do I hear a motion to approve those  
11 minutes?

12 MR. SWAN: So moved.

13 CHAIRMAN KLINEMAN: And is there a  
14 second?

15 DR. ROSS: Second.

16 MR. KLINEMAN: Any discussion?

17 Hearing none, all those in favor of  
18 approval of the minutes say aye.

19 (Unanimous approval)

20 MR. KLINEMAN: Contrary?

21 The minutes are approved.

22 CHAIRMAN KLINEMAN: The next item is  
23 Mr. Thar's report.

24 MR. THAR: Thank you, Mr. Chairman.  
25 I'd like to start out with a relatively

2  
1 pleasant part of the report. That is, we've  
2 had some significant personnel additions to  
3 the Staff for the Gaming Commission since we  
4 have last met publicly. I'm going to ask  
5 each staff person as I say their name to  
6 please stand up so everybody gets a good look  
7 at them.

8 First is Tonya Sallee. She joined  
9 the Indiana Gaming Commission Staff on  
10 January 13th of this year as our legislative  
11 liaison/PR person. She is in her second year  
12 of law school and worked last year as a  
13 governor's fellow. We are very pleased to  
14 have you. Thank you, Tonya.

15 On the same day -- I don't want to  
16 interrupt the applause.

17 (Applause)

18 MR. THAR: On the same day, Kim Tripp  
19 also started with the Staff as our new  
20 receptionist. Kim came to our office from  
21 the staff of Governor Bayh, where she worked  
22 as an administrative secretary to executive  
23 assistants. We're very pleased to have you,  
24 Kim. Thank you.

25 (Applause)

1 MR. THAR: Tracy Sanders has joined  
2 the Commission Staff in a secretarial  
3 position. Tracy previously worked with the  
4 Indiana State Police and was assigned to the  
5 Gaming Enforcement Unit. We're very pleased  
6 to have Tracy with us. Thank you.

7 (Applause)

8 MR. THAR: Pat Wright has joined the  
9 staff as our MIS director, or, in the  
10 language I understand, she runs our  
11 computers. Pat comes to us from the State  
12 Auditor's Office, where she was a senior  
13 systems analyst, I believe. We're very happy  
14 to have Pat with us.

15 (Applause)

16 MR. THAR: Chris Gray is one of our  
17 two new auditors, two new additions to our  
18 audit division, which I guess would make her  
19 an auditor, too. Chris previously worked in  
20 the financial division of a car dealership,  
21 and we very much needed her and our other  
22 auditor, and we're very happy to have her  
23 with us. Thank you.

24 (Applause)

25 MR. THAR: Last but not least is Jim

1 Seivers. He is the second addition to the  
2 audit division. Jim was an auditor with Work  
3 Force Development before coming with our  
4 office, and we value his experience and are  
5 very happy to have him. Thank you.

6 (Applause)

7 MR. THAR: Dina Garner, she was  
8 previously introduced at a prior meeting, but  
9 asked to be introduced again. She was in our  
10 legal division, and a lot of people did not  
11 get a chance to see her.

12 (Applause)

13 MR. THAR: So that's the new  
14 personnel that we have on board right now.  
15 As you can see, they're a lively group and  
16 they do keep things moving.

17 Let's talk a little bit about  
18 legislation. Emergency rule-making powers,  
19 what's been asked for by the Gaming  
20 Commission, that's in House Bull 2013  
21 sponsored by Representative William Bailey.

22 Under this legislation, the Gaming  
23 Commission would be able to adopt emergency  
24 rules and make them effective. Although they  
25 would only be good for ninety days, they

3  
1 could be extended for another ninety days.  
2 And under the bill that's presently  
3 progressing through the legislature, we would  
4 have the obligation of filing permanent rules  
5 of the same type within thirty days of filing  
6 the emergency rule. House Bill 2013 passed  
7 the House by a vote of ninety-seven to two  
8 and is awaiting action in the Senate.

9 House Bill 1135, sponsored by  
10 Representative Pat Bauer, increases the  
11 admissions tax to four dollars and alters the  
12 current distribution of the tax. This bill  
13 passed the House fifty-five to forty-three  
14 and is awaiting action in the Senate.

15 Senator Johnny Nugent introduced  
16 legislation that would allow counties  
17 receiving riverboat admission taxes from  
18 wagering taxes to use the revenue to pay for  
19 maintenance of county highways. This  
20 legislation passed the Senate and is awaiting  
21 action by the House.

22 The Senate has approved legislation  
23 which would prohibit land-based casinos in  
24 Indiana and bar the state from entering into  
25 tribal state compact without gaming on Indian



1 lands in Indiana. The bill is awaiting  
2 action by the House.

3 Representative Fern Fisher has  
4 introduced legislation that requests of  
5 Attorney General Jeff Modisett which allows  
6 the prosecuting attorney who has jurisdiction  
7 over a criminal offense related to riverboat  
8 activities to request assistance from the  
9 Attorney General's Office. The legislation  
10 also permits the attorney general's office to  
11 use the grand jury of the county in which the  
12 prosecuting attorney has jurisdiction. The  
13 bill passed the House and is awaiting  
14 consideration by the Senate.

15 That would be a summary of  
16 legislation that has passed one house or  
17 another which would have some effect, direct  
18 or indirect, with regard to the Riverboat  
19 Gambling Act.

20 Riverboat updates. Again, the East  
21 Chicago Project is moving along, and they  
22 believe that an April opening date is still  
23 very firm. In fact, we have now definitely  
24 targeted April 15th as the date of the test  
25 cruise.

3  
1 Financial numbers for the month of  
2 January, 1997, were released yesterday, being  
3 the 20th of February. The total admissions  
4 tax was four million three hundred forty-six  
5 thousand plus change, the total wagering tax  
6 was eleven million eight hundred sixty-one  
7 thousand plus change, for a total tax of  
8 sixteen point two million in round figures.

9 The total win for electronic gaming  
10 devices and slot machines was forty point two  
11 million. The total win for table games was  
12 eighteen point nine million. The total win  
13 then for the boats for the month of January  
14 was fifty-nine point one million dollars.

15 Litigation, as previously reported to  
16 you, on November 29th, 1996, Shilley Casino  
17 Corporation d/b/a Empire Casino and Resort  
18 filed a request for a hearing regarding  
19 denial of their application for riverboat's  
20 owner's license before the Commission.

21 The parties filed their initial  
22 responses to this on January 21st, 1997, the  
23 Commission filing a request for partial  
24 summary judgment and a motion to dismiss.

25 Based upon a request by Empire for

4  
1 an extension of time, previously reported  
2 filing dates, dates which I gave to you in  
3 the January telephone conference meeting, are  
4 no longer in effect, and new dates have been  
5 put into effect. They are as follows.

6 Empire is to file its response and  
7 accompanying documents to the motion for  
8 summary judgment by February 28th, and such  
9 other responses or documents in support of  
10 any pending motion for the discovery plan are  
11 due on the 28th also. Reply briefs, if any,  
12 are due March 14th, 1997.

13 Mr. Chairman and Members of the  
14 Commission, that would conclude my report.  
15 Are there any questions?

16 CHAIRMAN KLINEMAN: Does anyone have  
17 anything for Mr. Thar? If not, we thank you  
18 again for your report.

19 The next item on our agenda is  
20 discussion of the fifth license on the Ohio  
21 River. In that respect, I would like to let  
22 the record show that there are people here  
23 from both Crawford County and Switzerland  
24 county, and we welcome you again to our  
25 meeting.

4  
1 MR. THAR: Mr. Chairman, if I may, I  
2 have been contacted by various groups  
3 concerned with the issuance of the fifth  
4 license. Standing at the Podium is Mr. Mark  
5 Palmer. I have been contacted by Mike Jones,  
6 all of whom have requested to speak to some  
7 degree or another.

8 I have neither approved nor  
9 disapproved that, as the requests did not  
10 come within the time that we have by rule for  
11 the questions to come in to ask to speak.  
12 So rather than to say to one, but not advise  
13 all, I have left it to the discretion of the  
14 Commission and the Chairman as to what  
15 extent, if any, comments from one or more of  
16 the counties or the applicants may be desired  
17 by the Commission.

18 MR. KLINEMAN: Do any of the  
19 commissioners have any feelings in this  
20 respect?

21 You hate to deny anyone the right to  
22 say anything. I guess for a couple, three  
23 minutes, we would be glad to hear from you  
24 before we get into the discussion of the  
25 fifth license. And then if someone else

4 1 wants to speak on the other side for another  
2 two, three minutes, we would do that.

3 But please keep in mind, we really do  
4 have a long agenda, and the item is up for  
5 discussion, but not for a decision today.

6 MR. PALMER: I understand. Thank you  
7 very much. My name is Mark Palmer, and I'm a  
8 partner in the law firm of Johnson Smith  
9 Pence Densborn Wright & Heath. And I'm here  
10 on behalf of Hilton Boomtown, the owners of  
11 Pinnacle Gaming.

12 I have some people in the audience  
13 who have come a long way to be here and who  
14 would appreciate the opportunity to make a  
15 few brief remarks and answer any questions  
16 regarding their efforts in Switzerland  
17 County.

18 So I'd like to have Mr. Bud Seley,  
19 who is the executive vice president of Hilton  
20 Gaming, make a few brief remarks, followed by  
21 Tim Hawes, who is the vice president of  
22 development of Hilton Gaming, address the  
23 Commission, Tim Parrott, who is chairman and  
24 CEO of Boomtown, Bob List, executive vice  
25 president and corporate counsel of Boomtown,

4  
1 and Mike Jones, president of Switzerland  
2 County Council.

3 And, again, I would ask them to make  
4 their remarks very brief. Thank you.

5 CHAIRMAN KLINEMAN: And I do promise  
6 to cut those people off if they run too long.

7 MR. BUD SELEY: Good morning, Mr.  
8 Chairman.

9 CHAIRMAN KLINEMAN: With that  
10 welcome, welcome.

11 MR. SELEY: Thank you. In the  
12 interest of expediency -- I know you have a  
13 long schedule -- we'll cut down our speakers  
14 list a little bit and perhaps confine it to  
15 just one or two folks.

16 I would like to just take a moment to  
17 bring you up to date on some of the things  
18 that have been happening with our company, as  
19 you probably are well aware, since the last  
20 time we were here in October, I guess.

21 We, of course, have been very  
22 encouraged by some of the things that have  
23 been happening here and in neighboring  
24 states. The Ohio Referendum defeat was  
25 certainly something that we watched with

4  
1 great interest.

2 The numbers that are coming in from  
3 the two properties in Rising Sun and  
4 Lawrenceburg we think are very encouraging as  
5 well. The Hilton/Bally merger, which I think  
6 we mentioned the last time we were here was  
7 in the process of taking place, has now been  
8 consummated in December. And just recently,  
9 Hilton, as you know, had made an offer to  
10 acquire the outstanding stock of ITT  
11 Entertainment Corporation.

12 As of this moment, we really don't  
13 have any estimate of the probability of  
14 success of that venture, nor obviously the  
15 timetable for its completion. Our only  
16 concern relative to the award of the license  
17 for Switzerland, of course, is the  
18 requirement that should the ITT acquisition  
19 occur, some change in the equity  
20 participation of one or more of the projects,  
21 that is, the two projects involved here, will  
22 be necessary in order to maintain our  
23 compliance with Indiana law.

24 We obviously don't view this issue of  
25 the ITT merger as an impediment to the award

1 of the Switzerland County license. And as  
2 some of our folks will tell you, notably Mike  
3 Jones, president of the Switzerland County  
4 Council, will tell you, and agree with us,  
5 that Hilton Boomtown and Switzerland County  
6 all are ready, willing and able to make this  
7 project go forward.

8 We respectfully urge the Commission  
9 to address the award of this license which  
10 will serve obviously for the economic benefit  
11 and future of Switzerland County at the  
12 earliest possible moment. Thank you.

13 CHAIRMAN KLINEMAN: Thank you.

14 MR. PARROTT: Mr. Chairman,  
15 Commissioners, Tim Parrott, Chairman of  
16 Boomtown. I'll be the second and last  
17 speaker, respecting your time. I just wanted  
18 to speak because we were here that we're  
19 anxious and hopeful you'll find in your minds  
20 the reason to make a decision on this last  
21 license.

22 Our merger is proceeding well with  
23 Hollywood Park. We received approval in  
24 Mississippi. We expect approval in Louisiana  
25 within the next few weeks, and in Nevada



1 shortly thereafter. And then we'll close, we  
2 expect, in March or April.

3 So with that, we're anxious to move  
4 ahead, and just want you to know that we're  
5 as committed as ever to be a part of Indiana.  
6 Thank you very much.

7 CHAIRMAN KLINEMAN: Thank you.

8 MR. JONES: Mr. Chairman, Members of  
9 the Commission, Executive Director Thar and  
10 Staff, speaking on behalf of the people of  
11 Switzerland County, we don't feel like  
12 strangers coming before you here today.

13 As you know, this has been a four  
14 year process for people of Switzerland  
15 County, and we have kept the faith, and, as  
16 you can see, we are strong in number today.

17 Speaking as president of the  
18 Switzerland County Council, our needs are  
19 great. Our schools have desperate needs, our  
20 infrastructure. And as president of the  
21 County Council, we have instituted a plan  
22 that will meet these needs and improve the  
23 quality of life of the people in Switzerland  
24 County, not only for the people of  
25 Switzerland County, but the people of

1 Southern Indiana.

2 Our revenue sharing plan is ready to  
3 go into effect. We decided to share with our  
4 neighbors, as you know, in Ripley, Jefferson  
5 County and Crawford County in the event that  
6 we would get a license.

7 And as president of the council, I  
8 want to thank you for this time and urge you  
9 to issue this final license in a timely  
10 manner for the people of Southern Indiana, of  
11 course, noting that there are two eligible  
12 counties to receive this license.

13 Again, I thank you for your time,  
14 appreciating the amount of work you have  
15 today. Thank you.

16 CHAIRMAN KLINEMAN: Thank you, Mike.  
17 That's Mike Jones.

18 (Applause)

19 CHAIRMAN KLINEMAN: Mr. Lorenzo or  
20 Doug Floyd, one of the two?

21 MR. FLOYD: Thank you. I am Doug  
22 Floyd. I am here this morning on behalf of  
23 Crawford County Casino Corporation, the  
24 applicant in Crawford County.

25 We would urge also the Commission to

5  
1 take up the matter of the issuance of the  
2 fifth license at its first opportunity. We  
3 also are anxious for that deliberation, and  
4 we believe that we are prepared and that we  
5 have information that we're anxious since  
6 your last deliberations to deliver to you.

7 We understand that that should be on  
8 a schedule that you are comfortable with in  
9 order that the citizens of the state are  
10 assured that the fifth license is placed in  
11 the most logical location. The people of  
12 Crawford County are ready, and they believe  
13 that they have the location that will suit  
14 the citizens of the state the best.

15 Understanding that there have been a  
16 number of other tangential issues that you  
17 have dealt with that may impact your  
18 decision, but when you take that up, we trust  
19 your judgment as to when that should be. We  
20 would only ask that you give us at least  
21 thirty to sixty days in order to prepare to  
22 reappear before you before you make your  
23 decision.

24 And I think Jeff Lorenzo on behalf of  
25 the community, both county and city, has a

1                   few comments he'd like to make. Thank you.

2                   CHAIRMAN KLINEMAN: Thank you.

3                   MR. LORENZO: Thank you,  
4                   Commissioners, Mr. Chairman, Mr. Thar. My  
5                   name is Jeff Lorenzo. I represent Crawford  
6                   County and also the town of Leavenworth.

7                   We have stood ready for several  
8                   years. We are ready today to proceed with  
9                   the licensing issue with regard to our  
10                  current status and our current applicant. We  
11                  would urge you to proceed with whatever speed  
12                  provides you with the greatest level of  
13                  comfort, recognizing that a number of the  
14                  issues that are confronting you, whether they  
15                  be in Harrison County or Switzerland County,  
16                  will require extensive time for your  
17                  deliberation.

18                  But the citizens of Crawford County  
19                  have a great need. They continue to suffer  
20                  significant unemployment. And they await  
21                  your decision. Thank you.

22                  CHAIRMAN KLINEMAN: Thank you.

23                  (Applause)

24                  CHAIRMAN KLINEMAN: Do any of the  
25                  Commissioners have any comments about this

6  
1 fifth license?

2 I would just like to say that when we  
3 decided not to award the fifth license  
4 immediately, it was based on several  
5 considerations, which were what was going to  
6 happen to -- both of them evolved around the  
7 competition that would be created by a fifth  
8 license on the Ohio River, competition for  
9 the already licensed locations.

10 And I think there was an indication  
11 that this Commission did not want to be put  
12 in a position where they were making five  
13 weak sisters out of the five licenses that we  
14 could award on the Ohio River. We want  
15 strong locations and strong operations.

16 And along those lines, we were all  
17 awaiting the results of the referendum in  
18 Ohio, which, of course, has now happened. We  
19 were also awaiting the results of the  
20 operation of the boats in Rising Sun and in  
21 Lawrenceburg. And I can say in respect to  
22 that particular item we are now starting to  
23 get those results in.

24 Because of the seasonal nature  
25 apparently of this business, in Indiana at

6 1 least -- it may not be seasonal in other  
2 locations like Las Vegas or the Bahamas -- it  
3 is somewhat seasonal apparently in Indiana,  
4 which should not be a great surprise to any  
5 of us.

6 But we, therefore, don't really have  
7 what I'll call full results from the  
8 operation of the Rising Sun, Evansville also,  
9 and Lawrenceburg boats in place and fully  
10 operational.

11 So I think it is the feeling of this  
12 Commission, and hearing no objections, we  
13 will defer setting a time for the discussion  
14 and the awarding of the fifth license until  
15 we have more statistics on what's going on  
16 down on the Ohio River.

17 Does anyone else have any comments?

18 MR. SWAN: I guess what they really  
19 want to hear is when we might have those  
20 kinds of statistics, when they'd be available  
21 and what's it going to take to get us to  
22 move.

23 My own feeling on it is that if we  
24 look at some results through the spring,  
25 we'll have good numbers from which to look,

6  
1 and into the summer. And at that point, we  
2 may have some other collateral issues  
3 resolved along the river and be in a better  
4 position to then bring it before the  
5 Commission to discuss that license. That's  
6 my feeling.

7 CHAIRMAN KLINEMAN: Anyone else?

8 MR. SUNDWICK: I agree with Bob. I  
9 think that there's got to be some date. We  
10 need to set a date, some time frame -- I  
11 don't know if it's sixty days or ninety days  
12 or whatever the case may be -- that we can  
13 revisit this with some assurity that we'll  
14 have some answers or proposed answers or just  
15 kind of -- it's an on and on issue.

16 A lot of people are waiting for some  
17 sort of an answer, and I think we owe them  
18 some sort of a date at least. The gentleman  
19 just required at least sixty days for him to  
20 get their information back together to make  
21 other presentations.

22 So maybe what we ought to do is sit  
23 down and look at a date for another  
24 presentation period.

25 (Applause)

6 1 CHAIRMAN KLINEMAN: Well, I guess I  
2 agree with both of you, both that we should  
3 set a date and that maybe we won't have  
4 everything we need until on through the  
5 spring into the early summer at least.

6 That probably isn't going to make  
7 people very happy, but I would guess that  
8 that's probably the position we're going to  
9 be in as far as results on the river.

10 I guess to conclude this matter, I  
11 would just say that both Crawford and  
12 Switzerland County will be given at least  
13 thirty and maybe sixty days notice when we do  
14 arrive at a date on which we will make a  
15 final -- have a final discussion and try to  
16 make a final determination on the fifth  
17 license.

18 But I guess just in general it  
19 probably will not be until after, say,  
20 Memorial Day or so. So I think that's  
21 probably where we are.

22 If that schedule is going to change  
23 due to the fact that we start getting better  
24 results or results that we're more  
25 comfortable with -- the results are good, but



1 results that we're more comfortable with on a  
2 competitive basis, we could move that date  
3 forward or, in some instances, maybe move it  
4 back if we aren't satisfied.

5 MR. THAR: If I may make a comment on  
6 the results. I don't know if I can get some  
7 guidance from the Commission as to what  
8 period of months do you want to see the  
9 results for that would give you a certain  
10 level of comfort?

11 If we were to set it in May, what  
12 that's going to give us is February, March  
13 and April's results. That's three more  
14 months. The weather will improve, so the  
15 figures, one would expect, would go up,  
16 particularly in the southeast part of the  
17 state.

18 We still won't have any data for  
19 what's been sometimes termed the Louisville  
20 Market by that date regardless of anything  
21 that happens with regard to mergers or other  
22 agenda items.

23 So if we could get some feel, then we  
24 could work to try to get the proper location  
25 to have that kind of a hearing. What would

1 the Commission like in terms of --

2 MS. BOCHNOWSKI: One thing that I'm  
3 concerned about is that everything is so new  
4 right now that I don't think the numbers  
5 we're getting are realistic. We need time  
6 for those operations to settle in, so to  
7 speak, so that, you know, the people that are  
8 going to go one time have finished going one  
9 time and we get a realistic feel for how  
10 they're going to be doing.

11 MR. THAR: What you would need to do  
12 if you were going to do that is to wait a  
13 year --

14 MS. BOCHNOWSKI: Right.

15 MR. THAR: -- so that you could  
16 compare month-to-month prior times, plus give  
17 Argosy Casino in Lawrenceburg the opportunity  
18 to open up its permanent pavilion, Hyatt in  
19 Rising Sun the opportunity to open up its  
20 permanent pavilion, and to see what, if  
21 anything, happens.

22 So a lot of it's going to depend  
23 upon what kind of figures and statistics the  
24 Commission is looking for to help them make  
25 that decision.

1 MS. BOCHNOWSKI: I don't know how the  
2 other Commissioners feel. I actually would  
3 like more solid information. But maybe  
4 that's not the feeling of the other  
5 Commissioners. I think in fairness to the  
6 communities, maybe we need to move faster.

7 MR. VOWELS: I agree with that.  
8 I mean, I don't see any reason to rush into a  
9 decision just for the sake of giving out the  
10 fifth license. I mean, I can understand all  
11 of the momentum to get that issued from the  
12 people down there, and I don't blame them.  
13 And I think they have a realistic view of  
14 what's really going to happen with five boats  
15 on the river. I'm afraid to give them kind  
16 of a premature analysis based on some not  
17 very realistic numbers.

18 MR. SUNDWICK: I have a comment,  
19 because I think what we try and do, we keep  
20 talking about realistic numbers. Is there a  
21 number that we have in mind that -- do we  
22 know the answer?

23 If we don't know the answer, I mean,  
24 we can -- this can go on and on and on,  
25 because there's no answer. I mean, we

7  
1 could -- in ninety days, we said -- we told  
2 these people, well, we'll look at it the  
3 first of the year. That will give us a  
4 hundred and twenty days. That was a  
5 suggestion I think you made; right?

6 Well, we're at that point. Now, we  
7 still don't have realistic numbers. What are  
8 realistic numbers? I'm trying to sort out  
9 what realistic numbers are. Will the people  
10 in Lawrenceburg and Rising Sun say, gee, this  
11 is a great idea, you ought to put a fifth  
12 license close to us? I mean, I don't  
13 understand the realistic numbers part of it.

14 (Applause)

15 CHAIRMAN KLINEMAN: Well, in respect  
16 to the hundred and twenty days, in respect to  
17 waiting till after the first of the year, if  
18 you'll remember, not due to any of their  
19 actions, the boat in Lawrenceburg did not  
20 even get up and operating even on a  
21 temporary, scaled-down version until what,  
22 the 10th or so of December. It was pretty  
23 far down the road, farther than we thought  
24 when we first said that.

25 And as far as the numbers, Mr.

1 Sundwick, Commissioner Sundwick, you're my  
2 marketing man. Tell me what we need to have  
3 a good feel that the size of the market is  
4 any place close to the size of the market  
5 that the proponents would tell us. Or is the  
6 size of the market close to that which the  
7 people who already have licenses and want us  
8 to pick up the draw bridge and close it have  
9 given us? I mean, what do we need?

10 MR. SUNDWICK: As a marketing man, I  
11 think that I made my statement earlier on. I  
12 think that we can get this done pretty  
13 quickly. I would say at least -- you know, I  
14 get the sense we're talking about another  
15 year maybe?

16 I don't think that's appropriate. I  
17 think we ought to know these answers by  
18 certainly mid year, early spring. We got to  
19 give some indication of what's going to  
20 happen.

21 These are businessmen. I think that  
22 they're willing to risk, I think, the  
23 variances. But a year from now doesn't --  
24 just seems like -- I don't know if we'll know  
25 any more.

1 MR. THAR: I would agree with you if  
2 all we were talking talk about is businessmen  
3 taking a risk. And what happens if we close  
4 down a boat and they lost a hundred million  
5 dollars? What do we care?

6 But when we're taking a look at  
7 Switzerland County and Crawford County and  
8 communities that are looking for this as a  
9 major shot as being an employer, job  
10 provider, economic development boost, that if  
11 any boat in those types of counties were to  
12 go under, we would have what I think an  
13 economic development and financial job loss  
14 disaster larger than Iowa felt, Bettendorf,  
15 when some of those closed, larger than Kansas  
16 City, Mayfield. The markets have been  
17 overprojected there.

18 And to me, I mean, the Commission's  
19 view here is not to protect the businessmen.  
20 It's the economic development aspect for the  
21 counties that are vying for these licenses.

22 And so the question then comes back  
23 to at what point in time and what type of  
24 information does this Commission look to to  
25 feel comfortable that they can make without

1 guarantees the best decision they think they  
2 can with that being the issue.

3 MS. BOCHNOWSKI: Well, we have  
4 another issue, too. And that is that we  
5 granted a license to Caesars, and that's  
6 taking -- apparently going to take some time  
7 getting off the ground. So we've got that  
8 unknown variable in there, too, that we  
9 haven't even begun to look at.

10 MR. VOWELS: And there's the Hilton  
11 Switzerland County Caesars aspect, too.

12 MS. BOCHNOWSKI: There is that.

13 MR. VOWELS: If that goes through,  
14 that makes things a lot different.

15 MS. BOCHNOWSKI: Right. When they  
16 say they're going to reduce their equity  
17 position in one, does that mean they're going  
18 to shut one down? I don't know what that  
19 means.

20 MR. VOWELS: The hundred and ten  
21 percent rule.

22 MS. BOCHNOWSKI: Yeah.

23 MR. VOWELS: I just don't see any  
24 reason to rush to judgment. That's where I'm  
25 coming from. I'd rather be cautious and

1 conservative about it and have four strong  
2 boats in the water than kill a couple off for  
3 effect.

4 I don't view it as a businessman's  
5 decision. I view it as the job impact and  
6 the tax impact on the state and citizens. I  
7 think these guys are going to take their  
8 risks. They're going to do what they're  
9 going to do. If they want to leave, we can  
10 open it back up. There's going to somebody  
11 else going to come in.

12 And if we decide there should be a  
13 boat in Switzerland County or Crawford  
14 County, somebody is going to come along and  
15 propose something that will be acceptable.

16 DR. ROSS: I don't think that we can  
17 ever go to complete closure on this. You  
18 know, we started out, we didn't know  
19 anything. And this thing has gone on. And I  
20 think to wait for a whole year is just not  
21 reasonable, considering what everybody has  
22 been doing to get this going.

23 And I think after a year, we'll still  
24 have some doubts. But I think early spring  
25 is much more reasonable than a year.



1 MR. SWAN: Let me comment to that,  
2 too. I agree with Dr. Ross in that I don't  
3 think we're going to have any better  
4 information after the end of this year than  
5 we have or will have early summer this year.

6 So the information that I was after  
7 was to see what the Cincinnati market was  
8 going to be doing to the two boats that we  
9 have there and whether or not we'd be able to  
10 sustain three boats there or two or whether  
11 the two would do well.

12 We'd certainly hate to be in the  
13 position of having three weak sisters in that  
14 area and all three of them do poorly when we  
15 could have two strong ones. And I think  
16 that's what you were saying before, Jack.

17 As far as the Crawford County boat is  
18 concerned, we certainly cannot wait in my  
19 opinion until we have Caesars up and going,  
20 because we won't have data for an eternity,  
21 I'm afraid, to measure that.

22 So my feeling is we're going to have  
23 as much information to make our decision by  
24 this summer as we would next year at this  
25 time.

1 MR. THAR: May I offer a suggestion  
2 to the Commission, since we have  
3 representatives from both Casino Magic as  
4 well as Hilton Boomtown? It would be this.  
5 Part of the concern over the figures is that  
6 the markets were obviously advocated by the  
7 people who wanted the market to look in a  
8 given way.

9 I would suggest that we ask the  
10 applicants to split the cost of a private  
11 study commissioned by this Commission that  
12 someone on the Commission selects to take a  
13 look at both markets, but at the cost of the  
14 two applicants, if they're willing to.

15 When that study is completed, set it  
16 for a discussion, and a time line set at that  
17 time -- that study may very well be completed  
18 within ninety days -- and visit it as an  
19 agenda item and provide the study to the  
20 applicants and to the counties as well as to  
21 this Commission and then move from there.  
22 There will be more figures to work with with  
23 regard to that, if the applicants would be  
24 willing to fund that.

25 CHAIRMAN KLINEMAN: I don't know if

1 the applicants are going to be in a position  
2 to answer that question today or not, Jack.  
3 Just to bring this particular item -- well,  
4 just to bring this particular item to --  
5 agenda item to close at this time, what --  
6 would it be your feeling that we will again  
7 discuss setting a date in May, June, July?  
8 Pick a month when we will be in a position to  
9 discuss setting a date.

10 By that time, we will have some  
11 figures either provided by this survey that  
12 Jack suggests, which I think is probably a  
13 fine idea, but I don't want to put people on  
14 the spot at an open meeting. But we could  
15 have that, or, failing that, we'll at least  
16 have our actuals which will be up to date by  
17 that time.

18 MS. BOCHNOWSKI: Well, I would think  
19 that if we would have -- we could almost --  
20 if the feeling of the Commission is that we  
21 want to look at this this summer, if we could  
22 set a date by which we'd have the study, that  
23 study would then be part of our materials.

24 I assume we could have an updated  
25 investigation. I mean, there's new people

1 involved in these, so that's going to involve  
2 some investigation; correct? I mean, there's  
3 some new people in the Boomtown Hilton deal.

4 I mean, I think a lot of this is just  
5 going to be determined by how long the  
6 investigations and the study would take. And  
7 the study would then be part of our  
8 materials.

9 MR. THAR: Boomtown remains primarily  
10 the same. Hilton has had some changes in its  
11 upper management. The major issue with  
12 regard to Hilton will be what happens with  
13 regard to the merger.

14 MS. BOCHNOWSKI: Right.

15 MR. THAR: And that we don't know.  
16 Casino Magic remains the same players.

17 MS. BOCHNOWSKI: Okay.

18 MR. THAR: We don't have, I believe,  
19 an issue about suitability with either  
20 company right now. So it comes down, I  
21 think, to the economic development type  
22 issues as well as financing, the ability to  
23 get financing. It depends where the  
24 companies are at that given time.

25 MS. BOCHNOWSKI: Right.

9 1 MR. SUNDWICK: Well, maybe a proposal  
2 that Staff would recommend a time and get an  
3 opportunity to talk with the participants  
4 using Jack's suggestion. And we'll have some  
5 numbers. We'll have six months worth of  
6 numbers at least for the area around  
7 Cincinnati. And just set a time. You tell  
8 us when it would be an appropriate time to do  
9 it. But let's see if we can get it done the  
10 first -- let's throw it right on you, Jack.

11 MR. THAR: Bob, you have reversed my  
12 question. I would recommend that we explore  
13 again the current situation with regard to  
14 the applicants with the state police, discuss  
15 with them whether or not they're willing to  
16 fund an independent study commissioned by the  
17 Commission so that there will not be an  
18 allegation of bias with regard to the  
19 numbers, and that we set it for a discussion  
20 item in June with the then decision to --  
21 probably in June, assuming we have gotten  
22 this accomplished, have hearings in July or  
23 August, depending upon what the applicants  
24 request, not full-blown hearings, but update  
25 hearings that refresh everyone, so that

1 essentially the decision could then be made  
2 approximately one year from when we would  
3 have made it.

4 MS. BOCHNOWSKI: I have a question  
5 for you. On the Caesars-Hilton merger, is  
6 there any time line? I don't remember seeing  
7 exactly when this will be resolved.

8 CHAIRMAN KLINEMAN: I don't know if  
9 anybody's really making a guess. We could  
10 ask the Hilton people. But it would be my  
11 uneducated guess that this will resolve  
12 itself between now and late spring, early  
13 summer. I would think that one way or  
14 another, something would happen with ITT.

15 MS. BOCHNOWSKI: Because then we'd  
16 have a better feeling of how they're going to  
17 handle --

18 CHAIRMAN KLINEMAN: I see some people  
19 disagree with my uneducated guess.

20 MR. SELEY: Mr. Chairman, it's a  
21 pretty reasonable guess. Our guess is  
22 anywhere from four months to six months.

23 CHAIRMAN KLINEMAN: You need to  
24 identify yourself.

25 MR. SELEY: I'm sorry. I'm Bud Seley

1 with Hilton Hotels.

2 CHAIRMAN KLINEMAN: So anyway, that  
3 makes the suggestion even more viable in my  
4 judgment that we take this matter up in June.  
5 Is there an objection to saying at this time  
6 time we will discuss the setting of a final  
7 date for the fifth license in June?

8 Hearing none, we bring this agenda  
9 item to close based upon that. And if Mr.  
10 Thar would go forward and check with the  
11 applicants and see if they're willing to fund  
12 that type of statistical survey you're  
13 talking about between now and then, we will  
14 take the matter up in June.

15 We now move into the new business  
16 section and the first item of Rules. Our  
17 chief counsel, Miss Fleming.

18 MS. FLEMING: Thank you, Mr.  
19 Chairman. The first resolution is 1997-6,  
20 which is a resolution adopting various rules,  
21 some of which are proposed new rules and  
22 others which are amendments to rules that  
23 have been fully promulgated.

24 The new rules that will be adopted  
25 are Article 1, Rule 14, which covers

1 reimbursement for state police personnel who  
2 are assigned to the gaming enforcement  
3 section; Article 10, conduct of gaming, Rule  
4 8, Pai Gow Poker, and Rule 9, Baccarat;  
5 Article 11, internal control procedures, Rule  
6 9, opening and closing of live gaming  
7 devices.

8 The Commission also will be adopting  
9 amendments to the following fully promulgated  
10 rules: 68 IAC 1-9-3, commission dockside  
11 office; 68 IAC 1-9-4, processing area; 68 IAC  
12 2-2-1, supplier's license; 68 IAC 2-3-1,  
13 occupational license; 68 IAC 2-3-1.1,  
14 surveillance department requirements; 68 IAC  
15 2-3-4, application for occupational licenses;  
16 68 IAC 2-3-9, duty to maintain suitability  
17 and duty to disclose; 68 IAC 2-6-1, general  
18 provisions of electronic gaming devices; 68  
19 IAC 2-6-5, security and audit specifications  
20 of electronic gaming devices; 68 IAC 2-6-6,  
21 electronic gaming device inventory  
22 requirements and conversion notification; 68  
23 IAC 8-1-2, the general provisions of the  
24 excursion rule; 68 IAC 9-1-15.1, post-tenure  
25 restrictions for Commission Members; 68 IAC



1 9-4-2, restrictions on gaming by members,  
2 employees and agents of the Commission; 68  
3 IAC 9-4-6.1, restriction on gaming by persons  
4 who hold an ownership interest in the  
5 riverboat; 68 IAC 10-1-6.1, approval of live  
6 gaming device tournaments; 68 IAC 11-7-4.1,  
7 maintenance of keys by the master of the  
8 riverboat; 68 IAC 12-1-4, required  
9 surveillance; 68 IAC 12-1-5, surveillance  
10 system coverage; 68 IAC 12-1-6, surveillance  
11 system requirements; 68 IAC 14-3-4, removal  
12 of dice and cards; 68 IAC 15-1-1, the  
13 applicability and general provisions of  
14 accounting records and procedures; 68 IAC  
15 15-2-2, cash transactions; 68 IAC 15-6-2,  
16 admissions; 68 IAC 15-8-1, applicability and  
17 general provisions of internal audit  
18 procedures; 68 IAC 15-11-3.1, hopper fill  
19 procedures from reserve hopper compartment;  
20 and, finally, 68 IAC 17-1-1, the general  
21 provision of moving gaming equipment.

22 These rules will be forwarded to the  
23 Legislative Services for publication in the  
24 Indiana Register as soon as the requirements  
25 of IC 4-22 are met.

1 CHAIRMAN KLINEMAN: Thank you, Miss  
2 Fleming.

3 Does anyone want those reread? Okay.  
4 We have before us Resolution 1997-6. Do I  
5 hear a motion to adopt that resolution?

6 MR. MILCAREK: I motion to adopt.

7 CHAIRMAN KLINEMAN: And is there a  
8 second?

9 MR. SUNDWICK: Second.

10 CHAIRMAN KLINEMAN: And any  
11 discussion?

12 Hearing none, all those in favor say  
13 aye.

14 (Unanimous approval)

15 CHAIRMAN KLINEMAN: Contrary?

16 The resolution is adopted.

17 We now have before us Resolution  
18 1997-7. And I again call on Miss Fleming.

19 MS. FLEMING: Yes. Thank you, Mr.  
20 Chairman. This is a resolution adopting two  
21 rules as final rules. These rules were  
22 previously adopted as final rules by the  
23 Commission in December. However, based upon  
24 some comments provided to the Commission by  
25 the Attorney General's Office, some

10 1 modifications have been made to these rules.

11 2 They are Article 2, 68 IAC 2-2-6.1,  
3 which is a requirement that certain employees  
4 of a supplier licensee obtain an occupational  
5 license; and 68 IAC 10-6, which are revisions  
6 for Carribean Stud Poker.

7 Upon adoption of these rules, the  
8 final rules will then be forwarded again to  
9 the Attorney General's Office for review.

10 CHAIRMAN KLINEMAN: Okay. Do I hear  
11 a motion to adopt Resolution 1997-7?

12 MR. SWAN: So moved.

13 CHAIRMAN KLINEMAN: And is there a  
14 second?

15 MS. BOCHNOWSKI: I'll second it.

16 CHAIRMAN KLINEMAN: Any discussion?  
17 It's been moved and seconded and no  
18 discussion. All those in favor of the  
19 resolution say aye.

20 (Unanimous approval)

21 CHAIRMAN KLINEMAN: Contrary?

22 The resolution is adopted.

23 The next item on our agenda has been  
24 continued at the request of the attorneys.  
25 Oh, I'm trying to leap ahead on this. Okay.

1 The next disciplinary action, I again call on  
2 Miss Fleming.

3 MS. FLEMING: Thank you, Mr.  
4 Chairman. We have three disciplinary matters  
5 before us. They all arise out of the  
6 situation with the destruction of the  
7 surveillance tape at the Empress Casino.

8 The first one involves James Bo  
9 Logan, who is an occupational licensee. He  
10 was a surveillance supervisor, and he was the  
11 one who actually destroyed the videotape at  
12 the direction of the director of  
13 surveillance.

14 The Commission initiated the  
15 disciplinary action against Mr. Logan. And  
16 pursuant to discussions with Mr. Logan, the  
17 Commission Staff recommends that Mr. Logan's  
18 license be suspended for a period of three  
19 months.

20 At the end of the three-month period,  
21 we will look at his license and make a  
22 determination at that time if it should be  
23 reinstated.

24 The suspension will begin five days  
25 after Commission approval of this settlement

11 1 agreement if the Commission does agree to  
2 approve this.

3 We have discussed the matter with the  
4 manager, general manager of the Empress. And  
5 they do wish to retain him in the  
6 surveillance department. And if his work  
7 performance is satisfactory as of the date of  
8 the suspension, then they would probably  
9 agree to rehire him at the end of the  
10 suspension period.

11 CHAIRMAN KLINEMAN: Okay . Does  
12 anyone have any questions of Miss Fleming  
13 concerning this matter?

14 MS. BOCHNOWSKI: So the reason that  
15 you were recommending that is that he was  
16 ordered to do that?

17 MS. FLEMING: In our discussions with  
18 the managers at the Empress, they did feel  
19 that he thought his job was in jeopardy if he  
20 did not follow the direction of his  
21 supervisor.

22 MR. MILCAREK: He will still be in  
23 the employ in a different area?

24 MS. FLEMING: He could be employed by  
25 the Empress during the suspension in a

1 nonlicensed capacity, which would mean he  
2 could not work in the surveillance  
3 department, nor could he work anywhere on the  
4 riverboat.

5 CHAIRMAN KLINEMAN: Any further  
6 questions? We have before us the order of  
7 the Indiana Gaming Commission approving the  
8 settlement of this Complaint No. 96-OL-EM-1.  
9 And that order has a blank, either approves  
10 or rejects the proposed settlement.

11 Do I hear a motion to adopt the order  
12 and insert either approve or reject it?

13 DR. ROSS: Move to adopt.

14 MR. MILCAREK: Second.

15 CHAIRMAN KLINEMAN: To approve?

16 MR. MILCAREK: To approve.

17 CHAIRMAN KLINEMAN: It's been moved  
18 and seconded to adopt the order as approved.  
19 All those in favor say aye.

20 (Unanimous approval)

21 CHAIRMAN KLINEMAN: Contrary?

22 The order is approved.

23 Next is Miss Fleming on the rest of  
24 the tale.

25 MS. FLEMING: Yes. We will next

11 1 consider Timothy Griest. Mr. Griest was the  
2 director of surveillance at the time that the  
3 videotape was destroyed. He is the employee  
4 who ordered the destruction of the videotape.

5 When we originally sent the complaint  
6 to Mr. Griest, he contacted our office. And  
7 we told him at that time that the Commission  
8 Staff would recommend nothing less than a  
9 one-year suspension of his occupational  
10 license.

11 Mr. Griest indicated that he felt  
12 that was a little harsh. He was advised if  
13 he would like to make -- put his feelings in  
14 writing that he should do that and submit it  
15 to the Commission. The Commission thereafter  
16 has not heard from Mr. Griest, so the  
17 Commission moved for default judgment.

18 And this was presented to our  
19 administrative law judge, Bernard Pylitt.  
20 The administrative law judge has recommended  
21 the entry of the default judgment, and he has  
22 presented his recommendations, or his  
23 findings of fact, conclusions of law and  
24 recommendation.

25 The motion for default judgment was

11 1 served on Mr. Griest at his last known  
2 address. Pursuant to the statute, he is to  
3 be given a seven-day period in which to  
4 respond. That seven days expired prior to  
5 the administrative law judge signing the  
6 findings of fact recommendations.

7 The administrative law judge has  
8 recommended based on the Commission's request  
9 in the motion for default judgment that Mr.  
10 Griest's license be revoked and his  
11 application for permanent license be denied.

12 MR. VOWELS: Was he fired by the  
13 Empress?

14 MS. FLEMING: Yes, the Empress did  
15 fire Mr. Griest.

16 MR. VOWELS: And it is my  
17 understanding that he didn't want to take a  
18 suspension because he wanted to go work for  
19 another boat here in Indiana?

20 MS. FLEMING: That is what he  
21 verbally indicated to me, yes.

22 MR. VOWELS: He's the person that  
23 directed the other person to destroy the  
24 portion of the videotape?

25 MS. FLEMING: He was the director of



1 the surveillance department.

2 MR. VOWELS: Was he the person that  
3 misled the state police as to the existence  
4 of that tape?

5 MS. FLEMING: At times, I spoke with  
6 Mr. Griest, and at times, I spoke with Mr.  
7 Logan. Both indicated that the tape was  
8 inconclusive.

9 MR. VOWELS: And you've heard nothing  
10 from him, I mean, his last known address  
11 where you sent everything?

12 MS. FLEMING: Yes. We sent  
13 everything to his last known address, and we  
14 did not hear from him after the one telephone  
15 conversation I had with him. He did not  
16 respond after we sent out the motion for  
17 default judgment.

18 MR. VOWELS: Is there any way if we  
19 grant this -- and I'm not assuming that we  
20 would grant it, but just assuming that we  
21 would grant it -- that with some of the other  
22 boats opening, and that were done in the past  
23 where they go ahead and give employment to  
24 people and then go through the procedure  
25 because of the backlog, some time delay, that

1 his name would be flagged?

2 MS. FLEMING: Yes. We are -- if the  
3 computer system is not set up in time, then  
4 we will have a list of those whose licenses  
5 have been revoked, since it's fairly short,  
6 to provide with the state police, and they  
7 can check that when they are processing.

8 MR. VOEWELS: Okay. Of course, there  
9 are applicants here who haven't yet received  
10 a license. What was his name, Timothy  
11 Griest?

12 I don't have anything further.

13 MR. MILCAREK: This would prevent him  
14 from ever working on a boat in Indiana again,  
15 I assume?

16 MS. FLEMING: Yes, it would.

17 MR. MILCAREK: So his dream of going  
18 to another place of employment --

19 MS. FLEMING: Pardon?

20 MR. MILCAREK: His dream of going to  
21 another boat, was that in Indiana or out of  
22 state?

23 MS. FLEMING: He indicated both in  
24 Indiana, and then he indicated if we revoked  
25 him, he was going to try in Illinois. It

1 would be Illinois' decision if they wanted to  
2 honor the suspension or the revocation, and  
3 it would be their decision if that would play  
4 on their licensing decision.

5 If the situation were reverse, we  
6 would look very strongly at that.

7 MS. BOCHNOWSKI: How does that work  
8 though, Kay? If somebody came here and they  
9 just fail to put that on their resume, you  
10 really would have no way of knowing. Or do  
11 we share all that with other states?

12 MS. FLEMING: Yes. In the temporary  
13 licensing capacity, sometimes they would give  
14 a temporary occupational license, but during  
15 the background check, we discovered a lot of  
16 things, then we take action on that.

17 So it might be that they would get a  
18 temporary license for a period of time. But  
19 then it's very likely that we would find it  
20 out. Of course we would find it out. But as  
21 soon as we did, then we would take action.

22 MR. VOWELS: Like those people who  
23 forgot they committed crimes?

24 MS. FLEMING: Yes, like those people.

25 CHAIRMAN KLINEMAN: We have before

12 1 us, if there's nothing further, the order for  
2 Timothy Griest, which has two blanks. One is  
3 accept on the first page, which is to accept  
4 the -- or reject the report just made by Miss  
5 Fleming.

6 And then on the second page is a  
7 blank to deny or approve his application for  
8 occupational license.

9 MR. SWAN: Should that say revoke?

10 CHAIRMAN KLINEMAN: Beg your pardon?

11 MR. SWAN: Shouldn't that say revoke?

12 Did he ever get one?

13 CHAIRMAN KLINEMAN: The permanent  
14 license is being denied. The temporary is  
15 expiring. Once there's action on a  
16 permanent, I'm sure the temporary expires.

17 MS. FLEMING: Correct. He is no  
18 longer working. So obviously we did not need  
19 to revoke it at that time. It is a  
20 revocation of the temporary and a denial of  
21 the permanent.

22 MR. VOWELS: I would move to accept  
23 Judge Pylitt's recommendation and deny Mr.  
24 Griest's application.

25 CHAIRMAN KLINEMAN: Is there a

1 second?

2 MS. BOCHNOWSKI: I'll second it.

3 CHAIRMAN KLINEMAN: All those in  
4 favor of approval of this order say aye.

5 (Unanimous approval)

6 CHAIRMAN KLINEMAN: Contrary?

7 The order is approved,

8 Next is Michael Nagy.

9 MS. FLEMING: Yes. And just for the  
10 record, the complaint number on Mr. Griest's  
11 application was 96-OL-EM-2. And for the  
12 record, Mr. Nagy is 96-OL-EM-4.

13 Michael Nagy was a surveillance  
14 trainee and was present in the room when the  
15 videotape was destroyed. He then removed the  
16 videotape from the wastebasket and kept it.  
17 And it eventually came to light, and he did  
18 produce the videotape.

19 Mr. Nagy was not involved in the  
20 destruction of the tape other than to witness  
21 it and failed to report it to the Commission.  
22 Mr. Nagy received a copy of the complaint at  
23 his last known address. He never responded.  
24 The Commission moved for default judgment.  
25 That also was served to Mr. Nagy at his last

1 known address.

2 There was no response to that. Seven  
3 days expired. And the administrative law  
4 judge, Bernard Pylitt, then recommended that  
5 his temporary license be removed and that his  
6 permanent license be denied.

7 It is my understanding that Mr. Nagy  
8 has ceased his employment with the Empress,  
9 so he is no longer working there.

10 CHAIRMAN KLINEMAN: Okay. Any  
11 questions? Do I have a motion to adopt the  
12 order on Michael Nagy inserting the word  
13 accepts and denies in the two blanks  
14 provided?

15 MR. VOWELS: I'll make the motion.

16 CHAIRMAN KLINEMAN: Okay. Is there a  
17 second?

18 DR. ROSS: Second.

19 CHAIRMAN KLINEMAN: Any discussion?

20 MR. MILCAREK: This is to accept?

21 CHAIRMAN KLINEMAN: Beg your pardon?

22 MR. MILCAREK: The motion was to  
23 accept?

24 CHAIRMAN KLINEMAN: Accept and deny,  
25 accept the recommendations and deny the

1 application.

2 No questions? All those in favor say  
3 aye.

4 (Unaminious approval)

5 CHAIRMAN KLINEMAN: Contrary? The  
6 order is adopted.

7 The next item is the item I thought  
8 we were up to which is Proposed Revocation of  
9 Occupational License Action, and that matter  
10 has been continued at the request of the  
11 attorneys for the individual involved, and  
12 that will be reset on our docket later unless  
13 it is resolved by a settlement. I presume  
14 either it will resolve itself or I have to  
15 come back to it.

16 Okay. That brings us to the Blue  
17 Chip Casino. There are three items. Request  
18 for renewal of certificate of suitability is  
19 the first item. We have before us a written  
20 request. I'll let those gentleman who are  
21 going to make presentations for the record  
22 tell us.

23 MR. MCQUAID: Mr. Chairman, Members  
24 of the Commission, Mr. Thar, Mr. Hannon, Miss  
25 Fleming, my name is Joe McQuaid. I'm with

13 1 Blue Chip Casino, Incorporated. Very  
2 respectful of your time, we'll be very quick.

3 We have three agenda items for your  
4 approval today, the request for our hundred  
5 and eighty day renewal of our certificate of  
6 suitability, request for approval of debt  
7 financing and the request for approval of  
8 additional stockholders.

9 At this time, I would like to  
10 introduce Kevin Larson, president of Blue  
11 Chip Casino, Inc. And he will fill us in on  
12 the request for the renewal of the  
13 certificate of suitability and our progress  
14 to date.

15 Kevin?

16 MR. LARSON: Thank you, Joe. Good  
17 morning. Relative to our request for the  
18 extension of our certificate of suitability,  
19 we do hereby request a hundred and eighty day  
20 extension of that certificate.

21 We feel very confident that our  
22 request merits your consideration given the  
23 tremendous amount of progress that we've  
24 achieved on the construction front in  
25 particular since the last time we appeared



1 before you.

2 In the books that were distributed  
3 before we started are some summaries as well  
4 as some photographs and diagrams of some of  
5 the things that we have achieved over the  
6 last really about a hundred and twenty days  
7 now.

8 Relative to progress on the land side  
9 of things, we wish we had more to show you,  
10 but, unfortunately, an awful lot of our  
11 effort and resources to this point in time  
12 have been devoted to underground work.

13 As you may be aware, we have a  
14 significant amount of peat moss in the site  
15 that has presented quite an engineering and  
16 support challenge for us, but one that we  
17 have very aggressively addressed over the  
18 last couple of months, and I'm happy to  
19 report have made a tremendous amount of  
20 progress in that regard.

21 Some of the site utility work has  
22 begun, including storm and sanitary sewers as  
23 well as having NIPSCO on site to begin to  
24 deal with some of the electrical work.

25 Almost all of the sheet pile has been

1 driven first to construct the graving dock,  
2 which is essentially our ship yard on site,  
3 as well as to provide support for the sea  
4 wall, if you will, for the expanded Trail  
5 Creek Channel.

6 Just about all of the pile has been  
7 driven -- this would be H pile rather than  
8 sheet pile -- to provide support for our  
9 pavilion structure.

10 The graving dock is probably our most  
11 significant accomplishment to date. It  
12 essentially is the place where the vessel  
13 will be constructed, and its construction was  
14 completed on February 12th.

15 The final action there was quite  
16 impressive. There were three hundred loads  
17 of concrete poured inside of fourteen hours  
18 to provide the support for the construction  
19 of the vessel.

20 The new city marina, which we are  
21 required to mitigate on the other side of  
22 Trail Creek, is also well under construction.  
23 Asphalt paving has been completed. There's a  
24 foundation being laid for a dry stack storage  
25 building.

1                   And within the next three to four  
2 weeks, we expect that boats will begin to  
3 move not only into the water, as some of the  
4 boaters have requested that their boats be  
5 placed in the water, but moved from the  
6 original Sprague Marina site over to the new  
7 facility on the other side.

8                   Relative to the vessel construction,  
9 there are in total thirty-eight modules that  
10 the vessel will be comprised of when it's  
11 completed. Seventeen of those thirty-eight  
12 modules have actually been fabricated to this  
13 point. Six of them are fully assembled. And  
14 as we stand here today, three of them are  
15 actually in the graving dock being welded  
16 together.

17                   I'm not sure. I suppose if you have  
18 a little bit more of an imagination than I  
19 do, it begins to look like a boat pretty  
20 quickly. But the hull is basically pretty  
21 flat.

22                   But there are at any given day about  
23 two hundred to two hundred and twenty-five  
24 workers on-site, either working on vessel  
25 construction issues or land site.

1 We anticipate that the hull and  
2 superstructure will be fully assembled by the  
3 middle of June. That puts us well positioned  
4 for a late summer opening for the casino.

5 Also important in our project, as it  
6 has been in a number of the others in your  
7 state, is the progress we made on the permit  
8 application front. We continue to make  
9 very good progress, we feel, with both the  
10 Army Corps and IDNR, as well as several of  
11 the other state agencies that we had to work  
12 with.

13 Public comment periods have been  
14 completed both relative to the Army Corps and  
15 IDNR. And significantly there was a  
16 interagency meeting that was referred to on  
17 January 21st. At that point in time,  
18 everyone who had responded to the Army Corps  
19 public comment period with outstanding issues  
20 was invited to attend that represented either  
21 an agency at the state level or federal  
22 level.

23 In attendance included not only the  
24 Army Corps and IDNR, but also  
25 representatives of the Fish and Wildlife

14 1 Division of IDNR, IDEM, as well as the  
2 Federal Fish and Wildlife Agency.

3 During that discussion, there were a  
4 number of issues that were raised that really  
5 fell into two categories, both of which  
6 revolved around the fear that expanding Trail  
7 Creek would reduce the flow of water within  
8 that body of water.

9 It was important from the agencies'  
10 perspective for two reasons. One was  
11 relative to sedimentation issues; the other  
12 was relative to continuing to provide an  
13 acceptable fish habitat, particularly for  
14 spawning activities.

15 Current is very important, as we  
16 understand it, for those spawning activities.  
17 And there was a fear that if the flow was  
18 disrupted significantly that there would be  
19 potential impacts on this activity.

20 It was agreed by virtually every  
21 agency there -- in fact, I think that the  
22 agreement addresses everyone's outstanding  
23 issues -- that there should be a natural  
24 control flow channel that represents the  
25 expansion of Trail Creek.

14 1 We have included in the booklet you  
2 have there a diagram and a rendering that  
3 shows how this would look. We've had several  
4 conversations with Mr. Thar and his staff  
5 relative to this, and respectfully notify you  
6 that we will be amending our application with  
7 both the Army Corps and IDNR to reflect what  
8 appears to be a solution to all of the  
9 outstanding issues relative to our permit  
10 application.

11 At this point in time, we have  
12 expended approximately twenty-eight million  
13 dollars relative to our project. That  
14 includes the purchase of the real estate that  
15 was assembled to become our site as well as  
16 all the construction activity that I  
17 mentioned.

18 As I mentioned earlier, we are on  
19 target for a late summer opening. And based  
20 on the progress we've made to date, we  
21 respectfully request that you consider  
22 extending our certificate of suitability for  
23 another hundred and eighty day period so we  
24 can continue and open the casino.

25 Are there any questions that I could

1 address at this point?

2 MR. MILCAREK: How do you define  
3 late summer? Is that by the 21st of  
4 September as summer ends, or are you saying  
5 when it snows or when?

6 MR. LARSON: It really, you know, is,  
7 Commissioner, most dependent upon receiving  
8 the actual permits from both Army Corps and  
9 IDNR. That is, it continues to be a moving  
10 target. It's one we feel quite confident is  
11 going to be obtained.

12 We feel that the earliest that we  
13 could possibly open at this point in time  
14 would be August 15th. We feel very  
15 comfortable with an August 15th to October  
16 1st time frame for the opening of the casino.

17 MR. MILCAREK: How about the 2nd of  
18 October? That's my birthday.

19 Could you tell us about how much  
20 money you have spent on the site to date?

21 MR. LARSON: About twenty-eight  
22 million dollars.

23 MR. VOWELS: A couple weeks -- well,  
24 February 12th was the anniversary of the date  
25 that we stood out there on the harbor. It

15 1 was a thousand degrees below zero. And I  
2 remembered it very clearly last week. I  
3 assume that it will probably snow there in  
4 August. I don't know.

5 MR. LARSON: Actually, we're -- you  
6 know, weather is always a consideration  
7 relative to construction schedules in the  
8 winter. And at this point in time, our  
9 construction people tell us that winter  
10 really didn't impact us a whole lot.

11 Our concern in the near term is a  
12 rainy season. It's not a good day today.  
13 But we feel very confident with our  
14 timetable.

15 CHAIRMAN KLINEMAN: Any other  
16 questions? I guess I would have two. One, I  
17 guess we've been informed, and I don't know  
18 if it's going to come under the other items,  
19 one of the other items on our agenda, but all  
20 of the controversy concerning the stock  
21 ownership has been resolved; is that not  
22 correct?

23 MR. LARSON: Yes, that is correct.  
24 All the issues have been resolved between the  
25 parties.



1 CHAIRMAN KLINEMAN: It's fully  
2 settled and of no longer -- no longer of any  
3 concern.

4 MR. LARSON: That's correct.

5 CHAIRMAN KLINEMAN: Everyone's paying  
6 what they're supposed to pay and everything  
7 is moving right down the road; right?

8 MR. LARSON: That's correct.

9 CHAIRMAN KLINEMAN: And the other  
10 question I would have is how many people you  
11 got employed in the construction phrase. Do  
12 you have any idea?

13 MR. LARSON: Again, it depends on  
14 what activities are going on on-site. It  
15 ranges, I'd say, on the low side about a  
16 hundred and seventy, on the high side about  
17 two twenty-five at this point.

18 CHAIRMAN KLINEMAN: Are those people  
19 being hired for the most part locally or at  
20 least from Northern Indiana?

21 MR. LARSON: Yes, very much so. Some  
22 of the professional help, for instance, our  
23 naval architect, is from Seattle. But as far  
24 as the actual labor force that's on the job  
25 is almost all out of La Porte County, St.

1 Joseph County area. Some are coming out of  
2 Lake as well.

3 MS. BOCHNOWSKI: I may have missed  
4 this as you were talking. I was kind of  
5 going through the book here at the same time,  
6 too. You believe that this boat is going to  
7 be ready by this time? In your book, it says  
8 six months. I mean, that six months, is that  
9 from start to -- from this time till it's  
10 finished?

11 MR. LARSON: Yes. There's a couple  
12 of ways of looking at it, Commissioner. A  
13 critical date was the date that the first  
14 module was actually set in that graving dock.  
15 That was February 12th.

16 MS. BOCHNOWSKI: Okay.

17 MR. LARSON: The Elgin Experience in  
18 Illinois was six months from that date, the  
19 casino was open.

20 MS. BOCHNOWSKI: Okay.

21 MR. LARSON: We feel that by the  
22 middle of June, all the steel work, it will  
23 be a completed vessel. We then have about --  
24 in our schedule about sixty to seventy-five  
25 days to do all the finish work on the

1 interior, install the slot machines, meet all  
2 your standards for accounting controls and  
3 installation, surveillance coverage and  
4 things like that.

5 MS. BOCHNOWSKI: And that's possible?

6 MR. LARSON: Yes.

7 MS. BOCHNOWSKI: It seems like a lot  
8 of work to do.

9 MR. LARSON: Yes, very much so. I  
10 think that if we go back to the Empress  
11 Experience in Hammond, and it was roughly the  
12 same time table, maybe a little shorter, for  
13 the activities that we're talking about.

14 MR. VOWELS: What's going on with the  
15 situation in Illinois? That was kind of  
16 bringing everybody down before where the  
17 Silver Eagle had been --

18 MR. LARSON: The Silver Eagle  
19 continues to operate as a casino, a  
20 full-service casino, in East Dubuque. Level  
21 of business is dismal. Some of that, quite a  
22 bit of it frankly, is seasonally related.

23 Another significant factor certainly  
24 is the difference in conditions under which  
25 we have to operate with the cruise protocol

1 in Illinois versus dockside casinos which are  
2 closer to the population density in the  
3 Dubuque area. But the casino remains open  
4 and continues to operate.

5 MR. VOWELS: You said full-service.  
6 Did it go to just slots for a while?

7 MR. LARSON: No, it didn't. There  
8 was some discussion of that by the previous  
9 managers about opening with only slots,  
10 reopening with only slots last May. However,  
11 there are table games. There aren't craps,  
12 but we do have Black Jack, Caribbean Stud and  
13 Roulette, as well as slot product.

14 MR. VOWELS: Is it bringing you guys  
15 down any way financially at all?

16 MR. LARSON: Not at all. It's an  
17 entirely separate ownership group. The  
18 operations of the two are entirely separate.  
19 The only common employee -- actually I guess  
20 there would be two. That would be myself, as  
21 president of both companies, and Mr. McQuaid.

22 But beyond that, they are entirely  
23 separate operations. It's a separate general  
24 manager and obviously a separate employee  
25 base. There's no funding that East Dubuque

1 is dependent on Michigan City for or vise  
2 versa. All funding decisions are handled  
3 separately and will continue to be.

4 CHAIRMAN KLINEMAN: Anything further?

5 MR. LARSON: Nothing on that agenda.

6 CHAIRMAN KLINEMAN: We have before us  
7 Resolution 1997-8, which has two blanks in  
8 it, one that calls for the word extended or  
9 revoked, and the next would be a date.

10 I guess I would suggest, if we look  
11 on the calendar on August 22nd, which would  
12 be eighty or eighty-one days, depending on  
13 whether you count the 21st or not. August  
14 22nd is a Friday, so it's a good day in the  
15 sense that it's not a weekend.

16 So is there a motion to adopt the  
17 Resolution 1997-8 and insert the word extends  
18 and maybe August 22nd, 1997?

19 MR. VOWELS: I'll make the motion.

20 CHAIRMAN KLINEMAN: Is there a  
21 second?

22 MR. MILCAREK: I'll second.

23 CHAIRMAN KLINEMAN: Any discussion?

24 All those in favor, say aye.

25 (Unanimous approval)

1 CHAIRMAN KLINEMAN: Contrary?

2 The resolution is adopted.

3 Thank you on that item.

4 MR. LARSON: Thank you. We  
5 appreciate it.

6 CHAIRMAN KLINEMAN: The next item is  
7 the debt financing, bond financing that's  
8 come before us.

9 MR. LARSON: Yes. We are requesting  
10 your approval to issue up to a hundred and  
11 five million dollars of senior secured notes  
12 in the public market. The issuance of these  
13 notes would replace the financing plan that  
14 Blue Chip requested and received your  
15 approval on last August.

16 And it should be noted that these  
17 notes are substantially similar to the notes  
18 that we had requested your approval to issue  
19 back in November of last year. Similar to  
20 last time, these notes are secured by all the  
21 company's assets. However, the gaming  
22 license of the company is excepted from any  
23 security interest. So it's only hard assets  
24 that are addressed here.

25 Significantly there is a requirement

1 of an additional five million dollars of cash  
2 equity that the shareholders must contribute  
3 to the company prior to the issuance of these  
4 notes, which would bring our total equity in  
5 the project to twenty-five million dollars  
6 from the twenty million that is a part of our  
7 financing plan at this point in time.

8 All of the proceeds from this  
9 offering would be used to finance  
10 construction and development activities in  
11 Michigan City. The proceeds that are raised  
12 by the offering are disbursed through the  
13 company out of a cash disbursement account  
14 administered by a third party cash  
15 disbursement agent who is to act in the  
16 benefit or for the benefit of the bondholders  
17 to insure that the proceeds of this note  
18 issue are spent where they are said to be  
19 spent in the construction project.

20 We have submitted a preliminary  
21 offering memorandum to staff. We continue to  
22 negotiate some of the final covenants with  
23 Merrill Lynch, who is going to be our  
24 underwriter this time around. And, as I  
25 believe you would have been advised in

1 executive session, we certainly will keep you  
2 advised as to where those final covenants  
3 shake out.

4 But I believe it's important to note  
5 that, again, similar to the last note issue,  
6 there are several important covenants that  
7 provide protection not only for the  
8 bondholders, but also the Commission and the  
9 project.

10 And that is relative to the provision  
11 for an interest reserve to insure that  
12 interest payments are made to the extent that  
13 any become due before we are open. We don't  
14 anticipate that any will come due, but there  
15 may be one.

16 It provides for a construction  
17 contingency to address possible cost  
18 overruns. And there are limitations on  
19 additional debt, dividends to shareholders  
20 and investments in other projects other than  
21 Michigan City. Again, this is solely for the  
22 purpose of funding development and  
23 construction in Michigan City.

24 Pending your approval of our request,  
25 we anticipate that we would be going on the



16 1 road, as they say, within the next couple of  
2 weeks, and would anticipate that we would  
3 receive the proceeds of these notes sometime  
4 middle to end of March.

5 CHAIRMAN KLINEMAN: Any questions  
6 concerning this matter?

7 We have before us Resolution 1997-9,  
8 which would approve debt financing if you  
9 insert the word approve up to a hundred and  
10 five million dollars. And since all of the  
11 items are not nailed down at this time, we  
12 would be giving authority to the Commission  
13 Staff to review and approve the final  
14 covenants. So to the extent that everything  
15 isn't pinned down, we would let Mr. Thar and  
16 his staff follow up.

17 Do I hear a motion to adopt  
18 Resolution 1997-9 and insert the word approve  
19 in the blank?

20 MR. SWAN: I'll make that motion.

21 CHAIRMAN KLINEMAN: Is there a  
22 second?

23 MR. SUNDWICK: Second.

24 Any further discussion? Hearing  
25 none, all those in favor say aye.

1 (Unanimous approval)

2 MR. KLINEMAN: Contrary? The  
3 resolution is adopted.

4 The next item on our agenda is the  
5 request for approval of additional  
6 stockholders. Mr. Larson?

7 MR. LARSON: We request your approval  
8 of the additional stockholders that have  
9 applied for such status with our operation.  
10 I really have nothing else to add to that.

11 Walter or Joe?

12 MR. MCQUAID: If I could, just for a  
13 minute, just introduce members of the Flynn  
14 family. Mr. Kevin Flynn, Mr. Brian Flynn, if  
15 you want to come up.

16 CHAIRMAN KLINEMAN: The Flynns didn't  
17 exactly get front row seats, did they? Would  
18 you ask them to come up, please?

19 MR. MCQUAID: Mr. Robert Flynn, Mr.  
20 Donald Flynn.

21 MR. THAR: Joe, maybe you could redo  
22 it when they get up here.

23 MR. MCQUAID: Sure.

24 This is Kevin Flynn.

25 MR. KEVIN FLYNN: Good morning.

1 MR. MCQUAID: Robert Flynn.

2 MR. ROBERT FLYNN: Good morning.

3 MR. MCQUAID: Brian Flynn.

4 MR. BRIAN FLYNN: Good morning.

5 MR. MCQUAID: And Mr. Donald Flynn.

6 MR. DONALD FLYNN: Good morning.

7 CHAIRMAN KLINEMAN: Okay. Well,  
8 welcome. Is this your first time at our --  
9 one of our Commission meetings?

10 MR. KEVIN FLYNN: I've been to a  
11 couple prior. I don't believe any of the  
12 others have.

13 MS. BOCHNOWSKI: So hopefully this  
14 partnership will work better than the last.

15 MR. MCQUAID: We're one big happy  
16 family right now.

17 MS. BOCHNOWSKI: Okay. I hope so.

18 MR. VOWELS: Can we see everybody's  
19 fingers?

20 MR. MCQUAID: We're not crossing  
21 anything right now.

22 MR. KLINEMAN: We have, of course,  
23 conducted the type of investigation that we  
24 are required to conduct concerning the  
25 Flynns. And without a doubt, they are the

1 kind of people that we think show the  
2 character and the quality in their prior  
3 records and in their financial standing that  
4 we like to see involved in these licenses.  
5 So I think I'm glad they came down to come to  
6 our meeting today.

7 Do they have any questions of  
8 anything?

9 MR. KEVIN FLYNN: I don't believe so.

10 CHAIRMAN KLINEMAN: You all know what  
11 you're getting into.

12 DONALD FLYNN: We're quickly  
13 learning.

14 CHAIRMAN KLINEMAN: Okay. Anyone  
15 have any questions of Mr. McQuaid or the  
16 Flynns? Hearing none, we have before us  
17 Resolution 1997-10, a resolution concerning  
18 the request of HP of Indiana, Inc. to  
19 transfer shares of stock affecting  
20 substantial ownership of Blue Chip Casino,  
21 Inc. before us. And it involves the Flynns.

22 And the question is on Page 2 to  
23 insert the word approve and sets forth the  
24 exact percentages that will result from this  
25 approval.

1 Do I hear a motion to adopt that  
2 resolution?

3 MR. SUNDWICK: I'll make the motion.

4 CHAIRMAN KLINEMAN: Is there a  
5 second?

6 MR. SWAN: Second.

7 CHAIRMAN KLINEMAN: Any discussion?  
8 Hearing none, all those in favor of  
9 Resolution 1997-10 say aye.

10 (Unanimous approval)

11 CHAIRMAN KLINEMAN: Contrary?

12 The resolution is adopted.

13 MR. KEVIN FLYNN: Thank you very  
14 much.

15 CHAIRMAN KLINEMAN: Thank you.

16 MR. MCQUAID: Thank you.

17 CHAIRMAN KLINEMAN: Good luck.

18 MR. MCQUAID: Thanks.

19 CHAIRMAN KLINEMAN: We are going to  
20 take a five-minute stretch break, and I mean  
21 five minutes. And then we are going to get  
22 into the Caesars item. And what we will do  
23 is we will have the presentation which is  
24 scheduled for thirty minutes for Caesars, and  
25 then we will probably take a lunch break and

17 1 come back and hear the remainder of the items  
2 under that category after lunch. So a quick  
3 five-minute stretch break.

4 (At this time, a break was taken.)

5 CHAIRMAN KLINEMAN: In accordance  
6 with our agenda, we are going to -- I don't  
7 know if this mike's on. Is this mike on? In  
8 accordance with the agenda that we have, we  
9 are going to now hear from RDI/Caesars for  
10 thirty minutes. And then we will go down the  
11 list of the other people who wish to express  
12 their concerns in respect to the extension of  
13 the certificate of suitability.

14 And they are all scheduled for  
15 specific times, so we would like to try to  
16 hold to that time schedule. And according to  
17 my handy watch, it's about a quarter after  
18 eleven. So we would recognize Mr. Bayt on  
19 behalf of RDI/Caesars for thirty minutes.

20 MR. BAYT: Thank you, Chairman  
21 Klineman. Good morning, Members of the  
22 Commission, Mr. Thar, Members of the Staff.  
23 I'm Phil Bayt from the law firm of Ice Miller  
24 Donadio & Ryan. I'm here today on behalf of  
25 RDI/Caesars. We ask for an extension of our

1 certificate of suitability and approval for  
2 certain project amendments and site plan  
3 enhancements.

4 With me today is Mr. Bob Bowman, the  
5 president and chief operating officer of ITT  
6 Corp. to share with you today ITT's  
7 commitment to the Caesars project, to  
8 Harrison County and to the state of Indiana.

9 Bob?

10 MR. ROBERT BOWMAN: Thank you, Phil.  
11 Good morning, Mr. Chairman and Members. I'm  
12 here today to address what may be some  
13 questions on your minds and to try and answer  
14 the questions that you'll ask to our  
15 commitment to Caesars, to gaming and  
16 specifically to Indiana.

17 We have been in the gaming business,  
18 ITT, since about 1994, when we purchased  
19 Caesars from the public shareholders, and  
20 have been investing in gaming, and Caesars  
21 specifically, since that time. We aim to  
22 continue to invest in this business and the  
23 Caesars brand name throughout the world, here  
24 in the United States and beyond the borders.

25 About three weeks ago, we received

1 from Hilton Corporation an unsolicited tender  
2 offer for our corporation. They commenced  
3 the tender four days later, and that tender  
4 is -- the first date of the tender is over  
5 the end of this month.

6 About two weeks after receiving that  
7 letter, the ITT Board met, unanimously and  
8 enthusiastically rejected the Hilton  
9 unsolicited offer and vowed to remain  
10 independent.

11 Among the many activities we aim to  
12 do in the months ahead as we talk to our  
13 shareholders and drive to our shareholder  
14 value is focus on our more core business,  
15 principally hotels and gaming.

16 As you can imagine, as the recipient  
17 of a hostile tender offer, we've done a lot  
18 of internal searching, refining of our  
19 strategic plan, trying to figure out more  
20 clearly, more specifically what we want to be  
21 and how soon we want to get there.

22 The result of that has been a more  
23 focused strategy on hotels and gaming and a  
24 review of every one of our hotel projects and  
25 every one of our gaming projects that we have



1 throughout the world, albeit this has been  
2 conducted under a microscope of public  
3 scrutiny and obviously under some sort of  
4 firepower with an unsolicited offer.

5 We have made some tough decisions  
6 regarding noncore assets that have been  
7 reported to the media outside of the hotel  
8 and gaming area. But I'm here to say today  
9 that we reviewed very closely this structure  
10 and what we're doing here in Harrison County  
11 through the Caesars and the RDI people, and  
12 we enthusiastically support this project.

13 We are committed to it both  
14 monetarily and philosophically, and we will  
15 fight to get it done as quickly and as  
16 thoughtfully as we can with the fine support  
17 of the people here in Harrison County.

18 We have other gaming projects that we  
19 have looked at that may be slightly delayed  
20 going forward. But we believe our commitment  
21 to the public here in this county and to the  
22 state should go unrequited.

23 That doesn't mean there won't be  
24 bumps along the road as it affects the parent  
25 corporation in New York from this unsolicited

1 offer, but we are confident that we can  
2 pursue this and complete this within the time  
3 frames that you'll hear.

4 You will be hearing shortly from more  
5 people expert than I of what we hope to do  
6 and how soon we hope to complete this. But  
7 ITT is focused on gaming, committed,  
8 committed to this project, as I say, both  
9 financially in terms of the financing we need  
10 to complete the project, and philosophically  
11 to the gaming industry.

12 And I will be here after the  
13 presentation or during it, Mr. Chairman, if  
14 there are any questions on the Hilton or  
15 anything else. Thank you for the time.

16 Phil?

17 MR. BAYT: Thank you, Bob.

18 Before I get into the site plan  
19 amendments and the project enhancements, I'd  
20 like to review a little bit about our  
21 project.

22 The certificate of suitability  
23 contains the promises and commitments that we  
24 made. The first one was that our project  
25 developement costs would be at least two

1 hundred and twenty-eight million dollars.  
2 With the site plan amendments and the  
3 enhancements we're going to talk about today,  
4 that number will grow to two hundred and  
5 sixty-five million.

6 We promised the Harrison County  
7 Foundation five million dollars. That  
8 promise has already been fulfilled, and that  
9 payment has been made. We promised the  
10 county additional payments, and one point  
11 eight million dollars has already been paid  
12 to the county.

13 We promised contingent incentives of  
14 two to ten percent of our AGR. We intend to  
15 live up to that commitment. We promised road  
16 improvements in both Floyd and Harrison  
17 Counties in a two-phase project. Phase 1  
18 has already been completed, and three point  
19 eight million dollars has been paid to the  
20 state of Indiana. Phase 2 is under design,  
21 and we will honor all those commitments with  
22 respect to Phase 2.

23 Contributions to utilities, we agreed  
24 to use the local water utility to provide  
25 fire protection and drinking water to our

18

19

19 1 particular site. We agreed to design,  
2 construct and pay for all of those  
3 facilities. We stand by that commitment.

4 Those facilities will be used not  
5 only for Caesars, but for the town of  
6 Elizabeth for its current and future needs.  
7 Those commitments remain, and the estimated  
8 project cost there is two point six four  
9 million dollars.

10 We agreed to a zero impact concept  
11 with the county with respect to emergency  
12 response. Caesars will be totally  
13 responsible for any emergency responses that  
14 are necessary for its project. We're working  
15 with county officials and local government  
16 officials to focus on those emergency  
17 response needs and will coordinate with them  
18 to make sure that we fulfill that commitment.

19 What are our project components?  
20 First, we proposed to dock at a two hundred  
21 plus acre site near Bridgeport. Our docking  
22 site remains unchanged. Caesars has now  
23 acquired title to both parcels constituting  
24 the site.

25 All the major structures, including

1 the hotel, the pavilion, the parking garage  
2 and the boat ramp, remain on the site. All  
3 of the themes, finishes and level of quality  
4 remain the same. We're committed to a Caesars  
5 Destination Resort.

6 Caesars proposes to move the golf  
7 course, as I'll explain in a few moments.  
8 But the golf course remains an integral part  
9 of the project and one of our most important  
10 amenities.

11 We committed to construct a five  
12 hundred room hotel. That hotel is going to  
13 be worthy of Caesars' name. Nothing has  
14 changed. We will continue to provide that  
15 hotel with all the fits, finishes and themes  
16 that are appropriate for a Caesars project.

17 We're leaving with you a book showing  
18 the finishes and the perspective renderings  
19 of the several elements of the hotel and the  
20 pavilion so that you can understand the level  
21 of quality that we're talking about.

22 We have contracted for the largest  
23 permanent gaming vessel to be constructed  
24 in the state of Indiana. That vessel is well  
25 under construction, and we expect delivery in

1 December. Excuse me. We expect substantial  
2 completion in December and delivery in  
3 February of 1998. We promised thirty-two  
4 hundred parking spaces and will deliver on  
5 that promise.

6 What are our site plan amendments?  
7 First, our cruise route. We have previously  
8 presented to you and you have approved a  
9 south only cruise route to minimize impact on  
10 the mussel bed. That cruise route will be a  
11 third of a mile in each direction. The  
12 cruise will take place all in Indiana water.

13 And we have provided a letter from  
14 Captain Bill Wilson with the New Orleans  
15 Steam Boat Company to reaffirm his testimony  
16 from last May that the cruise will contain --  
17 will be solely within Indiana water.

18 What do we propose for the hotel?  
19 We propose to move the hotel approximately  
20 three hundred yards closer to the pavilion.  
21 It was always important to have the hotel as  
22 close to the pavilion as possible. But  
23 because of flood line constraints, we had to  
24 keep the hotel out of the flood line, out of  
25 the floodway.

1 Working with DNR, we were able to  
2 better define that floodway and bring the  
3 hotel actually closer by bringing the  
4 well-defined line closer to the river. As a  
5 result of that, we think that the project  
6 will be a more cohesive one and one that's  
7 more in tune with making the experience of  
8 patrons a positive one. But the hotel as  
9 repositioned remains behind the floodway  
10 line. The project still has five hundred  
11 rooms, and it will still be a Caesars quality  
12 product.

13 The golf course relocation. We'd  
14 like permission to move the golf course from  
15 the uplands area of our site to a location  
16 that's fifteen minutes away. Beginning late  
17 last summer, and then finally in November,  
18 regulators began taking the view that the  
19 uplands should be extensively studied before  
20 any permits could be granted for development  
21 on the uplands area.

22 To avoid regulatory delays that could  
23 stretch into years, we request permission to  
24 relocate the course. No one has found  
25 endangered species on the site, and we have a

1 letter from DNR dated last fall that there  
2 are no state or federally endangered,  
3 threatened or rare species in the project  
4 vicinity. However, the regulators would like  
5 to preserve the uplands or bluff areas as  
6 potential habitat.

7 The course will be spectacular. It  
8 will be a championship eighteen-hole course  
9 designed by Arthur Hills. Arthur Hills is  
10 noted for challenging the playable course,  
11 and his designs are noted also for  
12 sensitivity to habitat and natural  
13 preservation. The new course lays out well  
14 and should be easily permitable.

15 Caesars will provide free  
16 transportation to and from the course for all  
17 of our patrons. We expect approximately two  
18 hundred people a day to visit the golf  
19 course, and we don't expect that that will  
20 impose any material burdens on the road  
21 system.

22 There's no doubt about it, moving the  
23 course is a compromise. But it's one we feel  
24 that on balance is served by avoiding  
25 regulatory delays and giving us the



1 opportunity to create more project  
2 enhancements.

3 Many resorts around the country have  
4 golf courses that are not adjacent with their  
5 sites. Shadow Creek, the golf course for the  
6 Mirage, Las Vegas, is at least fifteen if not  
7 twenty or more minutes away from that hotel.

8 We have agreed to make the course  
9 available for free to all the county high  
10 school golf teams. We've gotten a letter  
11 from the South Harrison High School  
12 superintendent applauding our relocation of  
13 the golf course. The golf course will be  
14 available for a greens fee to anyone in the  
15 community who wants to play, but not partake  
16 of the gaming experience.

17 I'd also like to talk about some  
18 project enhancements that we have devised to  
19 focus on a better experience for all the  
20 patrons that will visit our destination  
21 resort.

22 First, a larger pavilion. We want to  
23 add forty thousand square feet to the  
24 pavilion to increase queuing, ticketing and  
25 circulation areas, and back of house

1 facilities for a variety of uses, including  
2 the state police.

3 We want to create a more spacious  
4 gaming vessel by building out the fourth  
5 deck. We're not increasing the number of  
6 gaming positions, but we're adding a  
7 four-story atrium and escalators to make a  
8 very spacious and positive experience while  
9 on the boat.

10 By relocating the golf course, we  
11 open up some land on the lowlands. We  
12 promise to build a golf academy that will  
13 have practice areas for all aspects of the  
14 game and an indoor state of the art training  
15 facility. We're talking to Fuzzy Zoeller now  
16 about managing that facility and our golf  
17 course.

18 The relocation of the course will  
19 also give us room for other amenities.  
20 And we propose sports fields, including  
21 soccer and possibly baseball fields, to  
22 provide our guests and the community with  
23 opportunities for recreation.

24 You know, the challenge of relocating  
25 the golf course also creates an opportunity.

1 And we propose to create a nature preserve on  
2 the uplands area to preserve the habitat or  
3 the potential habitat that's there.

4 We have been working with DNR to make  
5 the existing road a nature trail and to make  
6 the existing house on the site an  
7 interpretive center. This would all be  
8 available to the serious naturalists and  
9 would preserve the potential habitat of the  
10 uplands forever.

11 Through the regulatory review  
12 process, environmental groups have raised a  
13 variety of concerns about the Caesars site.  
14 Unfortunately, some people have taken the  
15 position that Caesars didn't disclose all the  
16 environmental information available to it.  
17 These comments go to the character and  
18 credibility of Caesars, and we have got to  
19 correct those misperceptions today.

20 When Caesars inked its deal with its  
21 local investors in August of 1994, it  
22 inherited a study, an environmental site  
23 assessment prepared by Farlow Engineering.  
24 That study was prepared about a month before,  
25 in July. And that study is the focal point

1 of many of the misperceptions about our site.

2 The purpose of the study was to  
3 identify environmental concerns. It wasn't  
4 to delineate wetlands. It wasn't to  
5 specifically identify endangered species or  
6 anything else. It was just that, a Phase 1  
7 Site Assessment that included a site  
8 walk-through, records reviews and telephone  
9 inquiries and follow-up written inquiries.  
10 And this is typical for that type of a  
11 review.

12 The Farlow Study suggested that  
13 Caesars look at three things: mussels,  
14 wetlands and species. The study didn't say  
15 that there were problems, but that we had to  
16 look at those issues. And that's just what  
17 we did.

18 We looked first at wetlands issues.  
19 Excuse me; mussels issues. We performed a  
20 mussel study in 1995 and found no endangered  
21 mussels living in the bed. U.S. Fish and  
22 Wildlife agrees with this conclusion. We  
23 reported all of this to the Commission in  
24 May. We did another study in 1996 to  
25 double-check our findings and to further

1 delineate the extent of the bed.

2 Wetlands. We commissioned a study  
3 from Eco-Tech. Dr. Hal Bryan of Eco-Tech  
4 found that there were just point zero four  
5 acres of wetlands on our site. That is not a  
6 problem. We reported that to the Commission,  
7 and we believe that that small amount of  
8 wetlands will not in any way detract from our  
9 site or our ability to get the site  
10 permitted. And we already accounted for all  
11 of that in our site plan. That is a minute  
12 amount of acreage, point zero four.

13 Finally, species. We inquired of DNR  
14 and Fish and Wildlife in 1994 and again in  
15 1996 based upon responses to our inquiries  
16 and our further discussions with regulators.  
17 Our professionals concluded that we might  
18 have issues with respect to two species  
19 somewhere on our site. No confirmation that  
20 they were there, but it was potentially  
21 possible that two species of concern could be  
22 on our site.

23 We reported that to the Commission in  
24 our May presentation. In September of last  
25 year, DNR wrote to the Corps that there were

1 no state or federal species of concern in our  
2 project vicinity. I believe that Caesars did  
3 everything that was prudent for an applicant  
4 to do with the information available to it.

5 As regulators became more focused in  
6 November of this past year on preserving the  
7 environmental habitat of the uplands, Caesars  
8 had tried to balance all the interests of all  
9 of the regulators with jurisdiction on this  
10 project.

11 Our proposal addresses what we  
12 believe to be all of the major concerns of  
13 environmental regulators, with the lone  
14 exception that U.S. Fish and Wildlife has  
15 recommended to the Corps that this project be  
16 required to have an environmental impact  
17 statement as a result of the secondary  
18 impacts, that is, potential impacts of  
19 development created by others in the future,  
20 not with respect to the Caesars project  
21 itself.

22 We believe that secondary impacts, if  
23 any might occur, will be the responsibility  
24 of those later developers who are proposing  
25 projects and who are suggesting that those

1 impacts might then occur.

2 And I think the Corps will agree with  
3 that position. Our recent inquiry confirms  
4 that the Louisville office of the Corps has  
5 never required an environmental impact  
6 statement for secondary impacts.

7 With that, I'd like to present David  
8 Mitchell, the vice president of development  
9 for Caesars World, to talk about a project  
10 update and to enlighten us on the progress  
11 that we have made for licensure. David?

12 MR. MITCHELL: Thank you, Phil.  
13 Chairman Klineman, fellow Commissioners, Mr.  
14 Thar and Commission Staff, I'd like to give  
15 you a brief update on what the status of the  
16 actual development of the project is as of  
17 this time, first, from a macroperspective to  
18 illustrate the commitment of Caesars World to  
19 this project.

20 As of today, we have expended  
21 approximately -- we have spent and/or entered  
22 into contractual obligations to spend  
23 seventy-five million dollars on this project.  
24 In addition, we have about fifteen million  
25 dollars of purchase orders and subcontracts

1 that will go out in the next thirty days on  
2 this project.

3 With respect to the land aquisition,  
4 the site required the acquisition of two  
5 parcels of land, one from Mr. Townsend, the  
6 other piece of property from Mrs. Stuckey.  
7 Both of these properties have been acquired  
8 at a cost of approximately one point eight  
9 million dollars.

10 In addition, the golf source site is  
11 under an option for a twelve-month period.  
12 The Kentucky terminal site for the gondola  
13 is also under an option for a twelve-month  
14 period.

15 The only piece of property that seems  
16 to be confusing is a piece of property of  
17 approximately five acres. This property was  
18 never included in our conceptual design; it  
19 was never anticipated to be part of the  
20 project.

21 Caesars has made an offer to the  
22 owner of that property to acquire it for its  
23 fair market value; the owner has decided not  
24 to accept that offer. That piece of property  
25 is absolutely not critical in any manner to



1 the completion of this project.

2 The permanent boat. As Phil  
3 mentioned, one of the first things we did was  
4 we contracted with Service Marine to  
5 construct the permanent boat. As Phil  
6 mentioned, we have increased the total square  
7 footage on the boat from eighty-one thousand  
8 square feet, as committed at the hearing  
9 date, to ninety-three thousand square feet.

10 Our reason for expanding the boat was  
11 not to increase the gaming positions, which  
12 we do believe at this time is adequate, but  
13 to be able to provide a more luxurious and  
14 comfortable cruise and gaming experience by  
15 creating a four-story atrium throughout the  
16 decks and escalators throughout the gaming  
17 vessel as well.

18 As Phil mentioned, the vessel is  
19 scheduled to be completed in December of '97,  
20 and it should be delivered to the site by  
21 February 1st of '98.

22 As we stated at the hearing, Caesars  
23 is committed to doing a temporary facility at  
24 this project site. Depending on the date  
25 that the Corps issues the permit, that will

2  
1 require us to obtain a temporary vessel.

2 Our construction people, our  
3 operations people, our architects and  
4 engineers have all personally visited a  
5 variety of available boats. There are  
6 approximately six of them that we believe  
7 would be available at the date which the  
8 temporary vessel would be required, and we  
9 will enter into an agreement to lease one of  
10 those boats as a temporary facility.

11 The road improvements. INDOT let and  
12 bid and has constructed the Phase 1  
13 improvements from the project site to New  
14 Albany on the county road. That was at a  
15 cost of three point eight million dollars,  
16 which Caesars has reimbursed INDOT for.

17 The second phase, which is  
18 predominantly construction work inside the  
19 city of New Albany, that is in the design  
20 stages right now. The bid letting is  
21 expected to occur sometime later this spring,  
22 with construction early this summer.

23 Our gondola. Based upon discussions  
24 between the Corps with respect to the  
25 politically controversial and unique nature

2  
1 of the gondolas, the gondola component was  
2 temporarily removed from the original Corps  
3 permit application.

4 This action was taken solely to avoid  
5 potentially delaying the permitting process.  
6 Upon issuance of the Corps permit and  
7 obtaining the air rights from our Kentucky  
8 terminal site to the project site, we will  
9 file a modification and/or a new permit  
10 application with the Corps to process for the  
11 gondolas. We are one hundred percent  
12 convinced that we want to build a gondola  
13 from the Kentucky terminal site to our  
14 project site.

15 If, as we stated during the hearings,  
16 we are unable to obtain the air rights from  
17 either the Coast Guard or the adjacent land  
18 owner or there is any problem with the  
19 permitting process, we agreed with Harrison  
20 County, which is part of the certificate of  
21 suitability, to substitute an equivalent  
22 dollars worth of construction on the project  
23 site, that being additional hotel facilities  
24 and additional parking facilities.

25 Caesars is committed to either

2  
1 building the gondola or expending the money  
2 for the additional facilities at the project  
3 site.

4 With respect to our time line, our  
5 time line on this project is still the same  
6 time line that we committed to at the hearing  
7 date. Four months after we receive a  
8 certificate of suitability, we will have the  
9 temporary facility open.

10 In February of '98, the permanent  
11 vessel should be delivered to the site. Ten  
12 months -- ten months after the Corps date, we  
13 should have a parking garage. Fifteen months  
14 after the Corps date, the pavilion and land  
15 site facilities should be completed, and the  
16 golf course and hotel site should be  
17 completed within eighteen months.

18 With respect to the operation of this  
19 facility, we have already put together an  
20 entire executive team which is present and  
21 current in Harrison County. That includes  
22 the general manager, the executive vice  
23 president of operations, the chief financial  
24 officer, a director of marketing and a  
25 director of human resources.

2  
1 We are planning a job fair in March  
2 to begin recruitment of the twenty-four  
3 hundred employees for this project. The  
4 training programs for these employees is  
5 currently being developed with our staff in  
6 Harrison County with respect to the Harrison  
7 County development agreement and our  
8 relationships with Harrison County.

9 The County Commission and the  
10 Planning Commission have approved a planned  
11 unit development zoning structure for the  
12 county. If the Indiana Gaming Commission  
13 approves the requested site plan amendment,  
14 Caesars will apply to the county to also  
15 approve the site plan through this new PUD  
16 process.

17 The county also plans on establishing  
18 a development buffer zone around the Caesars  
19 project, which alleviates many of the  
20 concerns regarding development around the  
21 project site.

22 And, finally, as stated at the  
23 November Commission Hearing, Caesars will  
24 stay in compliance with the agreement, and we  
25 are currently in compliance with that

1 agreement.

2 Lastly, Caesars has submitted various  
3 letters of support to the Commission. I  
4 would also like to express appreciation and  
5 specifically recognize in the audience today  
6 Steve Haggard, Terry Miller with the Harrison  
7 County Commissioners, Gordon Ingle, the  
8 Harrison County attorney, and Doug Ingle, the  
9 mayor of New Albany.

10 Thank you very much. I would now  
11 like to present Peter Boynton. Peter is the  
12 president and chief executive officer of  
13 Caesars World.

14 MR. BOYNTON: Thank you, Chairman,  
15 Commissioners and Staff. In May of 1966, ITT  
16 Caesars proposed to the Indiana Gaming  
17 Commission the largest riverboat gaming venue  
18 in North America. Due to the location of the  
19 site across the river from Louisville, we  
20 believed and still believe this project has  
21 the ability to produce the largest amount of  
22 gaming revenue for Indiana and Harrison  
23 County. We are committed to completion of  
24 this project if granted the extension of the  
25 certificate of suitability.

3  
1 We also believe that we have an  
2 opportunity to be responsive to certain  
3 environmental sensitivities in completing the  
4 premier gaming venue in the state while  
5 meeting the commitments to the Commission.  
6 Requested modifications to the development  
7 plan result solely from this philosophy.

8 In summary, the following comments  
9 are offered on the alleged changes to the  
10 project. In May, Caesars proposed the  
11 largest casino vessel project. Does it have  
12 the largest vessel in the project now? Yes;  
13 only it has been improved at a cost of twenty  
14 million dollars.

15 And I think it's important to note  
16 that the gaming capacity of this vessel has  
17 not increased. We have made a conscious  
18 decision to increase the aisles and the  
19 circulation areas, putting in atriums and  
20 escalators principally for patron comfort.

21 In May, we proposed a five hundred  
22 room hotel. Does the project have that now?  
23 Yes; but the hotel is in a better and more  
24 proximate location to the pavilion, again for  
25 patron comfort and ease of development.

1                   In May, we proposed a shoreside  
2 pavilion and an exciting entertainment,  
3 retail and food and beverage amenities. Does  
4 the project have that same pavilion? Yes;  
5 but the pavilion has been expanded by  
6 approximately thirty percent at a cost of  
7 forty million dollars, again for patron  
8 comfort and convenience.

9                   In May, we proposed a golf course.  
10 Does the project have a golf course at this  
11 point? And the answer is yes. And we did  
12 that again for patron comfort, for concerns  
13 of the community and for concerns of the  
14 environmentalists. And the additional cost  
15 of that move was six million dollars.

16                   In May, we proposed a gondola on an  
17 expansion of the project's hotel and parking  
18 facilities. Has this changed? No. We're  
19 still committed to doing the gondola and, in  
20 the alternative, adding that money that we  
21 would have spent on the gondola to the  
22 permanent facilities.

23                   So what is new in the project today?  
24 A nature preserve easement, a nature trail,  
25 a golf academy and sports fields.



3  
1 Caesars has honored and will continue  
2 to honor every commitment that it made to the  
3 Commission in granting the original  
4 certificate of suitability. The scope of the  
5 project has been increased. The funding for  
6 the project is secure. And with the approval  
7 of the request for changes, the project will  
8 be completed in a reasonable time.

9 Consequently, we request approval of  
10 the proposed modification and an extension of  
11 the certificate of suitability. Thank you.

12 MR. BAYT: Mr. Chairman, that  
13 concludes our presentation. I'd be happy to  
14 answer any questions.

15 CHAIRMAN KLINEMAN: It's the pleasure  
16 of the Commission that we'll have the  
17 questions after everyone has presented so  
18 that we can clean up. Is that all right with  
19 everyone, or does somebody have a question  
20 they want to ask right now?

21 Okay. Well, hearing none, I want to  
22 thank you for finishing four minutes early.  
23 And with that, we will adjourn until one  
24 o'clock, one p.m., right here and now.

25 (At this time, a break for lunch was

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taken.)

CHAIRMAN KLINEMAN: If we could come back to order. Mr. Brown, you, on behalf of Harrison County Gaming Company LLC, is recognized for fifteen minutes. And it's exactly five minutes after one.

MR. BROWN: Thank you, Mr. Chairman and Members of the Commission.

Are these mikes on or do I need to turn them on? Can you hear me?

For the record, my name is Doug Brown. I'm a partner --

CHAIRMAN KLINEMAN: Can everybody hear?

THE AUDIENCE: No.

MR. BROWN: Now?

THE AUDIENCE: Yes.

MR. BROWN: Again, for the record, my name is Doug Brown. I'm a partner in the Indianapolis law firm of Stewart & Irwin. It's my privilege and my firm's privilege to represent Carnival in the state of Indiana. I'd like to thank you for the opportunity to address you today. I know that these are serious subjects, and I know that you got a

3  
1 lot to think about.

2 Before I proceed further, I'd like to  
3 introduce Carnival's team that is with me  
4 here today. They are in the back, if they'd  
5 please stand. Art Frank, the senior vice  
6 president of the gaming operations for  
7 Carnival; John Johnston, Carnival's partner;  
8 Steve Smith to my right, Carnival's  
9 environmental consultant; Nick Stein,  
10 Carnival's local counsel and partner and the  
11 originator quite some time ago with  
12 Commissioner Sundwick of the Fairness  
13 Doctrine that's now become famous here at the  
14 Gaming Commission; Bob Trinkle, Carnival's  
15 Harrison County project coordinator; and Rick  
16 Winegardner from my office. I would like to  
17 mention my wife is here, and she's been very  
18 supportive over the years. I did want to  
19 mention her.

20 MR. SUNDWICK: Good point.

21 MR. BROWN: You know, I think I'd  
22 like to start by complimenting Caesars on  
23 that intriguing new project they proposed  
24 this morning. Their presentation was what we  
25 would expect it to be after that dramatic

4  
1 presentation this May.

2 We saw a similarly impressive  
3 presentation last May. And the thing that's  
4 most remarkable to me is the tremendous  
5 change in this project since last May.

6 We have submitted to you a voluminous  
7 submission, I grant you, on February 11th,  
8 which I know has been sent to you, and I  
9 appreciate you looking through that. And we  
10 would ask you to study that in detail. It  
11 has much more information than we can impart  
12 to you here today, unfortunately.

13 But I think it is important for you  
14 to please review it in detail, because it  
15 does deal with an awfully lot of evidence and  
16 an awfully lot of argument we think is  
17 extremely important. We would, though, like  
18 to hit the high points, if we might, of that  
19 submission.

20 I doubt that anybody will soon forget  
21 the presentation that you saw last May from  
22 Caesars. The presentation indicated that  
23 Caesars would have a project consisting of a  
24 number of elements. The most important ones,  
25 I believe, ended up being a four-mile

4  
1 upstream cruise, a gondola project, that  
2 beautiful eighteen-hole championship on-site  
3 destination resort golf course, two hundred  
4 feet of Indiana water and twenty million  
5 dollars in land cost.

6 I know that you'll also recall that  
7 they made a great deal of the fact that they  
8 had numerous studies done, environmental  
9 studies, engineering and feasibility studies.  
10 I know you remember that funny little voice  
11 though that said, Psst, psst, hey, remember,  
12 you forgot, you forgot all those studies.

13 As always, your deliberations on May  
14 20th were extremely enlightening, and you  
15 told us what you thought about us as an  
16 applicant and about the other applicants and  
17 what you thought about Caesars. It's  
18 important to look back at May 20th and what  
19 you all said about that project. That's the  
20 most constructive thing we can do here today,  
21 I think.

22 You had to decide who was the best,  
23 and you did that. You chose Caesars. And  
24 you had to decide why Caesars was the best.  
25 And we can look back at those transcripts and

4  
1 see what you were thinking.

2 You said -- three of the four of you  
3 who voted for Caesars said that you thought  
4 the golf course was critical. It was  
5 critical because in your opinion you had to  
6 have a golf course at the project to be a  
7 destination resort. One person even made  
8 mention of the fact that it had to be right  
9 outside the back door to make it different  
10 than anything else other than Indianapolis.

11 By that time, you know, the process  
12 was well under way. Everybody knew in  
13 Indiana that the cruise route was important.  
14 You had to be able to demonstrate that you  
15 had a long cruise, because you had to be able  
16 to demonstrate you were complying with  
17 Indiana Gaming Law, not just going through  
18 the motions. So it was obvious that that was  
19 an important consideration.

20 Everybody, I think, in the audience,  
21 I gather everybody on the Commission, and  
22 certainly a few made the comment that they  
23 were intrigued by the gondola project. You  
24 accepted Caesars statement that they had  
25 twenty million dollars of land cost in their

4  
1 project. You accepted their statement that  
2 they had two hundred feet of Indiana water.

3 There was a lot of talk back then  
4 about site deficiencies that the competitors  
5 in Harrison County felt that Caesars had  
6 relative to this site. And you took Caesars  
7 word, took them on their word, as to what the  
8 conditions on their property were.

9 But you also put them on notice. You  
10 told them, Hey, if you're kidding us about  
11 this, the joke's going to be on you. I  
12 remember that.

13 It's particularly ironic then in  
14 light of all that, and it would be humorous  
15 if it wasn't so serious, that all of those  
16 elements that were so important to this  
17 Commission in making those decisions on May  
18 20th of last year are the very ones that have  
19 changed so dramatically in this project.

20 When I think of Caesars' project, I  
21 can't help but think of what is now probably  
22 going to be one of the more famous movie  
23 quotes in history, Forrest Gump, when he  
24 said, Life is like a box of chocolates. You  
25 never know what you're going to get.

5  
1 With this project, you never know  
2 what you're going to get. On May 8th,  
3 Caesars set a beautiful box of chocolates in  
4 front of you. And it was beautiful. It had  
5 beautiful gold wrapping on it and fancy bows  
6 and ribbons.

7 And then they opened it up, and it  
8 had all these beautiful chocolates. It had a  
9 gondola chocolate, and it had a  
10 delicious-looking cruise chocolate, an  
11 on-site golf course chocolate, a destination  
12 resort, two hundred feet of Indiana water,  
13 twenty million dollars in land cost.

14 And they promised that those  
15 chocolates would be as good when we bit in to  
16 them as they looked on the surface. But you  
17 know what happens when a box of chocolates  
18 sits around for a while. People start to  
19 kind of look in it, and they're intrigued by  
20 how good they really are.

21 And sometimes when nobody is looking,  
22 you pick one up and turn it over and poke  
23 your finger in the bottom of it just to see  
24 what's in there, and you hope it's not that  
25 green or pink or yellow stuff that nobody



5  
1 likes.

2 Well, in the last eight or nine  
3 months, a lot of people, us and lot of other  
4 people, have been poking around Caesars' box  
5 of chocolates. We've been sticking our  
6 fingers in there, and we would come up with a  
7 lot of that green and yellow and pink stuff.

8 What we found, well, we found that we  
9 no longer have a four-mile cruise that was so  
10 important to this Commission. What we have  
11 is a one-third mile cruise.

12 We no longer have an on-site golf  
13 course that lends itself to a destination  
14 resort. We have one that's twelve miles  
15 away. And it's ironic. You know, I think  
16 as the crow flies, that's about as far as  
17 Churchill Downs is in downtown Louisville  
18 from this site. It's a little bit of a  
19 stretch to say it's part of a destination  
20 resort, unless Churchill is, too, I suppose.

21 The gondola is nowhere in sight in  
22 the project. The two hundred feet of Indiana  
23 water is now a hundred and eight feet. I'm  
24 sure that you'll get some expert opinions on  
25 whether a hundred and four foot boat can

1 safely cruise in a hundred and eight feet of  
2 Indiana water. Maybe they'll say it can  
3 cruise in a hundred -- in fifty feet of  
4 water. I don't know.

5 But you people are good Hoosier  
6 people. You've got good Hoosier common  
7 sense. You didn't check that at the door  
8 when you walked in here today. Common sense  
9 tells you that a hundred and four foot boat  
10 can't cruise under river conditions with  
11 traffic and potential emergencies in the  
12 state of Indiana if there's only a hundred  
13 and eight feet of water.

14 We found that there are tremendous  
15 environmental problems, which won't be  
16 addressed by me today because I know they're  
17 going to be addressed later by people who  
18 know more about that.

19 We found that there isn't twenty  
20 million dollars of land cost in this site, as  
21 we indicated back in May. There's one point  
22 eight million. That was stated today. So  
23 twenty million and the two hundred and  
24 twenty-eight actually is one point eight.

25 Well, what does all this mean? Well,

5  
1 to determine that, I think we have to look at  
2 the law. What the law in Indiana and, in  
3 fact, throughout the United States says is,  
4 first of all, that a governmental agency only  
5 has the authority that is granted to it by  
6 its enabling statutes.

7 Any uncertainty concerning whether a  
8 government agency possesses a particular  
9 power has to be construed against the  
10 exercise of that power, in other words, a  
11 determination that the agency doesn't have  
12 that authority.

13 Additionally, any rules and  
14 regulations that the agency purports to pass  
15 that are inconsistent with that, that attempt  
16 to expand that power, are invalid.

17 What else does the law say? Well, it  
18 says in a competitive bidding situation or  
19 competitive licensing situation, all parties  
20 are entitled to a full and fair hearing on  
21 the final proposals. It says that you can't  
22 then go back and change the deal, change the  
23 rules in the middle of the game. We know  
24 that here in Indiana. We don't do that.

25 It says that you can't go and have

5  
1 the government agency privately negotiate  
2 changes to a public bidding process. You  
3 can't do that. It violates the fundamental  
4 principles of fairness that are recognized in  
5 the United States Constitution and a wealth  
6 of case law.

7 In this case, that is exactly what  
8 this Commission would be doing by allowing  
9 these changes and extending this certificate  
10 of suitability. Carnival wasn't bidding and  
11 the other Harrison County applicants weren't  
12 bidding against this project that you saw  
13 today. You know that. Everybody knows that.  
14 It's not the same project.

6  
15 We bid against a project with a  
16 four-mile cruise, that was supposedly a  
17 destination resort, that had an on-site golf  
18 course, that had no environmental problems,  
19 that had two hundred feet of Indiana water  
20 and twenty million dollars in land cost. You  
21 know that's not the same project that we have  
22 here today.

23 And it's not just about how many  
24 dollars they're willing to spend to try to  
25 make up for it. If that's all it came down

6  
1 to, you would have asked us for a number. We  
2 would have all just given you an envelope  
3 with a number in it, and you would have  
4 chosen the highest one. That's not what it's  
5 about.

6 We all bid projects. We'd like to  
7 change our project now, too. We don't have  
8 that opportunity. They shouldn't have that  
9 opportunity either.

10 The law, therefore, says that we have  
11 not received a fair comparison of our  
12 proposals, and that these after the fact  
13 changes that are being requested by Caesars  
14 cannot be approved.

15 The Illinois Attorney General has  
16 found exactly that, construing the Illinois  
17 Gaming Act that is materially identical to  
18 ours, and the rules of the Illinois Gaming  
19 Board, which are substantially identical to  
20 ours.

21 And they didn't say you can't change  
22 sites in Illinois. That happened to be the  
23 fact pattern they were dealing with, and they  
24 said yes, you can change sites. What they  
25 said is you can't materially alter your

6  
1 project after a license is issued. And  
2 that's in Illinois.

3 That same fundamental principle of  
4 fairness also requires that the Commission  
5 refuse the certificate of suitability  
6 extension that Caesars is requesting.

7 In our February 11th submission, we  
8 presented irrefutable evidence that in May,  
9 1996, Caesars knew or certainly in the  
10 exercise of reasonable due diligence should  
11 have known of these tremendous problems that  
12 would cause each one of these changes in  
13 these critical elements of their project, the  
14 very ones that were critical to you.

15 We don't need to attempt to define  
16 here what's a material change in this  
17 project. You did that. You did that in May.  
18 You told us what was material. Those are all  
19 the things that are changing.

20 In short, Caesars had the same  
21 opportunity that all the other competitors  
22 did. Go down there. Look at all the sites.  
23 Do your homework. Choose the one that's  
24 best. Choose the one that has no issues.

25 They didn't do it. That's what we

6  
1 did. And you told us you would hold them to  
2 the same standard.

3 In closing, please, please do what  
4 all of us have done, many of us here and the  
5 people who will be speaking after me. Get in  
6 there and poke around in that box of  
7 chocolates. Stick your finger in there and  
8 see if you get some of that green and yellow  
9 and pink stuff. I think you'll find that you  
10 will.

11 This situation cries out for justice.  
12 It cries out for fairness. It cries out for  
13 simple common sense. It cries out for this  
14 Commission to stand up, put down its foot,  
15 say enough is enough. This is not the  
16 project we approved. It cries for this  
17 Commission to say, Caesars, if you can't make  
18 good on your promises, let somebody else in  
19 who can.

20 Thank you. We'd be happy to  
21 entertain any questions you might have.

22 CHAIRMAN KLINEMAN: Thank you, Mr.  
23 Brown. I think --

24 (Applause)

25 CHAIRMAN KLINEMAN: Order, please.

6  
1 I think we have chosen to do  
2 questions after all the presentations.

3 MR. BROWN: Very well. Thank you.

4 CHAIRMAN KLINEMAN: Okay. According  
5 to the schedule, we have Don Mottley for five  
6 minutes. Welcome back to the Commission, Mr.  
7 Mottley. And it's about twenty after.

8 MR. MOTTLEY: Mr. Chairman, Members  
9 of the Commission and Commission Staff, my  
10 name is Don Mottley, and I am the  
11 spokesperson for Save Our Rivers. I am a  
12 member of the Board of Directors of the  
13 Hoosier Environmental Council Action Fund, a  
14 member of Bridge Alliance and a member of the  
15 Board of Zoning Appeals in Morgan County.

16 Save Our Rivers has been and remains  
17 an active advocate for the environment all  
18 along the Ohio River. I want to thank you  
19 for the opportunity to speak here today.

20 I want to make three things  
21 absolutely clear at the onset. For us, this  
22 is not a gaming issue. It is an environmental  
23 issue and a site specific to Caesars site.

24 Save Our Rivers and many other  
25 environmental groups and individuals are on



6  
1 record stating that at least two other sites  
2 in Harrison County, that being the site at  
3 111 and 211 and the site at Mauckport, have  
4 far fewer environmental problems and no  
5 mussel beds.

6 Second is an issue of character.  
7 Caesars at best misled you, at worst flat out  
8 deceived you.

9 Third, we are not Johnny-come-lately  
10 to the table. We, like you, were duped and  
11 given little information as to just what the  
12 project would look like. The second we knew,  
13 we started challenging our objections to you  
14 and the Corps.

15 The Gaming Commission's attitude  
16 towards the concerns of environmentalists has  
17 as the most part been commendable.  
18 Commissioner Bochnowski has at every  
19 opportunity attempted to find the truth when  
20 it comes to environmental issues. Mr. Vowels  
21 was right on target when he said Caesars'  
22 project was too big. He was right. It is  
23 too big, too big for the site of Bridgeport.  
24 That's the problem.

25 They, Caesars and the environment,

7  
1 don't fit together on that site. This is  
2 Caesars own drawing submitted to Army Corps  
3 of Engineers on February the 3rd, 1997, to  
4 support their request for modification to  
5 their Corps of Engineers permit.

6 It depicts two basic elements, the  
7 cruise path as it relates to the mussel bed  
8 and the cruise path in general. The mussel  
9 bed depiction it totally inaccurate and was  
10 intended to convince you there were -- would  
11 be few mussel problems.

12 The cruise path depiction is  
13 presented in a manner to suggest that  
14 Caesars' boat will not go over the mussels  
15 that are in the Indiana water just upstream  
16 from Knob Creek. But you say there's no  
17 mussel bed just upstream from Knob Creek?  
18 There certainly is. Caesars just didn't show  
19 it to you. As far as we can determine, they  
20 knew it was there and know it today.

21 Before we get into the mussel bed  
22 issue though, let's look at the cruise path,  
23 the long cruise that was one of the edges  
24 that Caesars had. We all know that that's  
25 history now. Caesars knew it wouldn't fly

7  
1 long before their presentation last year.  
2 If they didn't know it, they weren't  
3 listening to their own experts and were  
4 certainly not doing their homework.

5 Caesars' cruise path is not seventeen  
6 hundred feet. Look at their own drawing.  
7 When you add in the length of their vessel,  
8 you can see the actual cruise path is about  
9 twenty-one hundred and fifty feet.

10 This should be a plus for Caesars.  
11 But, in effect, it takes the boat over a  
12 portion of the mussel bed that extends far  
13 into Indiana waters. If this is not a true  
14 picture, then their actual cruise is only  
15 twelve hundred and fifty feet, because you  
16 must subtract the length of their boat. It's  
17 pretty obvious that the drawing tries to  
18 depict a longer cruise path with minimal  
19 mussel bed disturbance.

20 Keep in mind that this discussion is  
21 based on perfect river conditions. The real  
22 truth is when it rains a lot at Caesars, it  
23 will flood. And when it doesn't rain for a  
24 while, Caesars' boat sits in Kentucky.

25 Now, let's look at where the mussel

7  
1 bed really is. And don't forget, Caesars  
2 knew it was there. On July the 12th, 1995,  
3 ten months before Caesars' May presentation  
4 to the Gaming Commission, Thompson  
5 Engineering had this report from Barry A.  
6 Vittor & Associates showing the mussel bed  
7 running the entire length of Caesars' site.

8 With various portions extending into  
9 Indiana water and a large portion extending  
10 into Indiana water just upstream from Knob  
11 Creek, Caesars' boat will disturb the mussel  
12 bed. It's that simple.

13 You must also consider that in the  
14 event a cruise is other than perfect, where,  
15 for example, an assist tug, an emergency  
16 vessel, should approach the Caesars boat,  
17 there certainly will be traffic directly over  
18 the greater portion of the mussel bed.

19 The Army Corps of Engineers will, as  
20 they should, take this into account when they  
21 assess the application and are called for an  
22 environmental impact statement.

23 This study for Thompson Engineering  
24 does not stand alone. Here is a study  
25 prepared for the Army Corps of Engineers in

7  
1 late June of 1995, over a year prior to  
2 Caesars' presentation. Clearly we see the  
3 same configuration of the mussel bed running  
4 the entire length of Caesars' project.

5 This Williams & Schuster mussel  
6 investigation on the Ohio River in 1983, as  
7 well as others, was available to Caesars with  
8 proper due diligence, and one was actually  
9 done for them. I have no idea where their  
10 documentation exists that shows the mussel  
11 bed ending where Caesars alleges that it ends  
12 in their drawing submitted to the Corps of  
13 Engineers in February.

14 We and other environmental groups  
15 will continue to push for an EIS for this  
16 reason as well as others. We are not alone  
17 in our request for fairness. Mr. Wayne  
18 McBride, who owns property just downstream  
19 from Caesars and who is not able to receive a  
20 Corps permit because of the mussel bed, had  
21 notified the Corps and the Gaming Commission,  
22 I believe, of his plan should Caesars be  
23 treated any differently than he was.

24 In the last paragraph of this letter  
25 to the Corps, IDNR, speaks for itself. We

1 will pursue all available legal rights and  
2 remedies to recoup all of our losses and  
3 damage suffered as a result of the Corps and  
4 other agencies' decision to reduce the  
5 permitted area request in 1990.

6 It sounds like he means business to  
7 me. And so do we at Save Our Rivers. Not  
8 every site along the Ohio river is  
9 appropriate for a casino boat. This site is  
10 one of them. We would urge the Commission to  
11 not renew Caesars' certificate of suitability  
12 and take a hard look at the other options in  
13 Harrison County.

14 There are many citizens in Indiana  
15 who feel the same way. They may not be  
16 called environmentalists, but they know what  
17 beauty is. They may have seen it in a  
18 picture, and they have seen it in person if  
19 you let them.

20 Don't think you have to admit to a  
21 mistake. You were misinformed and not given  
22 an accurate picture of what Caesars could  
23 actually deliver. They should not be  
24 rewarded for that deception.

25 In closing, I can only tell you that

1 this whole scenario reminds me a lot of Nixon  
2 and Watergate. The question is, what did  
3 Caesars know and when did they know it? The  
4 only problem is, I doubt that they will  
5 resign, so you must just impeach them. Thank  
6 you.

7 (Applause)

8 CHAIRMAN KLINEMAN: Thank you, Mr.  
9 Mottley.

10 William Fleace?

11 MR. FLEACE: Chairman Klineman.

12 CHAIRMAN KLINEMAN: You are  
13 recognized, likewise, for five minutes. It's  
14 twenty-five, twenty-six after.

15 MR. FLEACE: Chairman Klineman,  
16 Commission Members, Mr. Thar, Mr. Hannon and  
17 Staff, my name is Bill Fleace, and I am  
18 president of the town council of Mauckport.  
19 And I will say right off that Mauckport and  
20 the surrounding community are not against  
21 gambling. What we are against is major  
22 changes at the Bridgeport site.

23 The first thing to be changed was the  
24 gondonlas. They was taken out of the  
25 proposal because it would have delayed the

1 project. It's already been ten months, and  
2 there's no permits issued. And how much  
3 longer is it going to be? If the Army Corps  
4 of Engineers rules for an environmental  
5 impact statement, we think that the gondolas  
6 should be included in this study.

7 Next came the environmental issues,  
8 which are many. It is my firm belief that an  
9 environmental impact statement will be --  
10 happen. This will delay the project even  
11 more. And this is a chance that the state of  
12 Indiana and Harrison County does not have to  
13 take. Mauckport has no environmental issues.

14 The cruise path was the next part of  
15 the project to change. The cruise path went  
16 from two miles upriver back down two miles to  
17 seventeen hundred feet. And this was a major  
18 concern at the May 8th hearings in Corydon  
19 and May 20th hearings in Indianapolis.

20 Commissioner Sundwick asked  
21 RDI/Caesars for assurance that they could  
22 cruise in the water specified. And I believe  
23 also he asked would they give up their  
24 certificate of suitability if it didn't  
25 happen. Chairman Klineman also asked about



8  
1 the cruise path. I would like to remind the  
2 Commission that Mauckport has a twelve-mile  
3 cruise path.

4 The latest part of the project to  
5 change is the golf course. It's my  
6 understanding that it will be moved eight to  
7 ten miles down the river. I understand that  
8 the golf course is next to the South Central  
9 School and the students at South Central will  
10 be able to use this facility as cross-country  
11 and golf.

12 I have nothing against South Central  
13 School. I have grandkids there. But what  
14 about the other schools in the community?  
15 Are they going to be offered anything?

16 I would like to say something about  
17 the temporary facility. The request of the  
18 Corps of Engineers says nothing about a  
19 temporary facility. But at the Corydon  
20 hearings and again today, you heard that  
21 within ninety days of regulatory permitting,  
22 they would have a temporary facility in the  
23 water.

24 Let he remind the Members of the  
25 Commission, too, that Mauckport has the

1 endorsement of eight of the towns in Harrison  
2 County. The town of Mauckport requests the  
3 Indiana Gaming Commission to withdraw the  
4 RDI/ Caesars certificate of suitability and  
5 reopen negotiations in Harrison County.  
6 Thank you.

7 (Applause)

8 KLINEMAN: Thank you, Mr. Fleace.

9 We have the Hoosier Environmental  
10 Counsel for ten minutes.

11 MR. MALONEY: Thank you, Mr. Chairman  
12 and Members of the Commission, Mr. Thar and  
13 other Commission Staff. My name is Tim  
14 Maloney, and I'm here today representing the  
15 Hoosier Environmental Council to protect our  
16 woods and to protect our river environment.

17 The RDI/Caesars riverboat project  
18 plans the construction of a major commercial  
19 and retail complex in a rural, undeveloped  
20 landscape that contains a remarkable  
21 assemblage of natural diversity. This abrupt  
22 conversion of a virtually unspoiled  
23 environment to a bustling minimetropolis  
24 represents a dramatic impact to the natural  
25 and human environment of Harrison County.

1                   Thus, the Hoosier Environmental  
2                   Council, to protect our woods and protect our  
3                   river environment, along with independent  
4                   biologists, other conservation organizations  
5                   and the United States Fish and Wildlife  
6                   Service, have demanded that an environmental  
7                   statement be prepared prior to any decision  
8                   by the Army Corps of Engineers to permit this  
9                   project to go toward. We believe the Indiana  
10                  Gaming Commission can demand no less.

11                  The environmental effects of this  
12                  project arise not only from the riverboat and  
13                  shoreside developments themselves, but also  
14                  from the secondary commercial, retail and  
15                  residential construction activity that this  
16                  project is designed to generate.

17                  These impacts take place in a region  
18                  of Indiana that increasingly is recognized as  
19                  deserving conversation status because of its  
20                  considerable environmental values.

21                  If the Caesars project goes foward,  
22                  we will have traded an irreplaceable part of  
23                  Indiana's diminishing natural heritage for a  
24                  concrete and steel development as out of  
25                  place among the surrounding wildness as Ross

1 Perot in a silent movie.

2 In our view, none of the  
3 modifications made by Caesars measurably  
4 reduce the scope of impacts that this project  
5 will impose of the surrounding lands. The  
6 potential environmental losses are  
7 substantial.

8 At the Bridgeport site, one of  
9 Indiana's most remarkable geologic features,  
10 the knobstone escarpment, descends into the  
11 Ohio River flood plain. A forested realm  
12 with extensive natural diversity, the knobs  
13 are a pristine area with unique biological  
14 features.

15 Interspersed among the dry upland  
16 forests of chestnut, oak and Virginia pine  
17 are small communities known as glades where  
18 rocky, thin soil discourages tree growth.  
19 These glades are considered globally rare.  
20 Several of these sites are protected in the  
21 Brock Sampson Nature Preserve just north of  
22 the project site.

23 The importance of this entire knobs  
24 area is further confirmed by the presence of  
25 a second state nature preserve a little

1 farther north, the Hardin Ridge Wildlife  
2 Area. Hardin Ridge was created to help  
3 protect the oak and Virginia pine forest  
4 communities present all along the knobstone  
5 escarpment and to provide hunting  
6 opportunities.

7 In Indiana, the Virginia pine is  
8 native only to the knobs area. The wooded  
9 ridges and slopes of the knobstone escarpment  
10 are part of a large corridor connecting  
11 forested tracts to the north, east and south.  
12 Such large unbroken forest area is important  
13 for the survival of many forest-dependent  
14 animals, including migratory songbirds such  
15 as warblers, veeries and thrushes.

16 Midwestern researchers studying  
17 forest fragmentation, which is the breaking  
18 up of habitat into ever smaller and more  
19 isolated remnants, recommend that -- and I  
20 quote -- a good regional conservation  
21 strategy for migrant songbirds in the Midwest  
22 is to identify, maintain and restore the  
23 large tracts that are most likely to be  
24 population sources. Further loss or  
25 fragmentation of habitats could lead to a

1 collapse of regional populations of some  
2 forest birds.

3           Among the rare, threatened or  
4 endangered plants and animals that inhabit or  
5 potentially inhabit the knobstone uplands are  
6 the timber rattlesnake, southeastern crown  
7 snake, eastern spade foot toad, southern  
8 leopard frog, green salimander, the black  
9 vulture, red-shouldered and broad-winged  
10 hawks and the bobcat. Other sensitive  
11 species are likely to be present, further  
12 reason for the undertaking of complete  
13 biological studies in this area.

14           Although the casino's golf course has  
15 been moved from the knobs, this area will not  
16 escape the indirect impacts of the adjacent  
17 development or subsequent activity that may  
18 take place on the knobs. For example, the  
19 spectacular views of the Ohio River Valley  
20 from the knobs uplands will forever be marred  
21 by the lowland developments.

22           An Indiana Department of Natural  
23 Resources field biologist notes it cannot be  
24 overemphasized that the effects extend far  
25 beyond the actual construction impact zone.

9 1 The Ohio River flood plain at Knob  
2 Creek will endure the direct impacts of the  
3 landward construction. Here between the  
4 knobstone uplands and the river and over the  
5 top of Knob Creek will be the center of the  
6 development, a five hundred room hotel, a  
7 shopping/restaurant complex, the riverboat  
8 docking facilities, a parking garage, along  
9 with surface parking for well over six  
10 hundred automobiles, a golf practice course,  
11 and water and wastewater treatment plants.

12 Again, let me remind you that all of  
13 this development is only Caesars' direct  
14 footprint. Secondary commercial and  
15 residential developments that will be  
16 generated by the facility will sprawl both  
17 north and south and on to the uplands.

18 While the flood plain has been  
19 pastured and farmed, it still provides  
20 important habitat for flood plain species, as  
21 well as supports the reptiles, amphibians and  
22 other species that may move between the  
23 uplands and bottomlands.

24 Animals that are present or may be  
25 present at the project site include the state

10 1 endangered barn owl, which feeds in pastures,  
2 grasslands and meadows, the bald eagle and  
3 the federally endangered Indiana bat. This  
4 small bat native to the Middle West  
5 hibernates in nearby caves and spends its  
6 summers foraging and nesting in mature  
7 streamside woods and dense upland forests.

8 While its winter cave habitats have  
9 been protected for the most part, the bat  
10 remains in peril because its forested haunts  
11 continue to decline due to development  
12 pressures.

13 The U.S. Fish and Wildlife Service  
14 has called for a complete bat survey of the  
15 project area. Notwithstanding their negative  
16 image, bats are an essential part of nature's  
17 balance as voracious insect eaters.

18 In the Ohio River, the proposed four  
19 thousand passenger riverboat threatens what  
20 may be the river's most valuable biological  
21 asset. Just offshore is one of the Ohio's  
22 beleaguered mussel beds. Despite the cruise  
23 route modifications, this bed continues to  
24 lie partly within the revised cruising lane  
25 of the boat.



10 1 The Ohio River drainage has the most  
2 diverse assemblage of fresh water mussels in  
3 the world, according to state biologists.  
4 Yet this is a resource in peril and an  
5 indicator of the river's decline. Mussel  
6 studies along the Ohio have documented the  
7 loss of several of the known mussel beds.

8 The state of Indiana in 1991 halted  
9 all commercial harvesting, a ban which  
10 remains in place. Of the mussel species  
11 native to Indiana, about one half are  
12 considered rare, threatened or endangered.

13 Thus, as Indiana University Southeast  
14 biologist Claude Baker notes, all fresh water  
15 unionids should be considered endangered.  
16 Dr. William Pierson, professor of biology at  
17 the University of Louisville, who has studied  
18 this mussel bed, reports that the cruising  
19 lane changes do not relieve his objections.  
20 I continue to oppose the location of the boat  
21 adjacent to such an important and sensitive  
22 environmental area, said Dr. Pierson.

23 Moreover, Caesars has declared their  
24 intention at some later time to seek approval  
25 for an expanded cruise route, which would

1 further threaten the mussel bed. This mussel  
2 bed is already under stress from siltation  
3 and the presence of the exotic zebra mussel.

4 The dredging for and operation of the  
5 riverboat will compound these impacts. Dr.  
6 Arthur Clark, in a 1995 mussel survey to the  
7 Corps of Engineers, said this bed is across  
8 the river from a long area where sand and  
9 gravel dredging is permitted and just  
10 upstream from another. Extension of dredging  
11 into the bed for gravel and sand operations  
12 would drive it to extinction. The bed should  
13 be preserved as a local economic asset and as  
14 a center of biological diversity.

15 Biologists have just scratched the  
16 surface in beginning to document the  
17 marvelous richness of this area where a big  
18 river flood plain, broad lowlands, a rugged  
19 escarpment and limestone plain all converge  
20 in a diverse juncture of land forms.

21 Yet there is still much more of the  
22 site's biological complexity to discover.  
23 Again, I quote the Indiana Department of  
24 Natural Resources. The proposed project is  
25 located in a physiographically diverse region

1 of the state that retains a relatively high  
2 proportion of natural vegetation and, thus,  
3 has numerous ecologically significant areas  
4 and features.

5 These sites possess significant  
6 examples of dry upland forest and siltstone  
7 glade communities in addition to the many  
8 state listed plant and animal species  
9 mentioned above.

10 Only through a complete environmental  
11 impact statement will we learn the full  
12 extent of environmental risk from this  
13 project, from the secondary developments it  
14 spawns, from the short and long-term impacts  
15 of this project, such as increased traffic  
16 and air pollution, in combination with other  
17 past and foreseeable future Ohio River  
18 developments.

19 This simply is what is required by  
20 the National Environmental Policy Act for  
21 major action significantly affecting the  
22 quality of the human environment. Whether  
23 for a riverboat or a Disney World, no lesser  
24 level of environmental scrutiny should be  
25 accepted when an irreplaceable environmental

1 resource is at stake.

2 It is the Gaming Commission's  
3 responsibility as much as the Corps of  
4 Engineers' to assure that an environmentally  
5 unsound project does not go forward. Since  
6 this environmental study has not been  
7 prepared, the Commission should seriously  
8 consider withdrawing Caesars' certificate.

9 And if you might indulge me for just  
10 a minute here, I just want to show you a few  
11 shots of the --

12 CHAIRMAN KLINEMAN: You really only  
13 have a minute left.

14 MR. MALONEY: Okay. I only have a  
15 couple here.

16 Okay. We are in the uplands now.  
17 This is one of the siltstone glades, thin,  
18 rocky soils with very stunted tree growth.  
19 This is a the Brock Sampson nature preserve.  
20 Again, you're in one of the open glade type  
21 areas.

22 This is just a representative sample  
23 of the dominant forest type, which is  
24 chestnut, oak and Virginia pine. This is an  
25 aerial view of Brock Sampson Nature Preserve.

11 1 And you can see the two open areas which are  
2 the open glade areas.

3 Another shot of Brock Sampson as it  
4 descends into the Ohio River flood plain. A  
5 closeup of one of the siltstone glades. And,  
6 again, you get a shot looking down toward the  
7 Ohio River flood pain from the knobstone  
8 uplands.

9 A little farther north, this is the  
10 Hardin Ridge Nature Preserve; again,  
11 chestnut, oak and Virginia pine forest  
12 communities.

13 CHAIRMAN KLINEMAN: Excuse me, sir.  
14 I don't really mean to interrupt you. Those  
15 are very nice pictures, but they have nothing  
16 to do with this property. If you have some  
17 pictures of this property, we'd be glad to  
18 look at them.

19 MR. MALONEY: Well, the point of our  
20 statement, I think, is that these areas will  
21 be threatened by the development.

22 CHAIRMAN KLINEMAN: I think we  
23 understood the point of the presentation. We  
24 are not in Brock -- in that area.

25 MR. MALONEY: Okay. Thank you for

11

1

the opportunity.

2

CHAIRMAN KLINEMAN: The next

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scheduled item is Melvin and Marilyn Porter

4

for five minutes.

5

MR. PORTER: I have some documents

6

that need to be passed out. Can I have that

7

off my five minutes?

8

CHAIRMAN KLINEMAN: You can have that

9

off of your five minutes. Pass them out now

10

and then start five minutes.

11

MR. PORTER: By the way, this is my

12

daughter and that's my son. I'm Melvin

13

Porter. My wife couldn't be here today. She

14

has sickness.

15

CHAIRMAN KLINEMAN: All right. You

16

may proceed. It's about seventeen minutes.

17

MR. PORTER: Thank you for your

18

consideration. In front of you, you see a

19

letter which I sent to the Corps or to the

20

Chairperson of the Gaming Commission

21

regarding the property affected by Caesars

22

development.

23

Allow me to introduce myself. I'm

24

Melvin Porter, owner of the five point five

25

six acres with a building at 1250 Stuckey

11 1 Road, Elizabeth, Indiana. We are the only  
2 property on Stuckey Road being surrounded by  
3 Caesars proposed development, completely  
4 surrounded.

5 We have been unsuccessful in trying  
6 to include -- to be included in the planning  
7 and access to all utilities, which include  
8 sewer, water and natural gas, which are being  
9 part of the Caesar development.

10 We have made formal requests to the  
11 Corps of Engineers, the Caesar Gaming  
12 Development, the Harrison County Planning and  
13 Zoning Commission, Harrison County Health  
14 Department and the Indiana Health Department,  
15 all of which did not include our property in  
16 their sewage and water system.

17 Since the Gaming Commission is our  
18 only chance of being treated fairly, we are  
19 faxing a copy of our request to the Harrison  
20 County Planning Commission dated October  
21 10th, 1996, and Page 3 of this document.

22 The first page you see is the outline  
23 of the property. I have a question before we  
24 get into this. I want to know if -- I just  
25 found out last night that they passed PUD

11 1 zoning, which I feel restricts me. And I  
2 want to know, is it ethical for a governing  
3 body to receive funds to establish a zoning  
4 law? What part of my property does the  
5 Caesars PUD zone allow me to develop? You  
6 can see the site of my property. How do I go  
7 into the property?

8 Your first page is an overall site  
9 plan. Green is Stuckey Road, and the yellow  
10 indicates the Porter property and the  
11 utilities and the hotel, and the blue  
12 indicates a recreational building on the  
13 Porter property. The pink is Highway 111.

14 I started out, whenever this first  
15 came on, I wrote the letter to the Planning  
16 and Zoning Commission concerning this, my  
17 request for utilities, dated March 27th,  
18 1996, Harrison County Planning and Zoning  
19 Board. Being a county improvement, I, Melvin  
20 Porter, request guaranteed affordable access  
21 to sewers and all utilities being developed  
22 in the developed area.

23 This letter was presented at the  
24 meeting of October the 10th, Harrison County  
25 Planning and Zoning Commission. Caesars is



11 1 building a city, whether they admit it or  
2 not. Melvin Porter's property is a part of  
3 this city.

4 Our land from the east property line  
5 is going to be less than a city block from  
6 the five hundred room hotel and extend to the  
7 city's west boundary, Stuckey Road. Our  
8 property is completely surrounded by the new  
9 city. We had the land which includes a  
10 building, 1250 Stuckey Road, before Caesars  
11 came to the city, came to town.

12 As property owners in New Bridgeport,  
13 we feel, like any other city, all utilities  
14 should be made available to our property  
15 line, and, as in any other city, the  
16 utilities parallel roadways and possibly on  
17 road right-of-ways, and, in our case, Stuckey  
18 Road.

19 Since this is truly a city of  
20 Harrison County, the Harrison County Planning  
21 and Zoning Commission have an obligation to  
22 insure that all utilities be made available  
23 to our building, 1250 Stuckey Road, which now  
24 has electric and is being used as a  
25 recreational facility, since there are only

1 two property owners in Bridgeport.

2 How many properties are covered by  
3 your PUD? I don't know. We feel the sewers,  
4 water and natural gas are a necessary  
5 development expense of the Caesars project.  
6 Therefore, we feel the cost of the utilities  
7 should not exceed the cost of utilities in  
8 Harrison County's largest city, Corydon.

9 Page 4. One representative of  
10 Caesars has said, and I quote, Butch cannot  
11 get sewers and water because they belong to  
12 Caesars.

13 By controlling the utilities, Caesars  
14 controls the value of our property. Is this  
15 how you control commercial property in your  
16 city of Corydon?

17 When Caesars development was just  
18 started, it dug eight test holes with a  
19 backhoe ten foot deep and ten foot long on  
20 our property while our property is  
21 well-marked.

22 This page was submitted to the Corps  
23 of Engineers meeting -- Page 5. The page was  
24 submitted to the Corps of Engineers, also  
25 hand-delivered to Anthony Brolick of Caesars.

1 We offered Caesars three options on  
2 purchasing our property, the requested  
3 property.

4 The first was money. The second  
5 was -- due to the fact that the subcontractor  
6 was -- it was a provision in the third -- in  
7 the second option, due to the fact that the  
8 subcontractor while performing testing on  
9 Caesars development dug eight test holes ten  
10 foot long and ten foot deep on Porter  
11 property, we demand restitution to be an  
12 agreement in legal writing to provide in the  
13 request made to the Harrison County Planning  
14 Commission of October 10th, 1996, and  
15 attached.

16 Option No. 3, which also includes --  
17 we also demand restitution for digging the  
18 eight holes, the same as Option No. 2, and  
19 the utilities, or if the utilities are not  
20 accepted, we'll accept an additional acre  
21 south on Stuckey Road in restitution.

22 This was faxed -- Page 6. This was  
23 faxed on February the 17th, 1997, to Mr.  
24 Brolick. Please advise us of your intention  
25 concerning utilities on Stuckey Road,

1 utilities to 1250 Stuckey Road, as soon as  
2 possible. Please fax your response to the  
3 following fax number. We must plan our  
4 options for the February 27th Gaming  
5 Commission. Your Bridgeport neighbor, Melvin  
6 Porter.

7 We are requesting an agreement  
8 legally, in legal writing, all utilities made  
9 available to our building at 1250 Stuckey  
10 Road and not exceed the price of utilities in  
11 downtown Corydon.

12 Now, I have another thing on the PUD.  
13 Since I do not have access to the documents  
14 concerning the actions, even though my wife,  
15 Marilyn, called Terry Miller and requested  
16 minutes of the meeting that passed a revised  
17 PUD zone, you see, I do not live in Harrison  
18 County, and I was not informed of a meeting.

19 I feel the PUD -- I am asking you  
20 since I -- I am asking you, the PUD -- in  
21 interest of the property -- is the PUD an  
22 interest to the property or are they  
23 rubber-stamping Caesars request?

24 What about the cushion zone? How  
25 much of this property on the leading page am

1 I going to be able to develop with Caesars --  
2 if Caesars gets in the PUD? I'm five acres.  
3 It's kind of odd that their cushion zone is  
4 five acres.

5 Therefore, I request a grandfather  
6 clause for existing property owner if they  
7 maintain forty-nine percent or more in the  
8 development to be exempt from PUD.

9 I thank you.

10 CHAIRMAN KLINEMAN: Thank you, Mr.  
11 Porter.

12 The next item is a presentation by  
13 Gordon Ingle on behalf of Harrison County; is  
14 that correct?

15 MR. GORDON INGLE: That is correct.  
16 Chairman Klineman, Ladies and Gentlemen of  
17 the Commission, Mr. Thar, Mr. Hannon, my name  
18 is Gordon Ingle, and I'm here as county  
19 attorney for Harrison County, and I am here  
20 on behalf of the Harrison County  
21 Commissioners and Harrison County.

22 Before I get started, I would like to  
23 identify some public officials here from  
24 Harrison County. And they do not have to  
25 stand. First of all, I'd like to recognize

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Clyde Saylor, who is our sheriff; his chief deputy, Kenny Spencer; all three of our commissioners, Steve Haggard, the president, Edward Emily, the vice president, and Terry Miller; and also we have a representative here from the Harrison County Council, Ralph Sherman.

The Harrison County Commissioners represent all of Harrison County. And I am here on their behalf for all of Harrison County. They represent Harrison County from Milltown to Lanesville and from Mauckport to Palmyra.

There are a lot of competing interests here today, as you can see, and there are a lot of people here with these competing interests asking you to do what is best for them. On behalf of the Harrison County Commissioners and Harrison County, I am here to ask you to do what the Commissioners believe is best for Harrison County.

Now, there's going to be a lot of people that are going to have differing opinions as to what is best for Harrison

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1 County, and therein lies the question. But  
2 the fact of the matter is that the voters of  
3 Harrison County have elected the  
4 Commissioners to do what is in their best  
5 interest, and I'm hear speaking on their  
6 behalf.

7 As you might know, since the election  
8 in November, there has been a change -- or  
9 you might not know that there's been a change  
10 in the Commissioners, and there's a new  
11 Board, a different makeup and different  
12 members.

13 This Board inherited a development  
14 agreement that was entered in with Caesars,  
15 and this Board of Commissioners is committed  
16 to keeping up its end of the bargain with  
17 that development agreement.

18 When I was appointed Harrison County  
19 Attorney and the new Board of Commissioners  
20 took over, I was asked to communicate a  
21 message to Caesars as to what our goals were  
22 as the new Board of Commissioners and as the  
23 county attorney. And that was to get as much  
24 money for all of Harrison County as quickly  
25 as possible.

1                   And I believe that is consistent with  
2                   Indiana 43364AC, which says this Commission  
3                   should consider the highest prospective total  
4                   revenue to be collected by the state of  
5                   Indiana from the conduct of riverboat  
6                   gambling. Harrison County has that same  
7                   interest.

8                   Now, on May 15th, 1996, Harrison  
9                   County Commissioners signed an agreement with  
10                  Caesars and the other three developers. And  
11                  I want to make it very clear to this  
12                  Commission that no matter who you had granted  
13                  the certificate of suitability in May of  
14                  1996, Harrison County would be here honoring  
15                  that agreement.

16                  The fact of the matter is that the  
17                  voters of Harrison County, a majority of  
18                  them, passed a referendum. After that, the  
19                  Harrison County Council passed a docking  
20                  ordinance. We signed an agreement with  
21                  Caesars. And Harrison County is committed to  
22                  seeing that a riverboat is operating in  
23                  Harrison County. We're committed to that.

24                  We would be here for any of the  
25                  developers. But this Commission chose to



1 award the certificate of suitability to  
2 Caesars, and we're here with the purpose of  
3 keeping our end of the bargain and supporting  
4 them to the extent that we can in seeing that  
5 we have a riverboat operating at Harrison  
6 County as quickly as possible in order that  
7 we might have as much money as quickly as  
8 possible.

9 Caesars has made some investments in  
10 Harrison County already, and they mentioned  
11 those, the five million dollars that is  
12 nonrefundable, the one point seven five  
13 million that went to certain infrastructure  
14 and business development and so forth that  
15 are mentioned in our development agreement.

16 They also spent twenty-five thousand,  
17 as the other developers did, at the time  
18 before the license or the certificate of  
19 suitability was granted. They spent a  
20 hundred and ten thousand dollars in Harrison  
21 County hiring lawyers and consultants.

22 They have made certain commitments in  
23 Harrison County, and we are in the process of  
24 addressing some different aspects of the  
25 development agreement that the agreement

1 calls for us to do after they receive the  
2 certificate of suitability.

3 One of the things that we are looking  
4 at in Harrison County, the county has some  
5 concerns about the triggering date for  
6 revenue to be coming in. First of all,  
7 Caesars has signed a irrevocable line of  
8 credit for ten million dollars. And if they  
9 don't have a temporary boat operating four  
10 months after the Corps permit date, then we  
11 can start drawing on that line of credit  
12 pursuant to the development agreement.

13 Harrison County has asked Caesars and  
14 they have agreed in principle to negotiate  
15 with us that if the Corps permit date is  
16 after a certain date, they will work out a  
17 plan for Harrison County to start receiving  
18 revenue that would be set off against future  
19 income, profitsharing that is above and  
20 beyond the tax dollars.

21 Harrison County passed a referendum.  
22 They enacted a docking ordinance. They  
23 signed an agreement with Caesars. They are  
24 committed to seeing a boat operating in  
25 Harrison County.

1           The Harrison County Commissioners are  
2 convinced in looking out for all of the  
3 citizens of Harrison County that it is in our  
4 best interest for Caesars to continue in the  
5 interim compliance period and to work toward  
6 getting a license, the permanent license.

7           And we ask you to consider that in  
8 making your decision today. And we are  
9 committed as well to getting as much money  
10 for Harrison County and also the state of  
11 Indiana as quickly as possible.

12           On behalf of the Harrison County  
13 Commissioners and all of the citizens of  
14 Harrison County, I thank you.

15           CHAIRMAN KLINEMAN: Thank you.

16           INDOT, Walter Land. This is our old  
17 friend who has been helping all the  
18 developers all over the state.

19           You've done an outstanding job, as I  
20 said before.

21           MR. LAND: Thank you, Mr. Chairman.

22           CHAIRMAN KLINEMAN: Can you bring us  
23 up to date on Bridgeport.

24           MR. LAND: Yes, sir. I'm Walter  
25 Land. I'm the project manager for all the

1 riverboat sites for the State of Indiana  
2 Department of Transportation.

3 Mr. Chairman, Members of the  
4 Commission, Mr. Thar and Members of the  
5 Staff, this project has been very positive  
6 for INDOT. We are pleased with the road that  
7 we have there.

8 We are -- as you know, I haven't met  
9 before the Commission to give you a status  
10 report. Thus far, this developer has spent  
11 three million six hundred and twenty-three  
12 thousand five hundred and ninety-nine  
13 dollars and seventy-seven cents with us.

14 CHAIRMAN KLINEMAN: Approximately.

15 MR. LAND: Approximately. That was  
16 of this morning, Mr. Chairman.

17 We are -- we have been very active,  
18 the developer, his engineers and us, in  
19 looking at the second phase, which comes from  
20 the interstate and New Albany down to the end  
21 of the present project limits on 111. We  
22 anticipate doing that some time this year, a  
23 May or June letting.

24 Our traffic engineers, we met with  
25 the developer and all its engineers and all

1 of INDOT engineers that were concerned with  
2 this project in December, and we scoped the  
3 project.

4 Since that time, we have had some  
5 changes within our own thoughts about what it  
6 is and what is to be for the best to move the  
7 traffic safely from the interstate through  
8 New Albany to the site. We think we have  
9 some good ideas, but we are sharing those  
10 with the city.

11 Our traffic engineer met with them  
12 last week, and we will probably meet again  
13 within the next two weeks to discuss those  
14 with him, since some of these routes are Old  
15 62, but are presently city streets.

16 We -- in our experience with the  
17 other riverboat sites, flow of traffic, we  
18 don't anticipate any problems. Probably the  
19 next phase of it would be probably a million  
20 and a half dollars, not including the city  
21 streets, which they had agreed with the mayor  
22 and the city.

23 That's the status so far, Mr.  
24 Chairman.

25 CHAIRMAN KLINEMAN: Does anybody have

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any questions of Walter?

MS. BOCHNOWSKI: It sounds like you have been receiving cooperation.

MR. LAND: Very much so. They're very pro-active, the engineers, the developer. We have our discussions, and we have an understanding, and we move quickly. And there's been no -- nothing but positive pro-active consideration.

They have met -- from the time, you know, when we met in Corydon, all the developers met me the next day, Mr. Chairman, to discuss the filing.

MS. BOCHNOWSKI: It's amazing how that works.

MR. LAND: And they were all very cooperative, and this developer was and has been.

CHAIRMAN KLINEMAN: And you are working with the city of New Albany --

MR. LAND: Yes, sir.

CHAIRMAN KLINEMAN: -- with respect to the part that goes through their city.

MR. LAND: Yes, sir.

MR. KLINEMAN: Anything else?

1 MR. THAR: Mr. Land, as you take the  
2 road past the Caesars project down 111  
3 towards where you cut off to go to Elizabeth  
4 and past two other project sites, do traffic  
5 concerns increase or decrease in terms of  
6 future road improvements and amount of money  
7 spent as you move down that road?

8 MR. LAND: We discussed that with the  
9 developers of those two sites south of  
10 Caesars at the time. There would have to be  
11 some horizontal and vertical alignment of  
12 those roads.

13 The one that's immediately adjacent  
14 to the present site of the developer would be  
15 as much for the one further south, would  
16 entail some major realignment.

17 MR. THAR: So aside from major  
18 realignment that may need to be done on some  
19 other sites, the work that's already been  
20 done would have been necessary for those  
21 sites anyway; is that correct?

22 MR. LAND: That's correct.

23 MR. THAR: Thank you.

24 MR. WALTER LAND: Thank you, sir.

25 CHAIRMAN KLINEMAN: Thank you again.

14 1 We now, according to the schedule,  
2 have RDI/Caesars response, which is five  
3 minutes, Mr. Bayt. My time is two minutes  
4 after two.

5 MR. BAYT: Could I indulge one minute  
6 to discuss the rebuttal with my clients?

7 CHAIRMAN KLINEMAN: Yes. We'll  
8 probably take a stretch break in place.

9 (At this time, a break was taken.)

10 CHAIRMAN KLINEMAN: If we could come  
11 back to order. I think what we will do  
12 schedulewise is we will go ahead and hear the  
13 response of RDI/Caesars, and then we will  
14 probably have a question and answer period.

15 And I again would request those  
16 people who are going to be responding to the  
17 questions, if they would please identify  
18 themselves for the court reporter, it will  
19 make the record look a lot better than it  
20 would if we have to guess who you are.

21 And after that, then probably we will  
22 take another break, probably a full fifteen  
23 or twenty. Then we'll come back and have our  
24 usual discussion period.

25 So with that, at about ten after two,



1 Mr. Bayt, we'll recognize you for five  
2 minutes.

3 MR. PHILLIP BAYT: Thank you,  
4 Chairman. Phil Bayt for Caesars. We'd be  
5 remiss if we also did not recognize Mr.  
6 Emily, a County Commissioner, who I did not  
7 know was present today, so I recognize him.

8 We have submitted a written  
9 submission to the Commission which states  
10 that we believe that the Commission has the  
11 authority to make its decision today, and we  
12 think that's clear.

13 It would also submit a submission to  
14 the Commission which refutes the factual  
15 allegations and implications made by some of  
16 the speakers today, and we'll let that stand  
17 as it is for the record.

18 We have provided to you today some  
19 information about a project which we think is  
20 fundamentally the same project that you  
21 approved in May of last year. We have made  
22 some changes, and we have made some  
23 enhancements and request that you consider  
24 those today.

25 We think on balance that those

1 provide an overall enhanced project, and  
2 appreciate the slides that we saw today. And  
3 some of the very slides you saw today are the  
4 very natural preservation issues that we have  
5 balanced. And we think that after the  
6 project is completed, you'll be able to enjoy  
7 those very views and those very habitats  
8 forever thanks to the proposals that we're  
9 making today.

10 We are prepared to discuss with Mr.  
11 Porter his issues. We have done so in the  
12 past. We have made an offer to him to  
13 purchase his property at appraised value and  
14 will renew that offer today.

15 The PUD enabling ordinance does not  
16 impact his property in any way. We're  
17 prepared to discuss utility issues with him,  
18 although he needs to take up some of them  
19 with the Elizabeth Water Department.

20 We're appreciative of the fact of the  
21 support from Harrison County, and we  
22 acknowlege that we have, in fact, honored all  
23 of our commitments there.

24 We will reiterate that all county  
25 high school track teams and all county high

1 school golf course teams will be able to use  
2 our golf course for free.

3 We have made considerable progress  
4 towards our certificate of suitability and  
5 licensure, and we ask that you consider those  
6 in balance, award an extension of our  
7 certificate of suitability and approve the  
8 changes that we have requested today.

9 Thank you.

10 CHAIRMAN KLINEMAN: Thank you. Why  
11 don't you stay there for just a minute and  
12 I'll start the questions off so we can get  
13 rolling.

14 MR. PHILLIP BAYT: Thank you.

15 CHAIRMAN KLINEMAN: This question  
16 about the cost of the land, I guess I'm  
17 getting a little confused. I basically don't  
18 even understand why that's an issue. But if  
19 you could address that.

20 MR. MITCHELL: David Mitchell,  
21 Caesars World. I'm David Mitchell with  
22 Caesars World.

23 Chairman Klineman, that issue was  
24 discussed extensively with Dorian McClusky on  
25 several occasions. It is a simple accounting

1 treatment of the transaction as it is legally  
2 obligated to both parties.

3 RDI received twenty million dollars  
4 of equity credit on the books of LLC in  
5 exchange for its proper, and the proper  
6 accounting procedure is to record it on that  
7 basis.

8 And they can take exception with  
9 that, but that, as I said, was discussed  
10 extensively with Dorian when she was both in  
11 Las Vegas in our offices and a subsequent  
12 phone call as well.

13 CHAIRMAN KLINEMAN: So it's not a  
14 cash. It's just an equity investment by  
15 putting in-kind property.

16 MR. MITCHELL: Yes, sir. It's for  
17 the contribution not only of the property,  
18 the amount of work that they did prior to  
19 entering into the joint venture for the value  
20 of their license application with Indiana and  
21 so forth.

22 MR. SUNDWICK: I guess -- so let me  
23 see if I got this clear. So what we're  
24 saying is that they're claiming -- somebody  
25 is claiming that the property is worth one

1 point eight million. And what you're saying  
2 is that even if we recognize one point eight  
3 million, we're, in fact, giving them credit  
4 for twenty million for the work they have  
5 done and what we perceive as the value of the  
6 land for the project.

7 MR. MITCHELL: Yes, sir. There were  
8 options on the property. The cost of  
9 exercising those options was actually one  
10 point eight million dollars, which was  
11 approximately one point four on one piece of  
12 property and four hundred thousand on the  
13 other piece of property. That is where they  
14 are coming up with the one point eight.

15 Regardless of that option price,  
16 what the agreement entered into was that RDI  
17 would receive a twenty million dollars equity  
18 capital account. And the proper accounting  
19 treatment is, therefore, to record it on that  
20 basis.

21 CHAIRMAN KLINEMAN: So the total cost  
22 of land is really the sum of those two,  
23 twenty million and a million eight; is that  
24 correct?

25 MR. MITCHELL: That's correct.

1 MR. BAYT: That's correct.

2 MR. SUNDWICK: That is correct?

3 MR. BAYT: That's correct.

4 MS. BOCHNOWSKI: The one eight is the  
5 cost of the option, exercising the option.

6 MR. BAYT: There were actually two  
7 pieces of property, RDI property and a  
8 Stuckey property. Stuckey is a third party  
9 having no relationship to the ownership  
10 interest.

11 MR. SUNDWICK: So what is the  
12 absolute value, appraisal value, of that  
13 land? So what we're saying is, in fact, that  
14 land now was worth twenty million dollars,  
15 was that before or after they got the -- you  
16 got the licensing?

17 MR. BAYT: That was before.

18 MR. SUNDWICK: It was worth twenty  
19 million dollars before.

20 MR. BAYT: Well, the transaction  
21 concluded before, but there was an agreement  
22 in place that if the license was granted,  
23 then the transaction would be consummated at  
24 that value.

25 MR. SUNDWICK: That's what I'm

1 saying. I mean, that became the value  
2 represented to Caesars of the property after  
3 the fact.

4 MR. BAYT: That's correct. And, in  
5 addition, we purchased land from a third  
6 party for an additional sum of money. And  
7 when you add those two together, you get to  
8 the twenty-one one point eight.

9 MR. SUNDWICK: So nobody really paid  
10 the money. That's the value you extended.

11 MR. BAYT: On the twenty.

12 MR. SUNDWICK: I get it.

13 MS. BOCHNOWSKI: You know, during  
14 those original hearings, it was pretty  
15 apparent that that was not the ideal  
16 location, that that was not the best piece of  
17 property. We're in the bad position in this  
18 particular situation of having to choose site  
19 and applicant together.

20 And that was part of our problem. I  
21 may have chosen a different site and, you  
22 know, two different -- an applicant and a  
23 site and put them together if I had my  
24 druthers. But I didn't.

25 But, you know, during those hearings,

16 1 you did reassure us that you had done your  
2 research on the mussel beds, that that wasn't  
3 going to be an issue.

4 Apparently it really is an issue,  
5 because you had to change your cruising.  
6 That you had done your research as far as the  
7 property you were on, apparently not, because  
8 now you have had to move the golf course.

9 When exactly did it become apparent  
10 to you that you couldn't use this cruising  
11 route, you couldn't use that property? When  
12 did that happen, and, you know, why didn't  
13 you know that before? Other people said that  
14 that was going to be the case; you said no.  
15 So I want to know how that happened.

16 MR. BAYT: I'll start, and Dave  
17 McAllen will continue.

18 MS. BOCHNOWSKI: Okay.

19 MR. BAYT: Prior to licensure, there  
20 were numerous studies undertaken, lots of  
21 inquiries done and lots of responses back  
22 from various regulatory bodies.

23 Mussels were an issue from day one,  
24 because those were identified, and so were  
25 potential species issues, and so were



16 1 potential wetlands issues. Wetlands issues  
2 went away quickly because of the specific  
3 delineation of jurisdictional wetlands by  
4 Dr. Bryan.

5 We believed mussels were not a  
6 problem because, first, barge traffic cruises  
7 the Ohio and traverses those mussel beds  
8 every day. Second, there are no living  
9 endangered and threatened mussel species in  
10 the mussel bed.

11 Next, the mussel beds, based upon the  
12 studies we have undertaken, are being  
13 infested with zebra mussels, and there will  
14 be just about only zebra mussels there in the  
15 next couple of years. And that's  
16 unfortunate, but that's the fact. We didn't  
17 do anything to make that happen.

18 We didn't believe as prudent  
19 operators and applicants that we would be  
20 denied a cruise route to the north with  
21 respect to mussels, because we were only  
22 going to be cruising near and not necessarily  
23 over, in some cases slightly over, three  
24 percent of that total mussel bed, a mussel  
25 bed that Kentucky allows to be harvested with

1 a modest licensing fee.

2 Regulators eventually -- and Dave  
3 McAllen can identify timing -- later  
4 indicated that while there aren't any studies  
5 indicating that traffic over the mussel beds  
6 will, in fact, affect the mussel beds, they  
7 wanted not to have to engage in the studies  
8 and they wanted not to have to engage in  
9 debate ultimately.

10 With respect to species, to this day,  
11 no one has found an endangered or threatened  
12 species on the site. Regulators at different  
13 times identified potential species that might  
14 be in the area.

15 But U.S. Fish and Wildlife has  
16 indicated that they have no evidence that  
17 there are bats on the site, no indication  
18 that there are bald eagles anywhere near the  
19 site, no indication of any significant  
20 threatened endangered species according to  
21 DNR and a variety of other organizations.  
22 But they all would like to study it, and  
23 they'd all like to preserve the uplands.

24 The uplands became an issue well  
25 after the certificate of suitability was

1 issued. We have letters indicating what U.S.  
2 Fish and Wildlife found to be of concern, and  
3 the uplands wasn't on that list as a specific  
4 issue until much after the certificate of  
5 suitability.

6 Dave can give you more specific  
7 timing on that.

8 MR. MCALLEN: Thank you, Phil. David  
9 McAllen with Geupel DeMars. We're the  
10 construction managers for the project, and  
11 we're acting as the permit coordinator with  
12 Caesars for the Army Corps of Engineers.

13 Ms. Bochnowski, to answer your  
14 question directly, we came to this Commission  
15 and stood before you in November, and we  
16 talked about the south cruise route. We've  
17 had two meetings. The Corps had coordinated  
18 two major meetings with the regulatory  
19 agencies.

20 And, as I said to you in November,  
21 the first meeting, the issue of the mussel  
22 bed was raised. And at that time, we had  
23 presented our 1996 study that Barry Vittor &  
24 Associates had done for the sole and distinct  
25 purpose of delineating the southern limit of

1 the mussel bed concerning density and  
2 diversity, because the '95 study we didn't  
3 feel gave us enough information.

4 The agencies have all reviewed that,  
5 and they are satisfied, when we met with them  
6 before we came to you in November, that the  
7 southerly cruise route would be acceptable to  
8 them concerning impacts on the mussel bed.

9 I need to be very careful with words  
10 here, because it's environmental words. But  
11 we did not have an avoidance. We have a  
12 minimization, as was shown on the map that  
13 one of the gentleman provided. And we showed  
14 you that same map in November. So that's the  
15 story behind that.

16 Concerning the uplands, when we had  
17 our second meeting with the regulatory  
18 agencies, there started to be concerns, and  
19 primarily raised by the public when we had a  
20 public hearing with the Corps of Engineers.

21 The regulatory agencies were  
22 bombarded, quite honestly, by letters from  
23 many of the people which you have heard from  
24 today. And they started to voice concerns  
25 for the uplands, all of the things that you

1 heard today, the corridors, the timbered  
2 uplands, being that habitat corridor that  
3 needed to be preserved.

4 And, while it really wasn't an issue  
5 that was defined to us until November 27th,  
6 when the U.S. Fish and Wildlife issued a  
7 letter to the Corps of Engineers that said  
8 that if we were going to continue to have the  
9 golf course on the uplands, they were going  
10 to require us to do a bat survey.

11 We immediately convinced --  
12 commenced -- excuse me -- conversations with  
13 the Corps concerning what the effect of that  
14 would be. Those bat surveys can only be  
15 performed in certain months of the year,  
16 which were not consistent with the balance of  
17 our permit time line. So it was going to act  
18 as a delay to our permitting process.

19 And that's when, after we met with  
20 you in November, November 27th, the first  
21 time, and that's when we started to consider  
22 moving the golf course off of the uplands  
23 into an off-site location.

24 MR. SUNDWICK: The Commissioner asked  
25 the question when did you know this. Mr.

1 Mottley stood up here and said that somebody  
2 knew it in 1983 that there are mussel beds.  
3 Somebody knew it in 1995. And obviously if  
4 these documents are valid and the studies are  
5 done, you should have known it.

6 MR. MCALLEN: Yes, sir. And we did.  
7 When we met with you, when we presented to  
8 you in May, and all the documents we provided  
9 to staff in May showed that we had several  
10 concerns, and the mussel bed was one of the  
11 major concerns.

12 So we -- in 1995, before we met with  
13 you, we had -- the study done in 1995 was  
14 ours, Barry Vittor & Associates. Caesars had  
15 commissioned that study. They took into  
16 account the previous studies. All the ones  
17 that you heard from today were taken into  
18 account in their first study in 1995, and we  
19 presented that to you at the Gaming  
20 Commission Hearing. We didn't make any  
21 attempt to hide that. What we said was --

22 MR. SUNDWICK: You mean you did it  
23 here after the fact?

24 MR. MCALLEN: No, sir. Before we  
25 presented to you in May, we had provided

1 documents. We provided documents and talked  
2 about the mussel bed at the Commission  
3 hearings in May. And that's on the record  
4 very clearly.

5 Then after we got the certificate of  
6 suitability and we started in with the  
7 agencies, we felt like talking with them very  
8 early that it was very necessary that we  
9 complete a second study that would much  
10 greater define and delineate both the density  
11 and diversity of the mussel bed.

12 And that's what we have done. That's  
13 the last study done that's been provided to  
14 the Corps and all the regulatory agencies.  
15 And that's the one that's been accepted by  
16 the regulatory agencies to agree to the south  
17 cruise route.

18 MR. SUNDWICK: The path going north  
19 then was -- there were mussel beds there.  
20 And I happen to agree with you. I mean,  
21 boats pass over them all the time.

22 MR. MCALLEN: Yes, sir, all the time.

23 MR. SUNDWICK: But, as a matter of  
24 fact, you cannot cruise north any longer.  
25 You can only go south.

18 1 MR. MCALLEN: Yes, sir. We have  
2 altered -- we altered our Corps of Engineers  
3 permit. After we spoke with you in November  
4 and got your approval, we altered the Corps  
5 of Engineers permit to cruise only south. It  
6 actually extends about four and a half miles.

7 And, as Phil said earlier, we would  
8 impact if we cruised the north roughly three  
9 percent of that. But there is no definitive  
10 studies existing in the United States today  
11 or anywhere that we are aware of and that  
12 anyone could bring up that definitively say  
13 how our cruising adjacent to that mussel bed  
14 and over three percent of it would affect it.

15 And so rather than go through a very  
16 long and lengthy process of trying to  
17 determine that, the Corps suggested very  
18 strongly, You need to think about a south  
19 only cruise route.

20 MR. SUNDWICK: I certainly wish they  
21 would have told us that last May.

22 MS. BOCHNOWSKI: But they won't.

23 MR. SUNDWICK: I know. You know, you  
24 say when did you know. I mean, you have to  
25 make some --



18 1 MR. MCALLEN: And, Mr. Sundwick,  
2 you're absolutely right in your statement  
3 that boats and barges and tugs cruise over  
4 that all the time. I mean, we have seen that  
5 sight. The difference is this is obviously a  
6 very highly controversial project.

7 MR. VOWELS: It was said earlier that  
8 the boat will cruise one third of a mile in  
9 each direction.

10 MR. MCALLEN: Yes, sir.

11 MR. VOWELS: He's talking about  
12 one-third of a mile down this way and then  
13 one-third mile back?

14 MR. MCALLEN: Yes, sir.

15 MR. VOWELS: What are the specs of  
16 the new boat? It started out at eighty-one  
17 thousand and then went to ninety-three  
18 thousand square feet. How wide is it?

19 MR. MCALLEN: I'm not the boat man,  
20 Mr. Vowels. Hold on just a minute.

21 MR. MITCHELL: David Mitchell with  
22 Caesars World.

23 Commissioner Vowels, the boat is  
24 exactly the same size as the boat that we  
25 proposed at the May hearing. The only

18 1 difference is is the top deck has been built  
2 out. The size of the boat is four hundred  
3 and fifty by a hundred and four feet.

4 MR. VOWELS: Well, what about -- I  
5 see there's a letter from Captain Wilson. Is  
6 that his name? And there's discussion about  
7 the width of the Indiana water here. It's a  
8 hundred and ten feet.

9 Tell me about this. How is that boat  
10 going to do that?

11 MR. BAKER: Commissioner, this is  
12 John Baker with Thompson Engineering.

13 The vessel is designed with on each  
14 corner of the vessel to have a Z drive thrust  
15 propulsion system. That Z drive system has  
16 full three hundred and sixty degree rotating  
17 range of thrust. You can literally take this  
18 vessel and hold it in a particular spot for  
19 any length of time that you would choose to.

20 Captain Wilson is the expert. And  
21 the navigation capabilities of that vessel,  
22 he is fully on record, as evidenced by that  
23 submittal, that he and his crew would be  
24 capable of operating that vessel within the  
25 limits that we defined for our cruise route.

1 It's a very exact navigation package that is  
2 being put on this vessel.

3 MR. VOWELS: Okay. I mean, you're  
4 talking a width of a hundred and ten feet;  
5 right? I mean, that's what it says here.

6 MR. BAKER: Correct.

7 MR. VOWELS: And this boat is a  
8 hundred and four feet wide?

9 MR. BAKER: Correct.

10 MR. VOWELS: And is the hundred and  
11 ten feet the narrowest width that we're  
12 talking about?

13 MR. BAKER: It's generally the  
14 narrowest width.

15 MR. VOWELS: Because there was the  
16 number of a hundred and eight. Anyway, when  
17 we're talking about a boat that's that big,  
18 how many feet you got on either side of it  
19 then, three feet?

20 MR. BAKER: Yes, sir. And that is in  
21 the normal worst case condition that you get  
22 on the Ohio River with a low water pool  
23 elevation of three eighty-three elevation.  
24 For a great majority of time, the pool  
25 elevation at our project site is higher.

1 Therefore, you have slightly greater widths  
2 from the Indiana-Kentucky state line back to  
3 the shore.

4 MR. VOWELS: Jack, what's the status  
5 of a boat having to cruise if the water drops  
6 down and they -- say it drops down farther  
7 than a hundred and ten feet. Can the boat  
8 stay docked if it's going to violate Kentucky  
9 law if the water is down?

10 MR. THAR: What the statute provides  
11 is if the water condition jeopardizes the  
12 safety of the boat, crew, the passengers or  
13 other boat traffic, then it's allowed to stay  
14 docked.

15 Whether or not the rise or fall in  
16 the water level in a given area jeopardizes  
17 that would really be a call by the master of  
18 the boat in conjunction, I suppose, with the  
19 Coast Guard.

20 MR. VOWELS: Okay. So I guess what  
21 I'm hearing from you is the worst case  
22 scenario is it's down to a hundred and ten  
23 feet width, and that's not the common width.

24 MR. BAKER: Correct. Commissioner,  
25 under some information we got from the Corps

1 of Engineers regarding river stage  
2 elevations, greater than fifty percent or  
3 equal to fifty percent of the time, we're  
4 over a hundred and thirty foot wide within  
5 that cruise path.

6 MR. VOWELS: Okay. So, I mean, under  
7 the scenario if it isn't possible for you to  
8 cruise and stay solely in Indiana water, the  
9 pilot, the master, has the option, if it's  
10 within the parameters of the statute, to stay  
11 docked.

12 MR. BAKER: The master would always  
13 have the final decision in regards to the  
14 safety of his vessel.

15 MR. VOWELS: Okay. And it says that  
16 this thing cruises at ten feet of water?

17 MR. BAKER: Correct.

18 MR. VOWELS: What's the depth of that  
19 now? Is there going to be some dredging?

20 MR. BAKER: There will be some  
21 cleaning up and dredging along the riverbank,  
22 along with some slope stabilization, some  
23 redemption (phonetic) placed from the  
24 downstream coffer cell down along that bank  
25 for a distance.

19 1 So, yes, sir, it will be cleaned up  
2 and minor amounts of dredging performed in  
3 that process.

4 MR. VOWELS: I have just one more  
5 question on the boat itself. It's bigger.  
6 You said there's no -- there's not going to  
7 be any additional tables; it will just be  
8 roomier. Any additional slots?

9 MR. MITCHELL: No, sir. Same number  
10 of slots.

11 MR. SWAN: I have a question. You  
12 had mentioned a percentage of time that the  
13 water level was average fifty percent, was at  
14 such as such a level. What percent of the  
15 time is it less than a hundred and eight feet  
16 or less than a hundred and four feet?

17 MR. BAKER: Zero actually. Very  
18 rarely will that pool ever fall below a three  
19 eighty-three pool elevation.

20 MR. SWAN: Thank you.

21 MR. SUNDWICK: What's your firm's  
22 name?

23 MR. BAKER: Thompson Engineering.

24 MR. SUNDWICK: This is your hundred  
25 and eight feet?

1 MR. BAKER: Correct.

2 MR. SUNDWICK: I'd like to ask, we  
3 had -- Mr. Brown said that they had somebody  
4 that was concerned there was some -- you had  
5 some information about this cruise path, that  
6 you didn't necessarily agree with this.

7 MR. BROWN: Yes, Commissioner  
8 Sundwick. I'd like to hand that over to  
9 Steve Smith, our consulting engineer, please.

10 MR. SMITH: Not consulting engineer  
11 at all. Former district counsel for the  
12 Corps of Engineers. Steve Smith, for the  
13 record.

14 I don't think our concerns were so  
15 much it was impossible to be done. We've  
16 testified before we would get to the details  
17 about the boundary line issue and the cruise  
18 path issue.

19 What we stated back in May and what  
20 we still affirm today is that if it's a  
21 hundred and eight feet or a hundred and ten  
22 feet, what they've got is a condition that  
23 doesn't allow for any error.

24 With a hundred and four foot boat,  
25 and even though you got Z drives on both

1 ends, any condition would -- they just don't  
2 have any room to play around.

3 And that's what the point has always  
4 been, that this is a site that's not  
5 conducive to a two-mile cruise path as  
6 originally proposed. And the mussel beds  
7 were known. The issues were known.

8 It was a better discussion to talk  
9 about a two-mile cruise path and then maybe  
10 have to adjust that at a later date depending  
11 on the comments.

12 But we're not saying it's not exact.  
13 There were studies done to measure exactly  
14 how far the boundary line is from the center  
15 of the road. They are using all available  
16 space, because if you have been down there,  
17 the river is right there beside the road.  
18 They are cutting back as far as they can  
19 within right-of-way. So they don't have a  
20 lot of room to make up for mistakes and wind  
21 and any kind of conditions.

22 So the position that Carnival has had  
23 and the position that other commentators have  
24 had is that this is just a site that doesn't  
25 allow for any error and is not conducive to a



1 hundred and four foot boat to move within  
2 three body lengths up and down and back and  
3 forth. That's been the position we've had.

4 MR. SWAN: Mr. Smith, would you be  
5 saying then that the captain would, for the  
6 safety of his passengers, not be able to  
7 cruise at all? You just said that it's --

8 MR. SMITH: You've got a river that  
9 goes three or four thousand feet out. So  
10 safety of the passengers I don't think is at  
11 issue. The issue is is he going to be in  
12 Kentucky waters if a strong wind comes up and  
13 moves him out.

14 The other issue we made with that is  
15 that they're going to have to do, as they  
16 said, cleanup and dredging. That is one of  
17 the things that affects the mussel beds and  
18 the things that people have raised, the  
19 environmental people have raised.

20 This activity is going to cause an  
21 adverse impact. Measureable or not, I don't  
22 know. I'm not a scientist on that end of it.  
23 All these studies talk about the mussel beds  
24 being between sixty and seventy-five yards  
25 off the bank.

20 1           You know, it's not by accident that  
2           they ended up there. All of a sudden now,  
3           the bank's going to be cut down, cut back any  
4           number of feet. And that's going to  
5           adversely affect the natural condition.

6           And, by the way, barges don't ride up  
7           and down over this site. The navigation  
8           channel is on the exact opposite side of the  
9           Ohio River. And there are no barges. There  
10          may be some minor fleeting. There may be  
11          some other things. But the natural channel  
12          on the charts is on the opposite side of the  
13          river.

14          So there is some activity, but not to  
15          the extent that we're normally used to seeing  
16          on the Ohio with barge traffic.

17          CHAIRMAN KLINEMAN: Before we lose  
18          your expertise, let's have a definitive  
19          statement concerning the Carnival site. What  
20          is your definitive statement on environmental  
21          problems on the Carnival site?

22          MR. SMITH: The same as it was back  
23          then. We've done some studies. We've talked  
24          to the same kind of people who make comment  
25          to the Corps of Engineers permitting process.

1 You've heard two people today, I think, state  
2 that there are some issues, but not to the  
3 extent that we have at this site.

4 I went -- something I didn't like to  
5 do is kind of make some definitive statements  
6 before. The unique features of the Caesars  
7 site is the three elements coming together  
8 close on the Ohio river, the escarpment, the  
9 creek and the river all in one location.

10 In our site and at the Mauckport  
11 site, you've got the typical issues. You've  
12 got some wetlands maybe, you got some woods.  
13 But there's nothing unusually unique about  
14 that site that creates any more than the  
15 normal problems.

16 With regard to the cruising, we've  
17 got about the same amount of Kentucky-Indiana  
18 water. The boundary line is nearly the same,  
19 maybe a little more, maybe a little less.  
20 Carnival's plan was to carve out, because  
21 there is no limitation like a highway that  
22 prohibits how far back it could cut back. So  
23 if we needed an extra hundred feet, it's just  
24 a function of dollars. You just dredge more  
25 land. So --

20

1 CHAIRMAN KLINEMAN: That's Corps  
2 permits and changing the riverbank, and  
3 that's a big deal, isn't it?

4 MR. SMITH: Cutting back necessarily  
5 is not. Now, if you have mussels or have  
6 other features you're cutting back. But as  
7 far as just any fleeting operator, any marine  
8 operator cutting back, Mauckport has got a  
9 marina already permitted to cut into the  
10 bank. That's not an unusually significant  
11 event.

12 MR. BROWN: If I could make one  
13 follow-up just to clarify what I believe is a  
14 misimpression about Indiana law. Indiana law  
15 requires that our riverboats cruise. It  
16 lists as an exception to that if cruising  
17 would violate federal law.

18 They attempted to get a bill through  
19 the legislature to make an exception for  
20 violation of state law. That didn't pass.  
21 There is no such exception in Indiana law.  
22 They have to cruise.

23 MR. THAR: That's not true. Aside  
24 from the statement that one -- there are --  
25 riverboats have to cruise unless the captain

1 master makes the determination that one of  
2 several types of situations exist.

3 One is, as Mr. Brown said, whether or  
4 not a cruise would violate federal law. That  
5 was cured by the Johnson Act. The second one  
6 was whether or not there's any water  
7 condition that would put into jeopardy the  
8 safety of the riverboat, the riverboat  
9 passengers or any other boat.

10 The same is true with regard to  
11 weather conditions, which is why when the  
12 winds are high, the boat in Evansville does  
13 not cruise. And that is permissible by law.

14 That is not true that they have to  
15 cruise except if it violates federal law.  
16 That's just not true.

17 MR. BROWN: Mr. Thar, what I was  
18 intending to convey was that getting into  
19 Kentucky waters is not an exception. That's  
20 not a reason not to cruise.

21 MR. THAR: That's correct.

22 MR. SWAN: According to some, that  
23 would be the safety of the passengers.

24 MR. BROWN: I wonder is they're just  
25 going to say no gambling on the starboard

20 1 side.

2 MR. THAR: Mr. Brown, while you're up  
3 here, may I ask you a couple questions, and  
4 Mr. Smith also?

5 MR. BROWN: Sure.

6 MR. THAR: Mr. Brown, you're not --  
7 you suggested during your talk that this  
8 Commission, if it decides to extend Caesars  
9 certificate of suitability, has entered into  
10 some type of private negotiations.

11 Are you accusing this Commission of  
12 privately negotiating with Caesars not in  
13 public?

14 MR. BROWN: No, no. I just mean as  
15 not a part of the formal licensing process.

16 MR. THAR: What your language was is  
17 that we would have, in effect, privately  
18 negotiated with Caesars.

19 MR. BROWN: That is exactly correct.  
20 Without public bidding. That's exactly  
21 correct.

22 MR. THAR: What's going on here  
23 today?

24 MR. BROWN: The public bidding, Mr.  
25 Thar, respectfully, occurred on May 6th

1 through the 8th and May 20th. We're here to  
2 contest the --

3 MR. THAR: Did you participate in  
4 that?

5 MR. BROWN: We did, indeed.

6 MR. THAR: Okay.

7 MR. BROWN: Not against this  
8 particular project, but we did, yes.

9 MR. THAR: Did you participate in the  
10 hearing where each competitor was allowed to  
11 set forth their program?

12 MR. BROWN: Yes.

13 MR. THAR: Okay. And today is the  
14 first time that Caesars has suggested, has it  
15 not, that they want to amend certain aspects  
16 of their project? And that's being done in  
17 public; is that right?

18 MR. BROWN: To my knowledge, the  
19 first time they suggested it was when they  
20 filed a Corps application on February 3rd.  
21 But today --

22 MR. THAR: In front of the Indiana  
23 Gaming Commission, they have now brought that  
24 amendment to the Commission; is that right?

25 MR. BROWN: I believe that's correct.

1 MR. THAR: And are you participating?

2 MR. BROWN: Yes.

3 MR. THAR: Thank you.

4 Mr. Smith?

5 MR. SMITH: Yes, sir.

6 MR. THAR: Can I use your expertise  
7 as former district counsel for the --

8 MR. SMITH: Let's leave it to that,  
9 yes, sir

10 MR. THAR: -- former district counsel  
11 for the Army Corps of Engineers. While you  
12 were district counsel for the Army Corps of  
13 Engineers, how many times has the Army Corps  
14 of Engineers ordered an environmental impact  
15 study on secondary impacts?

16 MR. SMITH: Well, I went back and  
17 read the comment of Fish and Wildlife to  
18 reread their actual comment. And I think you  
19 really have to go to the cases. There's a  
20 difference between indirect impact and  
21 secondary impact.

22 What I have heard from the  
23 commentators was concerns about indirect  
24 impacts. You build a two hundred and fifty  
25 million dollar project on the spot, and



1 either right there on the site or next door,  
2 is the impact a direct result from the  
3 project or is it an indirect?

4 In other words, you didn't dig it up  
5 and throw it out like you would a tree or a  
6 dirt. But by building the smokestack -- and  
7 it came up under the power plant case -- you  
8 then caused pollution and caused problems  
9 with the next door neighbor.

10 Secondary impact is because I have  
11 this, someone is going to build a gas station  
12 next door, and that's going to cause trouble.

13 MR. THAR: Let's go to secondary  
14 impact.

15 MR. SMITH: Secondary impact is not  
16 something normally covered by the Corps  
17 permitting process at all. The statement I  
18 think Phil made was correct. That's a true  
19 statement.

20 If you continue reading Fish and  
21 Wildlife's letter, right after that -- you're  
22 going to ask me to read, and I got my  
23 contacts on. The greatest concern is to  
24 rupture and fragmentation of the continuous  
25 forest at bluff corridor. This supports a

1 large variety of rare animals and plants.

2 If you read that whole paragraph in  
3 context, I think they're talking about  
4 indirect.

5 MR. THAR: But they do say secondary.

6 MR. SMITH: They do mention the word  
7 secondary, and then in parenthesis is  
8 indirect. So, you know, they're not always  
9 lawyers, and lawyers read things differently.

10 So what I think is really important,  
11 I think the Corps still has to make a  
12 decision whether there's going to be impacts  
13 on this unique area. And I think the  
14 question of whether or not there's an impact  
15 statement required, obviously the  
16 commentators are still saying there is.

17 I think it has been changed from  
18 three months ago, but it's still a legitimate  
19 question the Corps is going to wrestle with.

20 MR. VOWELS: Was your question how  
21 frequently?

22 MR. THAR: Have they ever ordered an  
23 environmental impact study for secondary  
24 impacts. And the answer is no, they have  
25 not.

1 MR. SMITH: I'm not aware of any on  
2 purely secondary impact, no.

3 MR. THAR: You have read the Army  
4 Corps of Engineers public notice with regard  
5 to the project?

6 MR. SMITH: Yes, sir.

7 MR. THAR: How many acres of wetlands  
8 are delineated as being in this project?

9 MR. SMITH: They're correct again. I  
10 mean, we're not arguing with these arguments.  
11 I think what really was the story, the first  
12 group that looked at it used an incorrect  
13 delineation statement. It's point oh three  
14 or point three.

15 MR. THAR: It's under a half acre.

16 MR. SMITH: Yes.

17 MR. THAR: This filing says there's a  
18 suggestion that there's thirty some acres. Is  
19 that an erroneous statement?

20 MR. SMITH: I don't think that's  
21 entirely correct. I think that what the  
22 statement was -- and I don't remember reading  
23 it exactly --yes, the early report did say  
24 there were thirty.

25 And I'm not sure what the timing was.

1 But when the Corps applicaton was filed, they  
2 used Dr. Bryan's report that was an accurate  
3 use of the right standard. The standard  
4 changed over the '95 period. The standard  
5 changed during the period, just like the  
6 wetland rules have changed as of last  
7 December. So it's an evolutionary process.

8 MR. THAR: One final issue. Let's  
9 assume for the moment that this Commission  
10 decided to not review the certificate of  
11 suitability for Caesars, and, as a result,  
12 Caesars decided we're not going to get into  
13 anything in the future that the Commission  
14 may do, and Mr. Townsend then owned his land  
15 as a public individual.

16 Is there anything that prevents him  
17 from clear-cutting that land at that point in  
18 time?

19 MR. SMITH: Which part, the upland  
20 woods? I carry on that debate with the Corps  
21 all the time. Once you have been -- my  
22 theory as a lawyer representing a developer  
23 is no. How you going to cut the heck out of  
24 it? You got to cut it by hand. You can use  
25 no mechanized means whatsoever. It's kind of

1 tough on that bluff to get up there. Knowing  
2 Larry, he could do it.

3 The Corps now says once you know of  
4 the sensitivity of an area, it's -- you  
5 better be real careful, because they may try  
6 to exercise some authority..

7 MR. THAR: Is it possible that an  
8 environmental group in this particular  
9 instance could win the battle and lose the  
10 war?

11 MR. SMITH: I've used that argument  
12 myself. Yes.

13 MR. THAR: I thank you for your  
14 candor.

15 CHAIRMAN KLINEMAN: A little more  
16 candor, and then we'll probably put you in a  
17 place where they won't even pay you for what  
18 you did today.

19 MR. SMITH: I hope I'm better than  
20 that.

21 CHAIRMAN KLINEMAN: Based upon your  
22 experience with the Corps, do you think that  
23 Caesars actually came to us in May and told  
24 us some things that they did not believe were  
25 true or omitted to tell us some things that

1 they already knew, or had these things come  
2 up, as they would say, as a result of filing  
3 the actual papers with the Corps and having  
4 other people comment during the comment  
5 period?

6 I am going to get you.

7 MR. SMITH: Are you trying to -- I'll  
8 never get another job the rest of my life.

9 MR. KLINEMAN: Never mind. Mr. Thar  
10 says don't.

11 MR. SMITH: I had an answer.

12 CHAIRMAN KLINEMAN: Beg your pardon?

13 MR. SMITH: I said I could have come  
14 up with an answer.

15 But I think the evidence is before  
16 you to make your own judgment as to the  
17 amount of engineering freedom they exercised  
18 versus -- the point we were making -- and I  
19 helped Mr. Brown with that presentation -- is  
20 a pretty package looks nice. And there's  
21 things you say, well, let's talk about them  
22 one way. If we end up having to change them  
23 around, we'll worry about that later.

24 I think that is what we -- the point  
25 we're making. The package was awful nice

2  
1 when we saw it in May. And the very things  
2 that you all felt were critical are now just  
3 ironically the very things have been changed.  
4 And some of that is what we're asking you to  
5 look at.

6 MS. BOCHNOWSKI: Jack, I have a  
7 couple questions that I'd like you to answer.  
8 In essence, I mean, I realize things have  
9 been moved around, and I know that the cruise  
10 route is a problem. But, in essence, I mean,  
11 substantially has this -- is this project  
12 basically still the same project except with  
13 parts of it moved around?

14 MR. THAR: Well, from a staff point  
15 of view, the ultimate issue before this  
16 Commission is this. We believe that there's  
17 no constitutional right to due process.  
18 That's fairly recognized in this particular  
19 process, particularly where we are today.

20 We believe the Commission has the  
21 authority to make whatever decision it  
22 decides to make today with regard to this  
23 license. What it boils down to, however, is  
24 whether or not this Commission believes that  
25 the project as being presented to you today

1 is materially different so that in good faith  
2 you cannot say it's the same project I passed  
3 on before, or that, in fact, a reasonable  
4 mind may differ, and to me it's identically  
5 the same project.

6 And I believe that arguments can be  
7 made by rational individuals on both sides of  
8 that issue. For instance -- well, I mean, so  
9 that's what it comes down to.

10 MS. BOCHNOWSKI: Right.

11 MR. THAR: But if you take -- I mean,  
12 from one side of it, if you take a look at  
13 the component parts, it is not only the same  
14 project, it is an enhanced project.

15 However, another view could be that I  
16 have taken a look at the location of the  
17 component parts, and the location of those  
18 component parts do not make it the same as it  
19 was before.

20 With regard to the environmental  
21 issues, there is a potential loss to the  
22 environment if this is moved. I don't know.  
23 I mean, sometimes I wonder if I was in Mr.  
24 Townsend's position, out of spite I might  
25 spend the next year cutting down every tree



2  
1 on that knob. There isn't a lot anybody can  
2 do about it.

3 MS. BOCHNOWSKI: And I think it was  
4 clear in the beginning that this was not the  
5 best site. But there were other issues  
6 involved, too.

7 MR. THAR: It's a matter of to what  
8 extent did that play in -- ultimately, it  
9 comes down to do you as a Commissioner  
10 believe this is the same project and that  
11 there have been alterations, but not  
12 material, not major, and I don't have a  
13 problem going forward with this project the  
14 way it is, or do I as a Commissioner feel  
15 that no, this project is not, if this project  
16 was presented to me back in May, I would have  
17 voted no, would have voted for somebody else?  
18 That is what this Commission is faced with  
19 today.

20 MS. BOCHNOWSKI: I understand that.  
21 And that's why I was asking, is -- I mean,  
22 aside from where these things are located, we  
23 do still have the components.

24 MR. THAR: The component parts are  
25 there. Under the certificate of suitability,

1 the component parts are there. And we have  
2 all -- we have given line item changes to  
3 other developers. We have allowed other  
4 developers to move aspects of their project.

5 MS. BOCHNOWSKI: That was my next  
6 question. Lawrenceburg, I think, had  
7 substantial changes.

8 MR. THAR: Lawrenceburg, Rising Sun,  
9 East Chicago. So, I mean, and in all those  
10 instances, the Commission, certainly in  
11 situations nowhere near as controversial as  
12 this one, decided that those did not in any  
13 way change, diminish or alter the project.

14 MR. VOWELS: I have a question about  
15 the hotel. You moved it north. But it was  
16 always next to the floodway line. Now, it's  
17 still next to the floodway line. Was it  
18 moved north for any other reason other than  
19 aesthetic purposes?

20 MR. BAYT: Both aesthetic and  
21 cohesiveness. Phil Bayt for Caesars. It  
22 was moved to the north for really  
23 cohesiveness purposes so that the patrons who  
24 stay at the hotel would be close to the  
25 parking facilities and close to the pavilion.

1 MR. VOWELS: Why wouldn't that have  
2 been the way it would have been in the first  
3 place? I don't understand.

4 MR. BAYT: Dave McAllen can describe  
5 the chronology.

6 MR. MCALLEN: Dave McAllen with  
7 Feupel DeMars. Jeff, would you put up the --  
8 yeah, that's the one I want.

9 Commissioner Vowels, this is a  
10 floodway delineation line. And our project  
11 manager, Jeff Schroeder, will show you here.  
12 In June of 1996, that floodway line by DNR  
13 was delineated there. And that's a very --  
14 it's an inaccurate line. It's roughly three  
15 hundred feet wide.

16 We, through our consultants -- and so  
17 our hotel was back behind that line. So our  
18 hotel at the time of the certificate of  
19 suitability was behind the DNR's floodway  
20 line. And so that's the reason it was to the  
21 south.

22 We then engaged in a series of very  
23 complicated hydraulic studies to attempt to  
24 move that line as close as we could to the  
25 river, the DNR allowance for that. And we

1 convinced DNR that the line was considerably  
2 closer to the river. They accepted our  
3 calculations.

4 And that facilitated us moving the  
5 hotel to the north and back within the  
6 cohesiveness of the balance of the  
7 facilities.

8 MR. VOWELS: Why did you want the  
9 floodway line to be closer to the river?

10 MR. MCALLEN: Because that then would  
11 allow us to move the hotel to be closer to  
12 the balance of the facilities.

13 MR. VOWELS: Why didn't you do that  
14 before DNR hearings?

15 MR. MCALLEN: Yes, sir. The reason  
16 we didn't is we were not allowed to. The  
17 Department of Natural Resources, and actually  
18 all of the regulatory agencies, were not  
19 allowed to act on any of the applicants'  
20 permits. You couldn't have a permit until  
21 you, in fact, were the ones with the  
22 certificate of suitability.

23 MR. VOWELS: So, I mean, the floodway  
24 delineation is something that the Department  
25 of Natural Resource has adopted?

3  
1 MR. MCALLEN: They accepted our  
2 calculations, yes, sir, in July of '96.

3 MR. VOWELS: And you couldn't have  
4 made those calculations before then?

5 MR. MCALLEN: Yes, sir, we could  
6 have. But you have to remember, the timing  
7 is when we filed for our certificate of  
8 suitability, DNR could not have reviewed our  
9 calculations. They were not allowed to.

10 So the only thing that we could have  
11 done on our certificate of suitability was  
12 put it behind the known floodway line.

13 MR. THAR: We have a memorandum of  
14 understanding from the Department of Natural  
15 Resources that allows all applicants to file  
16 their permit application. But DNR will not  
17 process or do anything or advise them on it  
18 until we have awarded a certificate of  
19 suitability to one of the four applicants  
20 down there.

21 So it wasn't until after the award of  
22 the certificate of suitability under our  
23 memorandum of understanding that DNR would  
24 take their calculations and then determine  
25 whether or not they were right.

3  
1 MR. VOWELS: Okay. I understand  
2 that. I guess my question would be -- all  
3 right. You were able to get the floodway  
4 delineation revision closer to the river.

5 MR. MCALLEN: Yes, sir.

6 MR. VOWELS: And -- okay. Point on  
7 there. Show me. You got the June of '96  
8 over there. There's a red line, that  
9 delineation. Where was the hotel at that  
10 time in reference to that?

11 MR. MCALLEN: It might be better if  
12 we make reference to this one.

13 MR. VOWELS: Show me the river.

14 MR. MCALLEN: The river?

15 MR. VOWELS: Yeah. That's the river.  
16 Okay.

17 MR. MCALLEN: And it was right there.

18 MR. VOWELS: On which side of that  
19 red line? Right or left?

20 MR. MCALLEN: To the left of the  
21 line, yes, sir.

22 MR. VOWELS: It was north of the  
23 line?

24 MR. SCHROEDER: Of the floodway.

25 MR. VOWELS: But it looks like you're

1 moving it farther away. One went that way,  
2 and you went that way.

3 MR. MCALLEN: Well, the line came  
4 this way, and we moved it -- I can show you  
5 on the same map here.

6 MR. VOWELS: Okay.

7 MR. MCALLEN: Here's where it was at  
8 the time of our certificate, and here is  
9 where it is now.

10 MR. VOWELS: Okay. So now you're to  
11 the right of the red line.

12 MR. MCALLEN: Of the original red  
13 line, yes, sir. I'm sorry. I'm an engineer.  
14 I apologize.

15 CHAIRMAN KLINEMAN: I can just  
16 comment from my own personal experience. I'm  
17 on the Zoning Board out in Carmel. And this  
18 is the type of thing that people go through  
19 all the time trying to establish the hundred  
20 year flood and so forth. And they then  
21 petition the DNR to get the lines moved  
22 around to where they want them.

23 So this is not unusual. I'll just  
24 say that. They moved them around after they  
25 had convinced DNR that the line really is

1 some place else. So it's not an unusual  
2 thing.

3 MR. VOWELS: Were you convinced that  
4 the line was further towards the river?

5 MR. MCALLEN: Yes, sir, we were  
6 convinced of that all the time. It's very  
7 common. As I said, the DNR takes a very  
8 conservative view of where the floodway line  
9 is. It's a very inaccurate line.

10 MR. VOWELS: I guess my question  
11 would be, why didn't you show us two  
12 alternate versions saying that if the  
13 floodway delineation is going to stay where  
14 it is in the original red line, then our  
15 hotel is going to be here, but if the  
16 Department of Natural Resources will accept  
17 the revision, it will be here?

18 MR. BAYT: Commissioner, Phil Bayt.

19 Caesars and all the applicants were  
20 under some very intense scrutiny. Had we  
21 proposed to put a hotel in the wrong place,  
22 we would have been criticized for putting it  
23 in the wrong place.

24 If we proposed to put it behind the  
25 line and then tried to do our calculations



1 and then moved it forward, then we're also  
2 subject to criticism. We live in a very  
3 difficult position.

4 And we think on balance that we were  
5 prudent to put it where we were before,  
6 because we couldn't deal with DNR. And now  
7 when we could deal with DNR in the normal  
8 course of events, we were able to move it  
9 closer.

10 And closer is something again that  
11 makes it more cohesive. So we were concerned  
12 about being criticized either direction.

13 MR. SWAN: So what does your project  
14 look like now? Is that a graphic up there?

15 MR. BAYT: We have a rendering of the  
16 current and the original. We'll provide  
17 both.

18 MR. MCALLEN: Again, David McAllen  
19 with Geupel DeMars.

20 Do you want the graphic or the  
21 rendering?

22 MR. SWAN: The rendering.

23 MR. MCALLEN: I think what we like to  
24 depict here is what is the look of the  
25 facility. And I believe that you'll see that

1 to probably the layperson, very quicky, it's  
2 very difficult to see there's any difference.

3 The features are the -- let me give  
4 you a little chronology here. Maybe this  
5 will help you, Mr. Vowels, as well.

6 Jeff, if you'll point to the hotel.  
7 The hotel, that was at the hearings in  
8 Corydon. And to get it behind the floodway  
9 line, Mr. Vowels, is when we moved it back  
10 away from the major development.

11 Jeff, you might also point to the  
12 pavilion. And how about the pavilion in the  
13 new facility in the current plan? There's  
14 the pavilion. How about the boat, Jeff?  
15 Okay. There's the boat. How about the  
16 bridge? Pedestrian bridge across 111, still  
17 the same.

18 Parking structures, there's two. And  
19 I probably need to describe these to you.  
20 There was in the original a one-story right  
21 adjacent to Highway 111. And there was a  
22 three-story -- a four-story -- I'm sorry --  
23 down farther.

24 Comments were made at the Commission  
25 hearings that we were privatizing the road

1 and concern about the traffic safety. And we  
2 met with Mr. Walt Land. And, as a result, we  
3 moved the parking garage to behind the  
4 pavilion in-between the hotel, consolidated  
5 the parking.

6 Other than that, we believe it's the  
7 same project. The only other thing I can say  
8 is we did make a minor modification to our  
9 mooring cells, very much a technical  
10 engineering issue.

11 MR. VOWELS: Was there something with  
12 the parking and not being able to get some  
13 land or not?

14 MR. BAYT: No.

15 MR. VOWELS: Any other county?

16 MR. BAYT: No.

17 MR. SWAN: There was a question about  
18 it going into the county next door or  
19 something.

20 MR. MCALLEN: Yes, sir. Again, David  
21 McAllen.

22 In our original plan, I don't  
23 believe -- well, actually I think that's not  
24 true. I think we did show a small corner of  
25 our parking lot. We pulled that back out of

4  
1 Floyd County. We also had some bank  
2 stablization, about a hundred feet of bank  
3 stablization, on our property that was within  
4 Floyd County.

5 Because of the objections of Floyd  
6 County people, we didn't want to fight that  
7 as a battle, so we deleted that bank  
8 stablization in our first Corps modification.

9 MR. SWAN: While you still have the  
10 rendering up there, on the cruising, when you  
11 moor there now, do you have to like scoot out  
12 into the river sideways before you can take  
13 off, and are you then encroaching on Kentucky  
14 waters?

15 MR. BAKER: John Baker with Thompson  
16 Engineering.

17 Commissioner, you do have to scoot  
18 out, but you do not have to encroach into  
19 Kentucky waters to pass by the southern  
20 mooring cell along the southern route.

21 MR. SWAN: Okay.

22 MR. BAKER: And, again, the location  
23 of this vessel or navigability of this vessel  
24 is easily accommodated in a ninety degree  
25 fashion. It can literally go ninety degrees

4  
1 and down.

2 CHAIRMAN KLINEMAN: Anything else?

3 MR. VOWELS: In talking about the  
4 gondola quickly, earlier, it was spoken that  
5 it was not included in the Corps of Engineer  
6 application.

7 Is there a possibility that you might  
8 modify that application later to get the air  
9 rights, etcetera? Is it possible to modify  
10 the Corps of Engineer application?

11 From what it seemed like before we  
12 were talking about the cruising north or  
13 south, there was discussion that you can't  
14 pull the wool over the Corps of Engineers'  
15 eyes. If you let them think you're going to  
16 include something later, they're going to  
17 look at the whole kit and caboodle. Where  
18 are we at on that?

19 MR. BAYT: Dave McAllen is prepared  
20 to address that.

21 MR. MCALLEN: Yes. Again, David  
22 McAllen with Guepel DeMars.

23 Our gondola was included in our first  
24 application to the Corps of Engineers. It  
25 was judged complete. Immediately in

1 discussions with the Corps, it became obvious  
2 to us that we were going to have -- in  
3 talking that we were going to have great  
4 difficulty with that component for the  
5 reasons that Phil Bayt expressed before now.

6 And so the Corps suggested to us that  
7 we remove that section from our application  
8 and resubmit it at such time as we've got the  
9 answers that they were going to look for.

10 MR. VOWELS: So on this issue,  
11 they're going to let you modify later if you  
12 can work it out?

13 MR. MCALLEN: If we can work it out.  
14 It may well be -- and I believe David  
15 Mitchell said this to you, Mr. Vowels. It  
16 may well be that it will be after our Corps  
17 of Engineers permit that we filed for right  
18 now may be given to us.

19 MR. VOWELS: Okay. The alternative  
20 on the gondola, if you can't do it, and it  
21 was eight million or eight point three  
22 million -- anyway, the eight million dollars,  
23 if you can't do the gondola, are you going to  
24 do something more with the hotel?

25 MR. MITCHELL: Yes, sir, Commissioner

1 Vowels. In our certificate of suitability --

2 MR. VOWELS: Okay. Well, just answer  
3 this question. If you're going to do that,  
4 how soon are you going to know about the  
5 gondola? And if you're going to start to  
6 build the hotel, how are you going to know  
7 what you're going to do to the hotel?

8 MR. MITCHELL: Let me answer the  
9 first question, I think, first, or try to.  
10 In the certificate of suitability, and  
11 specifically because of the reference and  
12 incorporation of the Harrison County  
13 Development Agreement, when we entered into  
14 the agreement with Harrison County, we were  
15 concerned with the political and uniqueness  
16 of the gondola and negotiated with Harrison  
17 County an alternative in lieu of putting the  
18 gondola in to add the eight million dollars  
19 worth of hotel rooms and parking to the  
20 facility.

21 And that is the position that we  
22 still maintain that if we can't do the  
23 gondola, which we would very much like to do.  
24 We think it is a valuable component, and we  
25 think that if we move forward and the

1 political aspect of this project dies down,  
2 that we'll have more success in moving  
3 forward.

4 If not, we will build the hotel and  
5 the additional hotel rooms and the additional  
6 parking. The hotel and the parking will be  
7 designed in a manner so that at the point in  
8 time when we approach Harrison County with  
9 the determination that we think it's in the  
10 best interest not to continue to pursue the  
11 gondola and negotiate an agreement with them  
12 to move forward and get approval from the  
13 Commission to do so, then we will go ahead  
14 and construct the hotel rooms and the  
15 additional parking.

16 MR. VOWELS: Okay. If you can answer  
17 this as sensitively as you can. I don't want  
18 to mess anything up. You referred to some  
19 political aspect. Are you talking about  
20 Kentucky?

21 MR. MITCHELL: Yes, sir.

22 MR. VOWELS: I noticed in the  
23 newspaper yesterday in Evansville -- maybe  
24 the day before yesterday; it could have been  
25 yesterday -- that there was some -- there was



1 talk between Caesars and Churchill Downs and  
2 the Kentucky Kingdom about marketing some  
3 things along that line.

4 Do you anticipate that maybe being  
5 helpful?

6 MR. MITCHELL: Yes, sir, we do  
7 believe it's helpful. Again, David Mitchell  
8 with Caesars World. Excuse me.

9 We do think it is helpful. We are  
10 trying to be a good neighbor both on the  
11 Kentucky side and the Indiana side. We have  
12 had meetings recently with members of the  
13 community there and the Chamber of Commerce  
14 and so forth and will continue to try to  
15 develop our relationships and be a positive  
16 factor in the overall area.

17 CHAIRMAN KLINEMAN: Well, before we  
18 leave the gondolas, I have a problem, because  
19 I can recall being told that there was -- you  
20 had ground control on the Kentucky side. I  
21 now read in your brief -- and this causes me  
22 some concern -- Caesars did have all  
23 necessary real estate rights for the gondola,  
24 but did not have all the necessary air  
25 rights.

1 Now, to me, that was -- if that was  
2 the case at that time, I think that's  
3 something we should have been told.

4 MR. MITCHELL: David Mitchell,  
5 Caesars World.

6 Chairman Klineman, I guess I have to  
7 take the responsibility for that. I  
8 apologize if there was any miscommunication  
9 on our part. I am not an attorney. The  
10 difference between air rights and real estate  
11 to me is different. And, you know, it was my  
12 fault.

13 And, yes, you know, I do think that  
14 we tried very hard to make sure the  
15 Commission knew that there were certain  
16 difficulties with respect to that particular  
17 component, which is why we negotiated the  
18 alternative hotel rooms parking structure.

19 And to me, to be honest with you, we  
20 have had discussions with the land owner.  
21 The important thing is, of course, the  
22 permission of the United States Coast Guard  
23 to go across the Ohio river. That has always  
24 been our principal concern.

25 CHAIRMAN KLINEMAN: I understood

1 that. I understood that there might be  
2 permit problems with the Coast Guard or the  
3 Corps of Engineers. But I at least came to  
4 the conclusion that you were all right on the  
5 Kentucky side, which surprised me.

6 MR. MITCHELL: I'm sorry if we misled  
7 you. That would have been my fault. I  
8 apologize.

9 CHAIRMAN KLINEMAN: Okay. And now  
10 can you put some meat on those bones? We  
11 keep hearing that under the terms of the  
12 development agreement, we don't get gondolas.  
13 We're going to get eight million of what? I  
14 mean, are you going to build another hundred  
15 rooms? Tell me what your thoughts are.

16 And along with Commissioner Vowels,  
17 you know, you're building a five hundred room  
18 hotel. Do you halfway through say, By the  
19 way, why don't we add another hundred rooms?

20 MR. MITCHELL: No, sir, that's not  
21 true. If you need verification, Caesars  
22 World senior vice president of construction  
23 is here and can address those issues.

24 But the construction of the hotel and  
25 parking will be done in a manner so that we

6  
1 can add hopefully more than a hundred rooms.  
2 The development agreement specifically states  
3 one hundred rooms, four hundred parking  
4 spaces. And we will hopefully over the next  
5 long period of time add much more than that  
6 to this project.

7 CHAIRMAN KLINEMAN: And as far as the  
8 total price of the project, you now tell us  
9 that it's a two hundred and sixty-five  
10 million dollar project. And where are the  
11 additional costs from two twenty-five or two  
12 twenty-eight, whatever it was?

13 MR. MITCHELL: David Mitchell with  
14 Caesars World.

15 Chairman Klineman, the number of two  
16 hundred and sixty-five million is to  
17 represent the additional costs associated  
18 with the expansion of the boat and the --  
19 oh, excuse me -- the expansion and land site  
20 pavilion, those two elements.

21 Actually, our construction budget  
22 for this project is closer to two hundred and  
23 eighty million dollars. I did not think that  
24 that was relevant to you, because you're not  
25 really concerned about anything that doesn't

1 add value. Those two particular components  
2 we believe very much add value to this  
3 project.

4 MR. SUNDWICK: Let me ask another  
5 question quickly, because we do have some  
6 confusion certainly in Mr. Klineman's eyes  
7 about land rights and air rights and that  
8 sort of thing. And also we heard from  
9 another gentleman today that said possibly  
10 they could have looked at those cruise paths  
11 and said, well, we really can't go north, and  
12 if we can't go north, that's all right, we'll  
13 go south. And that -- you know, he kind of  
14 paraphrased what he thought your thoughts may  
15 be on how he would handle that, the gentleman  
16 from the Corps, before he had a chance to  
17 answer the questions from --

18 MR. MITCHELL: Commissioner Sundwick,  
19 I'm sorry. I'm not certain I understand the  
20 question.

21 MR. SUNDWICK: Well, you know, we're  
22 trying to find out again when you knew what  
23 you knew. You know, you just said, well,  
24 gee, we really made a mistake on this air  
25 right deal, and we really made a mistake kind

6  
1 of on the land.

2 When did you really know that there  
3 could be a problem with those mussel beds  
4 that you couldn't go there anyhow? Because  
5 that's one of the reasons a lot of us made  
6 decisions. You know, two miles going down --  
7 and all of a sudden, well, then he  
8 characterizes, well, maybe that -- they knew  
9 that.

10 MR. MCALLEN: Mr. Sundwick, David  
11 McAllen with Geupel DeMars.

12 The issue of not being able to cruise  
13 north because of the mussel bed was not  
14 raised until after our certificate of  
15 suitability, at which time we furnished, we  
16 completed and furnished our second mussel bed  
17 study, and were able to meet with the  
18 regulatory agencies.

19 And I want to reiterate. We still  
20 think we could cruise to the north. Studies  
21 to confirm that do not exist, and we cannot  
22 do them, and the Corps are will not accept  
23 them. And they didn't tell us that until  
24 long after the certificate of suitability.

25 MR. SUNDWICK: okay.

1 CHAIRMAN KLINEMAN: Any other  
2 questions? Mr. Thar? Anyone? Otherwise, we  
3 will take a break and come back and present  
4 the resolution to extend the certificate and  
5 see what happens.

6 MR. MILCAREK: I would like to  
7 address the issue about Mr. Porter and his  
8 property. Tell us, in your opinion, how does  
9 this project affect him? What is his major  
10 complaint in your eyes?

11 MR. BAYT: This is Phil Bayt for  
12 Caesars.

13 To be completely candid, I believe  
14 his major complaint is that we have not  
15 purchased his property at a price which he  
16 finds acceptable. Below that, his concern,  
17 as expressed today, is that the planned unit  
18 development zoning might impact his property.

19 Harrison County adopted a planned  
20 unit development zoning enabling ordinance  
21 allowing that type of classification of  
22 zoning. Caesars has not yet applied for that  
23 type of zoning. It's waiting for a decision  
24 from this body.

25 If and when Caesars moves forward

1 with its zoning application, it will be a  
2 zoning application only for Caesars site, not  
3 for Mr. Porter's site. So his property will  
4 not be affected by our zoning.

5 He has also indicated that he has a  
6 desire to hook into a variety of utilities.  
7 He has electricity already. Water will be  
8 provided pursuant to our commitment to build  
9 a system, to pay for a system. And that will  
10 be turned over to the Elizabeth Water  
11 Company, and Elizabeth Water Company  
12 certainly could provide him with water  
13 service, because the line will run literally  
14 right in the road in front of his home.

15 He is also asking for the opportunity  
16 to attach to Caesars' private waste sanitary  
17 system. And, as I said earlier, we're  
18 prepared to discuss that issue with him.

19 MR. MILCAREK: On the appraised  
20 evaluation of the property, I don't expect  
21 you to get into the details. But is there a  
22 huge gap there, or are you in the  
23 neighborhood? Would you be buying his  
24 property? Would it be of any value to  
25 Caesars?



7  
1 MR. BAYT: We have offered that if we  
2 can either pick an agreed upon appraiser or  
3 pick from three that we'll go with the  
4 appraised value identified. His current  
5 numbers are --

6 MR. PORTER: Would you look at Page  
7 5?

8 MR. BAYT: We're here today to agree  
9 to that, and we'll extend that offer today.  
10 I don't where his numbers are. I don't know  
11 what he'd take for his property, but you're  
12 free to ask him.

13 If you have an offer that you're  
14 prepared to make to us to sell.

15 MR. PORTER: On Page 5 of your thing,  
16 you'll have a thing that was hand-given to  
17 Mr. Brolick at the Corps of Engineers  
18 meeting. If you'll read through that from  
19 top to bottom, you have -- there's three  
20 proposals I proposed.

21 MR. THAR: I don't mean to -- but  
22 this is negotiations between landsowners.  
23 It's really outside our sphere.

24 MR. BAYT: We're prepared to have a  
25 discussion with him after.

7  
1 CHAIRMAN KLINEMAN: The only thing I  
2 would like to say -- and we don't need to get  
3 into this. Mr. Thar is absolutely right.  
4 That's way beyond our statute.

5 But here's a man who is very  
6 frustrated. I mean, you can just feel it  
7 when he starts talking to you. Whatever he  
8 wants, he's getting nothing. I mean, he  
9 doesn't get anything. I mean, nobody buys,  
10 nobody gives him service, nobody tells him  
11 what's going on with the zoning.

12 I mean, it's so easy to clear the air  
13 with a reasonable gentleman like this fellow.

14 MR. BAYT: And we'll commit.

15 CHAIRMAN KLINEMAN: You know, I guess  
16 I don't buy into Elizabeth is going to decide  
17 whether it's going to run the water line from  
18 the road to his house. I mean, is that what  
19 we're talking about? Caesars could run the  
20 line from the road to his house if they  
21 wanted to, and you could put him in your  
22 sewer system if you wanted to. And you don't  
23 have to discuss anything more than which way  
24 do you want the line to run.

25 MR. BAYT: If it please the

7  
1 Commission, we're prepared to do that.

2 CHAIRMAN KLINEMAN: Well, now you're  
3 changing it. Doug's going to get upset.

4 MR. BAYT: As long as it's not deemed  
5 material.

6 CHAIRMAN KLINEMAN: When people are  
7 this frustrated, it's just not good.  
8 Government has to be a little more receptive.

9 MR. BAYT: We're prepared, if he's  
10 not willing to have a negotiated arrangement  
11 for purchasing the property, to provide him  
12 with access to the two types of utilities  
13 that we'll be bringing to the site.

14 CHAIRMAN KLINEMAN: Mr. Porter, I  
15 think we're about done with you. We've done  
16 what we can for you.

17 MR. MELVIN PORTER: Thank you.

18 CHAIRMAN KLINEMAN: All right. Any  
19 other further questions? If not, then we  
20 will take a break and come back at three  
21 thirty and see what we can do.

22 (At this time, a break was taken.)

23 CHAIRMAN KLINEMAN: Okay. We'll now  
24 have a discussion, and then we will present  
25 to the Commission Resolution 1997-11, which

1 is a resolution to extend Caesars certificate  
2 for some period of time to be filled in.

3 I guess we'll just open the floor up  
4 and see if any of the Commissioners would  
5 like to say something.

6 MS. BOCHNOWSKI: Well, you know,  
7 first of all, I had the inclination, and I  
8 think we all did, in the beginning, and it  
9 was a close vote, that this was not an  
10 optimum site. And, you know, it really -- I  
11 wish I could take Caesars and put it in  
12 Mauckport or some place, and then we would  
13 have no problem.

14 And obviously that's not something we  
15 can do. So they have been trying to adjust  
16 to a bad situation. I'm not sure how much  
17 they knew, if they knew how bad this was  
18 ahead of time, or, you know, I think there  
19 were clearly some signs that it was a bad  
20 site.

21 And I guess my voting originally, I  
22 was voting for the company, that that was the  
23 company I felt most comfortable working with.  
24 I don't know if there's any way to take a  
25 company and move them, because that's what I

1 would do. But I guess that's not possible.

2 So I don't know if I've helped  
3 anybody. That's what I'd do.

4 MR. SUNDWICK: Well, I don't know if  
5 this is a discussion point, but I think it's  
6 the first time I kind of feel sorry for Mr.  
7 Brown sometimes, because, in fact, I don't  
8 think -- he's been in front of us for so  
9 long, we say hi to each other like we're old  
10 friends.

11 Today, I happen to agree with him. I  
12 kind of think back. I sat here. I usually  
13 don't say much. Well, I usually say a lot.  
14 Excuse me. And today I tried to keep  
15 somewhat quiet, because I think when I looked  
16 at this, I listened to everybody, and I kind  
17 of -- he reminded me of what I say was a  
18 fairness document, a doctrine, as far as I  
19 can see.

20 What we have done, my first -- I went  
21 back and thought about the first vote. The  
22 first vote we had, there were three  
23 Commissioners that voted for Mauckport. The  
24 second vote, there were three Commissioners  
25 that voted for Caesars. I was the fourth

8  
1 Commissioner that voted for Caesars.

2 Now, so as I sat here and thought of  
3 all the reasons that I voted for Caesars that  
4 I thought were important to me that make that  
5 the fourth vote, they've gone away. There's  
6 no cruise path. And I'm not picking on  
7 anybody up in Northern Indiana, but it's a  
8 little bit like a boat in a moat. A hundred  
9 and ten feet? You know, I think four hundred  
10 and twenty-eight yards.

11 Now, I know that's not anybody's  
12 fault, and I'm not saying it's anybody's  
13 fault. But if that would have been what I  
14 was told, I probably wouldn't have done this.  
15 If they told me a golf course is going to be  
16 thirty minutes away, fifteen miles, whatever,  
17 I probably wouldn't have done that.

18 So as I look at it, I'm trying to  
19 think to myself, how can we be fair with  
20 everybody? How do we change this to a point  
21 that we can live with it? Because I  
22 certainly wouldn't have cast that vote  
23 knowing what I know today.

24 I don't know how to remedy that. I'm  
25 very concerned about it. There is a level of

1 fairness for all the other people that told  
2 us I don't know if that's necessarily true  
3 what you've heard. I'm like Ann. I was so  
4 convinced that this could happen. It was  
5 such a nice deal.

6 You know, I'm really kind of caught  
7 today. I don't know what to do, because I  
8 don't believe it was fair to the other  
9 applicants. Today, I don't. I'm not saying  
10 anybody told us a story. I heard all sorts  
11 of innuendoes, well, they knew.

12 I'm not convinced that that's the  
13 case. I am convinced that the case is it's  
14 not the same. There's not one person could  
15 sit over there and not nod their heads and  
16 say to me you're right, it's not the same.

17 And I'm just telling you that if  
18 that's what was presented to me, I wouldn't  
19 have done it. Maybe I would have. You know,  
20 I sit here and I think how can I remedy this.  
21 If I had my wish, I'd give everybody another  
22 shot at this thing and say bring it back,  
23 because maybe they could win this thing based  
24 on what we're going to be presented with  
25 today.

8  
1 Maybe, in fact, we could -- we  
2 could -- they would still be the approved  
3 license holder. I don't know if that's -- we  
4 can do such a thing. But there is some point  
5 that there's some fairness here. And I don't  
6 know how to remedy it.

7 I certainly understand these people  
8 wouldn't fraudulently tell this Commission  
9 anything that they didn't believe at the time  
10 was true. But the same honest opinion, I  
11 couldn't honestly vote for the same project  
12 to the extent that I did, with the  
13 enthusiasm.

14 And if we redid it again, I still may  
15 vote for them. But I can't get it out of my  
16 mind. I'm put in a position that I can't.  
17 Ann said if we could do two things, put it in  
18 one place, put it in another, that she would  
19 be happy. We can't do that. I really don't  
20 know what to do. So with that --

21 MR. SWAN: I can comment there. I  
22 was one of those three that voted for  
23 Mauckport. I really did like the site. But,  
24 you know, the Commission itself endorsed one  
25 applicant, gave them a certificate of



1           suitability and said we want you to go  
2           forward.

3                     And I think all of us put that  
4           blessing with them at that time. And I think  
5           that some things have, unfortunately, come to  
6           pass with respect to environmental issues  
7           that have kind of messed them up. And I  
8           don't think they're necessarily their fault.

9                     Also, they put a lot of capital into  
10          the project already, spent a lot of money.  
11          And when I look at the rendering now, the  
12          rendering itself doesn't appear to be far  
13          different than what we saw originally.

14                    We do have a remote golf course and  
15          we do have a shorter cruise path. The  
16          shorter cruise path doesn't bother me now. I  
17          would rather see a four or five mile cruise  
18          path. I'd like to see us go out in the  
19          middle of the river. But it doesn't bother  
20          me now in light of the other boats that we  
21          have going in the state now. So that really  
22          isn't an issue to me.

23                    And the remote golf course doesn't  
24          bother me a whole lot in that we do have a  
25          golf academy right there with this facility.

1                   So I think that if you want to talk  
2                   fairness, you have to consider that we  
3                   endorsed this applicant. We said go forward,  
4                   spend your money. They have done that to the  
5                   best of their ability, and I think it's our  
6                   responsibility to support them as our own  
7                   team.

8                   MR. VOWELS: If I could just comment.  
9                   I didn't vote for Caesars, and it was the  
10                  vote of the Commission that Caesars receive  
11                  the certificate of suitability. So once that  
12                  vote was made, I'm on board with that they  
13                  are the successful applicant.

14                 My objection at the time was I  
15                 thought this project was too big, and I was  
16                 thinking at that time of the fifth license  
17                 possibly in Switzerland County and its impact  
18                 on Rising Sun, but in this particular  
19                 instance, that Caesars was too big and maybe  
20                 would overpower a possible applicant in  
21                 Crawford County.

22                 I would have liked to have had a  
23                 smaller project there and one in Crawford  
24                 County possibly. But that was a concern that  
25                 I had. I also had a concern about what came

9  
1 up about Nova Scotia, that I don't --  
2 sometimes I get the feeling that there's a  
3 perception that this Commission will take the  
4 shiniest thing and go for it. And that's  
5 completely wrong.

6 And this was the shiniest project in  
7 front of us. Their presentation was very  
8 impressive. And that is incorrect as far as  
9 this Commission being swayed by bells and  
10 whistles.

11 The concerns I had about Nova Scotia  
12 and scaling back up there, that was a concern  
13 I had here. That turns out to be unfounded.  
14 They have gone from a two hundred and  
15 twenty-eight million dollar project to what  
16 they say is a two hundred sixty-five million  
17 dollar project.

18 Regardless of whether that's the  
19 specific number or not, still it's higher  
20 than what we were presented with in May, and  
21 that's better.

22 In reference to the hotel, I would  
23 have liked to have seen it in regard to that  
24 delineation revision, you know, this is where  
25 it has to be now, because this is where the

9  
1 floodway line is. This is where we'd like  
2 the floodway line to be, and our research  
3 shows this. And if we can convince the DNR  
4 down the road, our hotel will be here. I  
5 don't care where that hotel is. I mean, it  
6 makes more sense to me where it's currently  
7 positioned.

8 On the gondola, personally, I never  
9 took that seriously. That seemed -- in the  
10 transcript that I was reviewing what Doug  
11 Brown had written, which in Vanderburg  
12 County, lawyers, you're a hero by size. They  
13 were very impressed.

14 I was reading the transcript there  
15 And Commissioner Sundwick referred to it as  
16 lipstick and rouge, and we were assured that  
17 that was not what the case was. I didn't put  
18 that much stock in it. I took it with a  
19 grain of salt.

20 I felt that there were going to be  
21 all sorts of problems on the Kentucky side  
22 about them cooperating with any kind of  
23 riverboat casino on the Indiana side. And  
24 then in the permitting process, it just -- it  
25 didn't seem very realistic to me that in the

1 alternate they had proposed what they would  
2 do with that money in the fact that was not  
3 successful.

4 In reference to the cruise, the  
5 statute in the Indiana legislature requires  
6 that the boats cruise. And Carnival's cruise  
7 was three-quarters of a mile. Personally, we  
8 have to follow the statute, because that's  
9 why we're here. The boat has to cruise.

10 And I have been on the boat in  
11 Evansville. And every time I've gone on the  
12 thing, it cruises, which means I can't gamble  
13 and I can't get off. But you can't really  
14 tell it's cruising. It cruises; it goes back  
15 and forth.

16 It wouldn't make any difference to me  
17 if I was on that boat in Evansville and it  
18 went ten miles, because you can't feel it  
19 anyway. And so a third of a mile might as  
20 well be ten miles, or ten miles might as well  
21 be a third of a mile.

22 In reference to the golf course,  
23 perhaps that would be better if it was closer  
24 to the project. But I don't see any problem  
25 with farther out into the county receiving a

9  
1 benefit of what's going on there. Maybe  
2 there will be some secondary impact of  
3 businesses growing up around that golf course  
4 that wouldn't have grown up around there if  
5 the golf course wouldn't have been there.

6 There was an argument in Evansville  
7 about the Executive Inn at one end of the  
8 walkway when Ellis Park and the Simon  
9 Brothers were involved in that project that  
10 that would impact more of the downtown area  
11 if the Executive Inn was involved in the  
12 riverboat project.

13 And I think there was some logic to  
14 that as I can see what happens in Evansville.  
15 It seems like most of everything that's going  
16 on is right near the riverboat. The downtown  
17 is not receiving the impact that we had  
18 hoped, although we have started support of  
19 the downtown area. So I could see some  
20 advantage of the golf course being farther  
21 away from the project than what it was  
22 initially proposed.

23 In reference to the permitting  
24 process and procedure, I have never envied  
25 any of the applicants in what they have to

1 deal with. They aren't allowed to get any  
2 information ahead of time when they come to  
3 us. And I always anticipate since the  
4 beginning that there's going to have to be  
5 some things that change, because the Corps of  
6 Engineers and the DNR have more power than we  
7 do. If the Corps of Engineers says no, I  
8 don't know of anything that the Gaming  
9 Commission can do.

10 And, again, I didn't vote for  
11 Caesars. I don't see this as a material  
12 change in what I viewed of what went down.  
13 The project is -- they're spending more on it  
14 than they were before, and all of the basic  
15 things are there.

16 The gondola may come and go. If not,  
17 they're going to do something with the hotel.  
18 The gondola doesn't matter to me. There was  
19 even some comment at the time that by putting  
20 a parking lot in the Kentucky side, you're  
21 taking away from people hitting businesses as  
22 they travel down 64 down to the riverboat  
23 site. So that may even be a negative.

24 In reference to Caesars, when I was  
25 back in Evansville, I always told the people

1 I didn't vote for this company. But I would  
2 go out of my way, particularly since it's  
3 only seventy-five miles from Evansville, once  
4 this project is completed, it's something I  
5 would really like to see.

6 It's a strong company. And that  
7 project in May, and even today, is very  
8 impressive. They have spent a lot of money.  
9 There is a letter from the superintendent of  
10 the high school there talking about the  
11 positive impact that that golf course will  
12 have near the high school.

13 And I don't see any problem here in  
14 what the changes are. And in my personal  
15 views, I don't see them as a material change.  
16 And I'm willing to go forward on the  
17 certificate of suitability. That should be  
18 pretty much plain from what I've said.

19 DR. ROSS: I guess I'm one of the few  
20 people who voted for Caesars without even  
21 thinking about it after seeing the  
22 presentation, seeing the amount of money they  
23 were about to spend and their ability to have  
24 it when it came time to spend it.

25 And the two things that made up my



1 mind was the golf course that's right close  
2 to this casino and also the gondola. Now,  
3 obviously those two things have -- they  
4 haven't disappeared, but they aren't the same  
5 as they were.

6 However, the community has made all  
7 of their preparations with Caesars. There's  
8 been a lot of money that's been spent, and  
9 they seem to be well on the way. When I come  
10 down, I guess I'll have to waste fifteen  
11 minutes on that bus going to the golf course.  
12 I think that with everything else being as it  
13 is, I would have to go with Caesars.

14 MR. MILCAREK: I, too, didn't vote  
15 for Caesars the first time around. And  
16 counting up heads here, it's a wonder Caesars  
17 got in at all, because it's four to four.

18 I'm not a golfer, but I have a lot of  
19 people who work for me and work with me that  
20 are golfers, and they think nothing of  
21 getting in a plane and flying out to the  
22 Carolinas to golf or chartering a plane at  
23 our local airport and telling the pilot, Take  
24 me where the sun is shining, the first place  
25 I can play. So I don't really see moving the

10 1 golf course as a big deal. People are pretty  
2 determined people if they want to play and  
3 it's a good course. I guess build it and  
4 they'll come.

5 So with all the money they put in and  
6 with everything that's going on, I, too,  
7 would have to stick with our original  
8 decision. I think we should support what we  
9 have going.

10 CHAIRMAN KLINEMAN: All right. I  
11 think probably unless anyone else has  
12 anything else they want to say, it's  
13 probably time to present Resolution 1997-11,  
14 the resolution concerning the extension of  
15 the certificate of suitability issued to  
16 RDI/Caesars Riverboat Casino LLC on May 20,  
17 1996.

18 This, likewise, has blanks to be  
19 filled in. We need a motion to fill in the  
20 blanks. The first one is extended or  
21 revoked. And the next one is remain valid  
22 until. And a full hundred and eighty days  
23 would be August 22nd, 1997.

24 Do I hear a motion to adopt  
25 Resolution 1997-11 and fill in the blanks?

10 1 MR. SWAN: So moved; with the  
2 extension to August 22nd.

3 CHAIRMAN KLINEMAN: Is there a second  
4 to that?

5 MR. MILCAREK: I will second that.

6 CHAIRMAN. KLINEMAN: Okay. All those  
7 in favor raise their right hand.

8 (Mr. Swan so indicating.)

9 (Dr. Ross so indicating,)

10 (Mr. Vowels so indicating.)

11 (Mr. Milcarek so indicating)

12 (Mr. Sundwick so indicating.)

13 (Ms. Bochnowski so indicating.)

14 (Mr. Klineman so indicating.)

15 CHAIRMAN KLINEMAN: Opposed?

16 The extention will be granted until  
17 August 22nd, 1997.

18 (Applause)

19 CHAIRMAN KLINEMAN: I think we will  
20 adjourn. We are not sure exactly when we  
21 will meet next because of scheduling  
22 problems. But that will probably be  
23 announced in the next couple, three weeks.

24 MR. THAR: Yes.

25 CHAIRMAN KLINEMAN: So with that, we

stand adjourned.

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STATE OF INDIANA )  
                          ) SS:  
COUNTY OF MARION )

I, Kathleen L. Cast, a Notary Public in and for said county and state, do hereby certify that on the 21st day of February, 1997, I reported the foregoing Public Meeting; and that the transcript is a full, true and correct transcript made from my stenograph notes.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal this 11th day of March, 1997.

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Kathleen L. Cast, Notary Public,  
Residing in Marion County,  
Indiana

My commission expires:  
February 9, 1999