

HEARING BEFORE THE HILLTOWN TOWNSHIP

BOARD OF SUPERVISORS

BUCKS COUNTY, PENNSYLVANIA

- - -

RE: Haines & Kibblehouse

- - -

Thursday, June 3, 2004
7:15 p.m.

- - -

Hilltown Township Municipal Building
13 West Creamery Road
Hilltown, PA

- - -

BOARD OF SUPERVISORS:

KENNETH BENNINGTON, Chairman

GEORGE C. EGLY, JR.

- - -

COUNSEL PRESENT:

FRANCIS X. GRABOWSKI, ESQUIRE
Solicitor for the Township

PAUL OBER, ESQUIRE
Attorney for the Applicant

- - -

1

- - -

2

MR. BENNINGTON: Would you all

3

rise and join in the Pledge of Allegiance, please.

4

(Whereupon, all stood for the

5

Pledge of Allegiance.)

6

- - -

7

MR. BENNINGTON: With that, I'll

8

turn this over to our solicitor, Frank Grabowski.

9

MR. GRABOWSKI: Thank you, Ken.

10

Good evening, everybody. Welcome back. I'm not sure

11

if this is the 12th or 13th --

12

MRS. GREENHALGH: 13th.

13

MR. GRABOWSKI: 13th?

14

MR. EGLY: Did you count that,

15

Judy?

16

MR. GRABOWSKI: This is a

17

continuation of the hearing involved with the

18

application of Haines and Kibblehouse requesting a

19

zoning change petition to be granted for both the

20

quarries in Hilltown, the Blooming Glen Quarry and also

21

the Skunk Hollow Quarry. We have had numerous hearings

22

on both quarries, which of course were separated to

23

accommodate the witnesses who would be coming.

24

Tonight's hearing was scheduled --

25

attempted to be scheduled based upon the request that

1 the board received many, many months ago from
2 representatives of Our Lady of Sacred Heart Church when
3 we were back in the middle school over in Silverdale.
4 A request was made of us for it to be possible for them
5 to come back at a later date and to question witnesses
6 all at one time rather than having to pay for their
7 professionals to attend each and every hearing. There
8 was an agreement to that, and hence that's one of the
9 reasons why we have this specific hearing tonight and
10 also one scheduled for Monday night, which I assume
11 will be the witnesses that were involved with the Skunk
12 Hollow application that are here tonight to answer
13 questions.

14 We are not going to limit it to
15 the Sacred Heart Church. We will allow anyone who is
16 here to ask questions, but keep in mind this is
17 advertised for the Skunk Hollow Quarry portion of the
18 application.

19 First order of business is that we
20 have proof of publication that the hearing has been
21 properly advertised in the Doylestown Intelligencer on
22 May 14th and 21st, which provides for tonight's hearing
23 and as well as the hearing on Monday, June 7th, which
24 will also be here at 7 o'clock. No decision is going
25 to be made by the board tonight or Monday night.

1 Housekeeping rules: You all have
2 been here before. Everyone is very familiar.
3 Everybody has been very polite and very courteous in
4 the past. I know you'll be that way again tonight.

5 I have a letter here that I do
6 want to read that I received from the attorney who was
7 representing Our Lady of the Sacred Heart Church, Mr.
8 Levine, of Stradley, Ronon in Philadelphia. It's a
9 letter addressed to me, dated May 11th. I'd like to
10 read it into the record.

11 "Dear Frank: Thank you for your
12 letter of May 11th regarding the long awaited final
13 hearing for the quarry. Having consulted with my
14 client I am confirming to you that I will not be
15 present at that hearing for cross-examination of the
16 experts Haines & Kibblehouse has presented during its
17 case-in-chief. I anticipate several parishioners will
18 have questions and will present them at that hearing.
19 I want to thank you for your continuing courtesy in
20 this matter; and if there are any changes to this
21 response, I will notify you immediately.

22 Best regards, Andrew S. Levine."

23 So with that, I don't see Mr.
24 Levine here tonight, so I assume that there will be
25 parishioners who will be here who will have questions

1 of the witnesses.

2 We did have a sign-up list on the
3 podium. If anyone has not signed in yet who would like
4 to ask questions tonight, run up there and put your
5 name on it, and Mr. Lippincott will bring the list up
6 to us. We will go in the order of the names.

7 I don't remember who all of the
8 witnesses are here. Perhaps what we will do is when
9 I'm done we will ask Mr. Ober to reintroduce all of the
10 witnesses that are here tonight for your questions.
11 When we start out, why don't we have those of you who
12 have questions to come up to the podium, introduce
13 yourself, address your question to whomever, please,
14 and go that route.

15 Keep in mind that these are not
16 hearings in which the board is asked questions. They
17 said as if you all are the judges in the case that
18 they're here to hear all of the information and all of
19 the testimony, questions as well as answers. It's not
20 appropriate to ask them questions as it would be in a
21 court hearing.

22 The gentleman in the back has a
23 question.

24 MR. COYNE: I'd like to make a
25 statement if I may, Mr. Grabowski.

1 MR. GRABOWSKI: Sure, come on up.
2 Your name and address for the stenographer, please.

3 MR. COYNE: My name is Jim Coyne,
4 and I live at 420 Schoolhouse Road in Sellersville,
5 Hilltown Township. I was the one that appeared at that
6 second meeting and requested that we would be able to
7 review the transcripts. I am a member of Our Lady of
8 Sacred Heart Parish, but I was speaking for the members
9 of this township, not just Our Lady of the Sacred
10 Heart. It is true. We did have a lawyer to represent
11 us, and we still do; but he will not be here for this
12 question and answer time. But I also know that the
13 township has retained people to review the transcripts,
14 and I was hoping that in the interest of the residents
15 of the township that these people would be able to take
16 part in this cross-examination as well. Recognizing
17 the fact that the people that are giving this testimony
18 are experts in their fields and it's very difficult for
19 a layperson to examine in-depth, just not educationally
20 qualified; so I'm hoping that the township's people
21 representing the people of this township will ask
22 appropriate questions for clarification purposes.

23 Thank you very much.

24 MR. GRABOWSKI: Thank you for your
25 comment.

1 MR. OBER: I don't know.

2 MR. DRILL: Here's a copy of it.

3 The question is, does the
4 application have to be dated?

5 MR. OBER: Do you want me to
6 answer that?

7 MR. BENNINGTON: I'm waiting for
8 an answer, Mr. Drill, along with you.

9 MR. DRILL: Okay, the application
10 was written by Paul R. Ober, Esquire, attorney for
11 Haines & Kibblehouse, Incorporated.

12 MR. OBER: The answer to the
13 question is no.

14 MR. DRILL: Can I address some
15 discrepancies or some errors in here just asking
16 questions or do I have to make a statement?

17 MR. GRABOWSKI: Sure.

18 MR. OBER: Mr. Drill, you're
19 utilizing the wrong petition. There was a revised
20 petition that was filed.

21 MR. DRILL: So the petition had
22 the wrong address.

23 MR. OBER: There is a revised
24 petition.

25 MR. DRILL: I'm not aware of that.

1 MR. OBER: That's not the one --

2 MR. DRILL: This is the wrong
3 petition?

4 MR. OBER: The one you handed me a
5 copy of is not the revised one.

6 MR. DRILL: So then on line four
7 in the revised petition you have --

8 MR. BENNINGTON: Mr. Drill, hold
9 on a second.

10 Frank, do you have a copy of the
11 revised petition?

12 MR. GRABOWSKI: I don't have the
13 whole file here tonight.

14 MR. DRILL: Is there a revised
15 petition?

16 MR. GRABOWSKI: There is a revised
17 petition. Ask your questions and we'll --

18 MR. DRILL: Because on line four
19 it says that petitioner owns and operates a quarry
20 located on Skunk Hollow Road, Hilltown Township, which
21 is also known as the Blooming Glen Quarry. Wrong
22 quarry. So I just want to get on the right sheet of
23 music. That should read Minsi Trail, which is known
24 as the Blooming Glen Quarry.

25 Then paragraph five continues --

1 to the Blooming Glen Quarry is a parcel known as the
2 Rice tract. Paragraph 6: A plan for real property
3 described in the foregoing paragraphs four and five is
4 attached. So I wanted to make sure that the plan for
5 the Rice tract and the Blooming Glen Quarry is --
6 relates to paragraph four. I assume in the amended
7 petition that was corrected?

8 MR. OBER: Was what corrected,
9 sir?

10 MR. DRILL: The location of the
11 quarry.

12 MR. OBER: Petitioner owns and
13 operates a quarry located on Forest Road, Hilltown
14 Township, which is also known as the Blooming Glen
15 Quarry.

16 MR. DRILL: It's not on Forest
17 Road. It's on Minsi Trail. As I can see the office is
18 on Minsi Trail. It's not on Forest Road at all. I'm
19 just -- see you have the different addresses for the
20 different quarries. So I just wanted to know if the
21 amended application has the correct quarry at the
22 correct address with the correct plan of the real
23 property described in the above paragraphs -- if
24 they're right. In this document I'm reading they're
25 wrong. You have the wrong quarry --

1 MR. OBER: That's why it was
2 amended.

3 MR. DRILL: Do you have an amended
4 copy in front of you?

5 MR. OBER: I do.

6 MR. DRILL: Can I see that?

7 MR. OBER: Yes. It's my only
8 copy, but you're welcome to look at it.

9 MR. BENNINGTON: Mr. Drill, can I
10 see that too? I don't have a copy of that either.

11 Is this the amended copy, Mr.
12 Ober?

13 MR. OBER: Yes, sir, it is. It
14 reads, I think, amended petition, doesn't it?

15 MR. BENNINGTON: No. Oh, I'm
16 sorry, yes.

17 MR. DRILL: Correcting the street
18 names contained in paragraphs four and five.

19 - - -

20 (Whereupon, several conversations
21 ensued throughout the room.)

22 - - -

23 MR. DRILL: Is there an
24 application number needed; do you know?

25 MR. GRABOWSKI: No.

1 MR. DRILL: And in the original
2 one the addresses are wrong.

3 MR. GRABOWSKI: We have that.
4 That's all part of the record. I just don't have my
5 copy here. This is the 13th hearing. I'd have to
6 bring my suitcase. But that is in the township office,
7 correct, Mr. Lippincott?

8 MR. LIPPINCOTT: Yes.

9 MR. DRILL: I think the rest of
10 the questions I have would be addressed to Mr. Ross.

11 MR. OBER: Might I remind you that
12 you're still under oath.

13 MR. GRABOWSKI: And that would
14 hold true for -- Mr. Ober, could you reintroduce all of
15 your witnesses for us.

16 MR. OBER: Would each of the
17 witnesses stand, please.

18 MR. GRABOWSKI: There's more
19 witnesses than residents.

20 MR. OBER: Starting with John
21 Ross, would you state your name and your, for want of a
22 better term, speciality.

23 MR. ROSS: John Ross, engineer,
24 quarry permitting, related activities, Haines &
25 Kibblehouse.

1 MR. RIGHTNOUR: I'm Terry
2 Rightnour. I'm a hydrologist and responsible for the
3 environmental assessment of the project.

4 MR. PEFFER: I'm Jeff Peffer. I'm
5 a hydrogeologist with Peffer Geotechnical Corporation
6 responsible for the groundwater investigation of the
7 quarry.

8 MR. NEWTON: I'm Harold Newtown.
9 I'm a professional engineer and professional land
10 surveyor involved in the traffic and highway aspects of
11 the project.

12 MR. HIRSCHFELD: I'm Alan
13 Hirschfeld. I'm a Haines & Kibblehouse hydrogeologist,
14 professional geologist working on the Blooming Glen
15 Quarry case.

16 MR. HAYES: I'm Sherman Hayes with
17 American East Explosives, Incorporated, Explo-Tech
18 Division, responsible for blasting.

19 MR. RESETAR: I'm John Resetar
20 with Vibra-Tech Engineers, blasting and vibration
21 consultant.

22 MR. BENNINGTON: Mr. Ober, would
23 you refresh my memory as to what the difference is
24 between the three hydrologists and what their
25 specialities are?

1 MR. OBER: Who is the third
2 hydrologist?

3 MR. ROSS: We have one hydrologist
4 and two hydrogeologists.

5 MR. BENNINGTON: Pardon me?

6 MR. ROSS: There's one hydrologist
7 and two hydrogeologists.

8 MR. OBER: The two
9 hydrogeologists, one focused on Blooming Glen and one
10 focused on Skunk Hollow.

11 MR. BENNINGTON: Who is the
12 Blooming Glen guy? Mr. Hirschfeld?

13 MR. ROSS: Yes.

14 MR. BENNINGTON: And who is the
15 Skunk Hollow guy?

16 MR. ROSS: Mr. Peffer.

17 MR. OBER: I remind all of you
18 that you are under oath. Are there any of you who have
19 not previously been sworn?

20 Stand, please. May I ask the
21 stenographer to swear him in, please.

22 - - -

23 (Whereupon, Sherman Hayes was duly
24 sworn.)

25 MR. GRABOWSKI: Mr. Drill, do you

1 have questions of Mr. Ross?

2 MR. DRILL: Yes.

3 Mr. Ross, you testified at the
4 second hearing last May 22nd, 2003, that when a quarry
5 closes due to the condition of resources or loses their
6 ability to expand due to a zoning change denial, a
7 municipality is still obligated to provide for an
8 additional mineral extraction area within their
9 municipal boundaries. Is that correct?

10 MR. ROSS: That was my
11 understanding, yes.

12 MR. DRILL: Later in that meeting
13 you cited the Pennsylvania Municipalities Planning Code
14 and specifically Section 301 of that code as the basis
15 for your statement; is that correct?

16 MR. ROSS: I believe that is
17 correct.

18 MR. DRILL: Have you read the
19 Pennsylvania Municipalities Planning Code?

20 MR. ROSS: Not recently, but I
21 have read it.

22 MR. DRILL: Can you cite any
23 specific paragraph in Section 301 of the Pennsylvania
24 Municipalities Planning Code that gives your previous
25 testimony any validity?

1 MR. ROSS: At this time, no, I
2 can't.

3 MR. DRILL: Are you aware of the
4 fact that the Pennsylvania Municipalities Planning Code
5 is a guidance document only and is not enforceable by
6 law?

7 MR. OBER: Can I have that
8 question read back, please?

9 (The Court Reporter read back the
10 last question.)

11 MR. ROSS: It's legal
12 interpretation. I can't answer it.

13 MR. DRILL: Are you aware of the
14 fact that Section 301 of that code calls for townships
15 to adequately protect water supplies and aquifers,
16 which is a contradiction of your interpretation of this
17 code?

18 MR. ROSS: I think it's a matter
19 of interpretation.

20 MR. DRILL: It is on your part,
21 yes.

22 From what you testified in May,
23 you held out to the supervisors and to the audience
24 that this was a slam-dunk and must be approved. If
25 it's not, the township must be held accountable in the

1 future for future operators coming into the quarry that
2 they would have a hard time defending themselves, which
3 is your interpretation.

4 MR. ROSS: My interpretation is
5 what it is on the record as far as previous statements.

6 With respect to the issue that you
7 raised being a contradiction, I think with respect to
8 regulated mining activities, which are regulated by the
9 Commonwealth of Pennsylvania, I think the issue with
10 respect to water resources is an issue that mining is
11 allowed to impact by state mining regulations as long
12 as they compensate for those impacted.

13 MR. DRILL: That's a DEP issue,
14 not a Municipalities Planning Code issue. You cited
15 Section 301 of the Pennsylvania Municipalities Planning
16 Code, and your interpretation, I'm trying to bring out,
17 is not correct according to two expert planners who I
18 talked to in Harrisburg. They said it's a wild
19 interpretation of the code.

20 So I'll continue with two more
21 questions, and that's all I have. In your previous
22 testimony were you not leading the township supervisors
23 to believe they must approve the present zoning
24 application before them or in your words, quote,
25 some future operator can choose a quarry site and the

1 township would be in a difficult position to deny them.

2 MR. ROSS: I believe the
3 supervisors have legal counsel that they rely upon for
4 decision-making.

5 Again, I was stating a position as
6 part of my presentation.

7 MR. DRILL: But you made that
8 statement?

9 MR. ROSS: I don't have the
10 transcript -- I have the transcripts here, if you give
11 me a second.

12 MR. DRILL: I can give you the
13 line numbers and the page numbers.

14 MR. ROSS: Certainly. I'd like to
15 look at it.

16 MR. DRILL: But the fact of the
17 matter remains you're citing a code that is not legally
18 binding, that is only a guidance document for
19 municipalities, and holding it over the heads of this
20 audience and the township supervisors as if it is law;
21 and it is not law.

22 MR. ROSS: No. I don't think I'm
23 trying to render a legal opinion or hold anything over
24 the supervisors' heads.

25 MR. DRILL: You said, in your

1 words, some future operator can choose a quarry site
2 and the township would be in a difficult position to
3 deny them.

4 MR. ROSS: That was my opinion and
5 it still stands.

6 MR. DRILL: Your opinion?

7 MR. ROSS: Yes, it is.

8 MR. DRILL: All right. So you
9 would say then that your previous testimony is your and
10 your company's interpretation of a non-legally binding
11 guidance code for municipalities and that the township
12 would not be in a difficult position to deny any future
13 operator a quarry site within that township?

14 MR. ROSS: You're making an
15 opinion of that portion of the Municipalities Planning
16 Code, which may or may not be correct.

17 MR. DRILL: If you read the
18 Pennsylvania Municipalities Planning Code, there is no
19 wording in that document whatsoever, all 92 pages, that
20 has anything to do with what you addressed in that
21 testimony.

22 It is a far out interpretation of
23 that code, and I think it's irresponsible for you to
24 make this testimony and make these supervisors think
25 and this audience think -- because when I heard that I

1 which are my statements.

2 MR. DRILL: You didn't say in your
3 opinion though. You made statements that were your
4 interpretation. All I'm trying to bring out is that
5 it's an interpretation, and it's not a law. You said
6 it's a law. You said it's Act 68 and 67 of the year
7 2000 passed as a state law. It is not a law at all and
8 is not enforceable by law.

9 MR. BENNINGTON: But in reality
10 they can have their opinion, and we can certainly have
11 a difference of opinion.

12 MR. ROSS: Correct.

13 MR. BENNINGTON: So they can
14 espouse whatever views they would like and interpret
15 however they want to; and that doesn't necessarily mean
16 that we are going to follow their guidelines.

17 MR. DRILL: I just wanted to bring
18 it out.

19 MR. BENNINGTON: Oh, absolutely,
20 absolutely.

21 MR. DRILL: If it was glossed over
22 by others that -- in fact, the supervisors should seek
23 legal counsel on the interpretation of that code, and
24 the experts that I have talked to just couldn't believe
25 it, couldn't believe you said that.

1 Thank you.

2 MR. GRABOWSKI: Thank you, Mr.
3 Drill.

4 Mr. Drill, did you have questions
5 for any of the other experts here tonight?

6 MR. DRILL: No.

7 MR. GRABOWSKI: Okay. There is
8 only one other name on my list at this point. Judy.

9 MRS. GREENHALGH: Yes.

10 MR. GRABOWSKI: Again, for our
11 stenographer, give your full name and address.

12 MRS. GREENHALGH: Right.

13 Judy Greenhalgh, 874 Blooming Glen
14 Road.

15 My questions -- of course, I'm
16 close to the Blooming Glen Quarry, but my questions are
17 on water. So I'd like to address both of the
18 hydrogeologists with some questions tonight because my
19 questions concern really -- both quarries relate and
20 some are unanswered.

21 When I went back over the
22 transcripts, I found that there were quite a few
23 questions that really were not answered that we were
24 told that we would get an answer, or I'm not sure, you
25 would have to ask this person. And it never came back

1 out. So I have questions for both Mr. Peffer and Mr.
2 Hirschfeld, okay.

3 First of all, is hydrogeology an
4 exact science?

5 MR. GRABOWSKI: Who would like to
6 answer? Do you want to address --

7 MRS. GREENHALGH: Okay. Mr.
8 Peffer.

9 MR. PEFFER: Do you want me to
10 stand up?

11 MR. GRABOWSKI: Please.

12 UNIDENTIFIED PERSON: Can you
13 speak into a microphone.

14 MR. PEFFER: Hydrogeology --

15 MR. GRABOWSKI: Let's see if
16 everybody can hear Mr. Peffer without a microphone. If
17 not, we'll use a microphone. Obviously, you want the
18 stenographer to hear you, but we also want the audience
19 to be able to hear you as well.

20 MR. PEFFER: Hydrogeology is what
21 is referred to as a probabilistic science. That means
22 we play statistics. There's no certainty. There's
23 very little certainty. There are certain sciences that
24 are deterministic where if you change something you
25 know exactly what the outcome is going to be. In the

1 world of hydrogeology we look at things -- if we change
2 something, if we lower the water table, we can make
3 predictions to a 50 percent level of certainty, 75, 90;
4 but we can't make most predictions with absolute levels
5 of certainty. Some predictions we can almost, but --
6 so to answer your question in the broadest sense,
7 it's referred to as a probabilistic science not a
8 deterministic science.

9 MRS. GREENHALGH: And then would
10 water monitoring make that more accurate -- your
11 statistics become more accurate or again would it still
12 be probabilistic?

13 MR. PEFFER: Well, the reason for
14 monitoring is because it's a probabilistic science. We
15 make predictions; but some of those predictions since
16 we're not absolutely certain, we have to check on our
17 predictions. So that's kind of built into the whole
18 culture of hydrogeology and environmental groundwater
19 that once you make a prediction then you build in some
20 kind of long-term monitoring program to see how you did
21 and then to make adjustments if you didn't do so well
22 or no adjustments if you did pretty good.

23 MRS. GREENHALGH: And if you
24 missed someone's well monitoring it, it didn't become
25 part of your monitoring, then that doesn't rule out

1 that well as possibly going dry by the quarry; am I
2 correct?

3 MR. PEFFER: That's a fair
4 statement. I mean, you try to have a network of wells
5 that are reasonably representative, but you're right
6 it doesn't -- just because you didn't monitor one
7 particular well doesn't -- I mean, you tend to see a
8 lowering of the water table over a broad area. So you
9 would expect if you saw impact or no impact in two or
10 three surrounding wells and you have one in the middle
11 that was showing impact there's something odd going on
12 that's not related to the quarry. So we don't
13 necessarily have to monitor every well as long as we
14 have a reasonable number and a reasonable pattern of
15 monitoring points.

16 MRS. GREENHALGH: Okay, thank you.

17 Can you tell me, Mr. Peffer, how
18 many wells went dry in the Skunk Hollow area in the
19 early '90's?

20 MR. PEFFER: Well, that's a broad
21 question. I can't answer that.

22 MRS. GREENHALGH: That was one of
23 my concerns throughout these hearings is that when we
24 asked specific questions like that -- and I know that
25 some of you weren't on board in the 1990's -- but I

1 would have hoped that research would have been done
2 that you could have told us how many wells went dry
3 that you knew of, that Haines & Kibblehouse knew of,
4 or that you found out later, say as you came closer
5 to the 2000's. Was there not monitoring being done in
6 the 1990's at Skunk Hollow?

7 MR. PEFFER: Yes, there was. We
8 presented in one exhibit -- we showed the wells where
9 there was monitoring or there was apparent long-term
10 drawdown. We showed the several wells in the area that
11 have been replaced by Haines & Kibblehouse with deeper
12 wells or whose yield has been improved through this
13 technique known as hydrofracturing. So there was --
14 actually, for the quarrying industry as it existed in
15 1990, Haines & Kibblehouse was pretty far ahead. They
16 were monitoring a lot more than most of the other
17 quarries in the state at that point in time.

18 Hopefully, I'm answering your
19 question in here somewhere.

20 MRS. GREENHALGH: Yes.

21 That leads me to a question for
22 Mr. Hirschfeld who -- I know you weren't on board in
23 the 1990's, but if Haines & Kibblehouse was monitoring
24 the wells around Skunk Hollow, why was not Haines &
25 Kibblehouse monitoring the wells around Blooming Glen?

1 And that question has never been
2 answered.

3 MR. HIRSCHFELD: I don't know the
4 answer to that question.

5 MRS. GREENHALGH: As you know when
6 I testified or asked -- when I testified that there are
7 ten wells -- nine wells -- eight wells on Blooming Glen
8 Road, one on Twin Brook Road, and one on Quarry/Minsi
9 Trail that went dry during that time, and the people
10 did not know what recourse they had. That's a big
11 concern to me that you would be monitoring wells at
12 Skunk Hollow and not once approached neighbors near the
13 Blooming Glen Quarry to monitor those wells. That
14 would be my question to Haines & Kibblehouse.

15 MR. ROSS: May I answer?

16 MR. OBER: Yes.

17 MR. ROSS: With respect to --
18 let's start at Skunk Hollow first. With respect to
19 Skunk Hollow, there was no monitoring program ongoing
20 until 1995.

21 MR. GRABOWSKI: Excuse me. Can
22 everybody hear Mr. Ross?

23 MR. ROSS: As far as the Skunk
24 Hollow site there was no active ongoing monitoring
25 program at the Skunk Hollow property until 1995. That

1 has been ongoing since then on a quarterly basis.

2 With regard to Blooming Glen,
3 there was monitoring of several wells associated with
4 the former landfill activity there. That has been
5 ongoing since back in the 1980's.

6 MRS. GREENHALGH: Those were wells
7 that were polluted though.

8 MR. ROSS: No. They were wells
9 that were placed to monitor groundwater conditions
10 associated with that disposal activity and to monitor
11 water quality. That was also being done on a quarterly
12 basis.

13 MRS. GREENHALGH: How many were
14 there?

15 MR. ROSS: Four or five wells, I
16 believe.

17 MRS. GREENHALGH: I know of the
18 three that --

19 MR. ROSS: It might very well be
20 three. I could be incorrect on that.

21 MR. HIRSCHFELD: Well, there were
22 three residents -- three residential wells were being
23 monitored, but there was a bunch of monitoring wells,
24 around a good eight to ten of them -- don't quote me on
25 the number -- but there was a number of monitoring

1 wells that were around the landfill area; and there
2 were probably about three more monitoring wells that
3 were installed for water level quality. Those eight
4 to ten, as I recall, were eventually sealed because
5 when we got closure on that issue they were shallow
6 wells.

7 MR. ROSS: They were associated
8 with the landfill activity around the quarry property.

9 MRS. GREENHALGH: Right. That's
10 what I was saying.

11 MR. ROSS: I think it was probably
12 five or six total that were actually being monitored,
13 both water levels were being recorded as well as water
14 quality; but they were all associated with the former
15 landfill activity there.

16 MRS. GREENHALGH: But then why
17 were not all of the neighbors solicited at that time?

18 MR. ROSS: Let me explain the
19 process. For non-coal mining activities in
20 Pennsylvania, monitoring was not required on non-coal
21 activities until about January -- somewhere around
22 January 1991 or 1992. The state changed their
23 regulations and dictated a much more intense and
24 concentrated effort as far as monitoring associated
25 with non-coal. Permits that were already in existence
26

1 at that time were not obligated to do any monitoring at
2 all. The only time it came into obligation to be
3 monitored is when they were looking to make an
4 adjustment to changes, okay. So any activity that
5 dictated a change in the permit required that you begin
6 a monitoring program, establish background monitoring.
7 So if Blooming Glen was a site that had been permitted
8 back in the '70's, there was no monitoring required at
9 that time and was not dictated by DEP.

10 MRS. GREENHALGH: Was the DEP's
11 permit to go down to 200 feet from 100 feet -- was
12 H & K or Blooming Glen Quarry given a special permit to
13 go from 100 feet to 200 feet in the quarry?

14 MR. ROSS: No.

15 MRS. GREENHALGH: That was part of
16 the original agreement --

17 MR. ROSS: That's part of the
18 original permit.

19 MRS. GREENHALGH: -- all 200 feet
20 in depth?

21 MR. ROSS: That is correct.

22 MRS. GREENHALGH: Okay. But my
23 point still is if you're doing monitoring as good
24 neighbors at Skunk Hollow, I would hope you would be
25 good neighbors at Blooming Glen and have done that

1 monitoring in the '90's as well.

2 MR. ROSS: Well, understand that
3 it takes manpower and a lot of time and effort to put
4 together a monitoring program. The monitoring program
5 at Blooming Glen -- again, part of the issue was we
6 were not hearing complaints as far as wells. We
7 learned about the well in the cul-de-sac subdivision
8 just down the road from your home that came through the
9 Hilltown Township Water Authority contact that there
10 was a problem there. It wasn't long after that issue
11 and several other ones on Blooming Glen Road that we
12 did institute a monitoring program; but prior to that
13 time, we had not been privy to a lot of the issues that
14 you made reference to all the way back to the mid
15 '90's.

16 MRS. GREENHALGH: And as I said we
17 really did not know, we were naive, and it's our fault
18 too.

19 MR. ROSS: In some respects,
20 hopefully, that issue won't be an issue down the road;
21 but I think for everybody's purposes, the township
22 alike, when there's communication whether it's directly
23 to us or to the township -- now I think that there is
24 contact and there would be a call if somebody had a
25 problem, and they would question is it quarry activity

1 that is part of the issue. But when those issues
2 happened on Blooming Glen Road -- again, the pattern
3 was the issue of one, maybe two, a year.

4 Those ones that we got information
5 on, it wasn't like there were six wells or eight wells
6 that all went dry at one shot. You're talking a
7 smattering of wells over a period of approximately 11
8 years, not an uncommon issue; and as I indicated to you
9 previously, when there are wells within the quarry
10 perimeter that are actually reflecting groundwater
11 level conditions that are sitting higher than what a
12 resident that's even further out has lost their well
13 with wells of similar depth -- I mean, what we do on a
14 monitoring program is look to see what the closest
15 wells are relative to the mining operation to judge
16 whether our impact is spreading and looking at those
17 existing wells and those people who have similar depth
18 wells to somebody further away on Blooming Glen Road,
19 and that person loses their water and it's an isolated
20 case. It's not like everybody within that range all
21 lost their water.

22 So they were sporadic. There
23 really wasn't a pattern to them, and the difficulty was
24 whether it was that people weren't aware they could
25 call, but I think we said we would address the issue

1 We went through a lot of that when I did my testimony,
2 where they're located, and some of the hydraulics
3 involved with where you punch a well in reference to
4 just being a rock bed, not on a major fault system, as
5 opposed to one that might be on that system. But for
6 the most part, yeah, your hydraulic influence will draw
7 out like a cone and will follow a certain shape.
8 Sometimes it's not totally a round shape. It might be
9 more elliptical and might be driven by the fracture
10 patterns and the fault patterns. But, you know,
11 chances are if you have a couple wells close together
12 that go dry, that might be an indication. My first
13 inclination would be that there might be something
14 going on here.

15 MRS. GREENHALGH: But they
16 wouldn't necessarily have to go dry at the same time;
17 it could be a year or two difference possibly?

18 Mr. Peffer, what do you think?

19 MR. PEFFER: Your original
20 question was posed as a cluster of wells all at the
21 same time.

22 MRS. GREENHALGH: Right, maybe 500
23 feet from each other.

24 MR. PEFFER: Mr. Hirschfeld
25 indicated there can be variations in where those wells

1 actually get their yield. So if you look at the well
2 records we've got, we've got certain areas where the
3 wells -- we've got clusters of two or three wells that
4 all encountered their yielding zones or their water
5 bearing zones at relatively the same depth; and they
6 were probably controlled by discrete beds or bedding
7 plane partings so that in a limited area we -- am I
8 crossing some boundary here? Is this a Blooming Glen
9 question, and I shouldn't --

10 MR. GRABOWSKI: Go ahead, go
11 ahead.

12 MR. PEFFER: I'm all right?

13 MR. GRABOWSKI: Go ahead.

14 MR. PEFFER: Speaking to the Skunk
15 Hollow Quarry --

16 MRS. GREENHALGH: Right, right. I
17 realize that you studied that quarry.

18 MR. PEFFER: We found a couple
19 clusters of wells where they were similar depth wells.
20 In one area we had a couple wells that were each 160,
21 170 feet deep, had very similar depths of yielding
22 zones. So they were probably controlled by the same
23 beds or bedding plane partings. In another area we had
24 two wells relatively close together. One was 465 feet
25 deep; the other one was -- I'm doing this for memory.

1 These numbers may be a tad off. One was 465. I think
2 the other was 475. Again, we saw very similar depths
3 of yielding zones.

4 So in those cases where the wells
5 are similar depths and similar depths to yielding zones
6 they probably would behave very much the same.

7 The other case you'll see is where
8 two nearby wells completed at the same depth, one may
9 have encountered its yield at 50 feet, and the other
10 well may have encountered its yield at a fracture or
11 bedding plane parting or something at 150 feet.

12 So even though they may be similar
13 depth wells where they actually encountered their yield
14 may be dramatically different. And in that case the
15 one that encountered the shallow yield would be far
16 more susceptible to diminish yield -- to go -- the
17 common phrase is going dry.

18 MRS. GREENHALGH: Right, right.

19 MR. PEFFER: Sometimes they don't
20 always go dry; they just -- they used to have five
21 gallons a minute, and now they've got a tenth of a
22 gallon a minute. For all intents and purposes, they
23 went dry.

24 I'm rambling. I hope I'm
25 answering your question.

1 MRS. GREENHALGH: So really in
2 reality wells could go dry at different times even
3 though they would come and say to you, I'm at 200 feet.
4 The other person says, I'm at 200 feet. It all depends
5 on those higher fractures and what they're sitting on
6 and how their yield is?

7 MR. PEFFER: Exactly. And most
8 residents if they remember anything about their well
9 remember how deep it is; but what they probably don't
10 know if they were ever told or don't remember is where
11 the driller said he encountered the yield, which is
12 actually a more critical factor than -- you know, it
13 could be a 400 foot deep well; but if it got its yield
14 up there at 50 foot -- 50 feet, then it's a 50 foot
15 deep well that just happens to have 350 feet of storage
16 area.

17 So am I answering your question?

18 MRS. GREENHALGH: Yes. That makes
19 sense. I understand.

20 Another question. I learned
21 through your testimony, Mr. Hirschfeld, that we sit on
22 a fault system. Is that the proper term, a fault
23 system or fracture system?

24 MR. HIRSCHFELD: Yeah. There's a
25 fault, I believe, that possibly extends out as far as

1 your home.

2 MRS. GREENHALGH: Okay, I think
3 the exhibit showed that.

4 MR. HIRSCHFELD: But it's also
5 dashed. I could only actually see the fault from the
6 quarry wall. I just extended it out, and I dashed it
7 to say that assuming that it does not discontinue and
8 it continues on that it would be at your location.

9 MRS. GREENHALGH: As the quarry is
10 going deeper and pumping more and more, it's drawing
11 down our water, this fault system especially, right?
12 We're kind of feeding down in. Now, wouldn't that also
13 start to affect neighbors' wells by pulling some of
14 that over into the fault system and then going down
15 into the pit?

16 MR. HIRSCHFELD: Sure. It can do
17 that. As Jeff was saying too, it also depends on how
18 much water flows in the partitions also; and there is
19 another factor, how much of those lead into that fault
20 system from into that system.

21 MRS. GREENHALGH: So even though
22 a person's home would sit or their well would sit away
23 from that fault system, it still can be affected by
24 that fault system in the water being drawn down through
25 the fault system, if that makes sense?

1 MR. HIRSCHFELD: It can.

2 MRS. GREENHALGH: Okay. So that's
3 what I wanted to know. I may have some more questions.
4 Let me see where I am here.

5 Okay. In the testimony that was
6 given, a question came up from what point is the area
7 of influence determined? In other words, you both had
8 the circles of influence. Now, I think you said, Mr.
9 Peffer, it was like maybe 3,000 to 4,000 feet at Skunk
10 Hollow -- I think you said that in the testimony -- and
11 you had said it could be up to 2,500 feet. Where is
12 that measured from? Is it measured from -- this was
13 not clear in the testimony. There were different
14 answers given, and I got a different answer when I
15 called DEP. What is your interpretation of where that
16 is measured from because that could be critical? If
17 you're saying that the circle of influence was out
18 2,500 feet and somebody lives 500 or more feet and
19 you're taking it from the center of the pit versus the
20 end of that property, which is requesting the surface
21 mining permit -- now, can you gentlemen answer that?

22 MR. PEFFER: And we may have
23 measured differently. Al may have presented
24 measurements from one reference area or a point or a
25 line.

1 MRS. GREENHALGH: What would the
2 law say though? There has to be a law.

3 MR. PEFFER: Gee, I'm reluctant to
4 speak to the law. I'm a hydrogeologist.

5 MRS. GREENHALGH: But I mean DEP
6 -- doesn't DEP have a statement?

7 MR. PEFFER: Yes, and that's
8 changing, that's becoming that inventory area. And
9 also by special condition, depending on the results of
10 the study, they will mandate a certain area; but I
11 think there was a lot of discussion during my
12 testimony, my original testimony last year, about a
13 no-fault area and how that's changed. There's all
14 kinds of -- there's inventory areas for blasting.
15 That's another issue. That's somebody else's
16 territory. There's 1,000 foot areas, 1,500 foot
17 inventory areas; but the 3,000 foot distance that I
18 referenced in my testimony was relative to the limits
19 of the pit, not to -- you know, I referenced it to the
20 physical boundary, the physical limits, not to any
21 property line or any regulatory line. So to clarify my
22 testimony in that regard, and I think that was in the
23 testimony, but any reference I made to distance was
24 relative to the pit, to the limits of the pit.

25 MRS. GREENHALGH: If somebody

1 thinks they're within 3,500 feet of what you said and
2 they're taking it from the end of the property of the
3 Skunk Hollow Quarry, the surface mining permit, what
4 that includes, then they may fall outside. They may
5 not fall in that. They would fall in it if they were
6 looking at the boundary. Where you're taking from the
7 pit they may not fall in because this pit is going to
8 move, right, if we expand?

9 MR. PEFFER: The predictions that
10 I made based on the computer model were relative to the
11 expanded limits of the pit; so I don't know what this
12 is -- Exhibit A-28, this blue line is essentially the
13 expanded limits of the pit. So the distances that I
14 made reference to were not to the property but to the
15 expanded limits -- to the ultimate limits of the pit.

16 MRS. GREENHALGH: So it would be
17 important that we would know for sure what the DEP
18 regulation is on it, correct? I mean, I wouldn't want
19 to see somebody out 4,000 feet be told, I'm sorry,
20 you're outside the zone of influence if your well goes
21 dry.

22 MR. PEFFER: Again, this is a
23 regulatory thing, and I'm pretty focused on the
24 technical aspect; but DEP on this whole issue of well
25 replacement, believe it, it keeps getting more and more

1 complicated. And DEP keeps getting more and more
2 intense on what they require. I think Mr. Ross can
3 probably speak to the regulatory aspects of that better
4 than I could. Essentially, they will take the results
5 of the computer model, and they will look at the limits
6 that the model predicts.

7 MR. BENNINGTON: Whose model, Mr.
8 Peffer, your model or DEP's model?

9 MR. PEFFER: The computer model
10 that I presented and that DEP requires actually now.
11 Several years ago they didn't even require the
12 modeling. They wanted it, but they didn't require it.
13 Now they've evolved to the point where they're actually
14 requiring it, computer models to predict groundwater
15 impacts.

16 MR. BENNINGTON: So is DEP
17 expanding the art, per se, where the expansion would
18 go? I mean, are they expanding out to say this is a
19 further no-fault zone than the current constraints you
20 have?

21 MR. PEFFER: I can't answer that.
22 All I can tell you is --

23 MR. BENNINGTON: I'm sorry, Judy.
24 This is important. This is very important.

25 MRS. GREENHALGH: No, no, that's

1 fine. I want you to ask those questions.

2 MR. PEFFER: They will by special
3 condition just, you know, adopt an area where there is
4 shown to be impact by the prediction of the model.
5 There is a no-fault area, and I believe that is
6 expanding, but I don't know what that exact number is.

7 MR. BENNINGTON: But the model has
8 to be approved by DEP. DEP has final say on whatever
9 model you display as to where you expect the water to
10 deteriorate based upon the expansion; is that a fair
11 statement?

12 MR. PEFFER: That's a fair
13 statement, yes.

14 MR. BENNINGTON: Okay, let me ask
15 you one other question. H & K just recently got
16 approval to go one depth lower on Skunk Hollow, if I'm
17 not mistaken; is that a correct statement?

18 MR. ROSS: Received a depth
19 amendment, yes.

20 MR. BENNINGTON: One level lower?

21 MR. ROSS: 100 feet lower.

22 MR. BENNINGTON: Which according
23 to testimony the last time or several meetings back,
24 Mr. Ober said that the no-fault zone goes into effect
25 if in fact you go either deeper or out. So I'm

1 assuming that the no-fault zone because you're now
2 allowed to go deeper is going to expand; is that a
3 correct statement?

4 MR. ROSS: I can answer the
5 question?

6 MR. BENNINGTON: Please.

7 MR. ROSS: Now, we're talking
8 about Blooming Glen?

9 MR. BENNINGTON: Well, we're
10 talking about Skunk Hollow --

11 MR. ROSS: But Skunk Hollow we
12 have Jeff's groundwater model, okay. Either case, with
13 the application to DEP, what they look at is the
14 groundwater model, the area of influence that's defined
15 by that model. That becomes your area of influence
16 that is regulated with respect to your mining activity.
17 So anybody that falls in that projected area of impact
18 is what the limit is; whether it's 1,000 feet, 2,500
19 feet or 4,000 feet, it's defined by the model.

20 MR. BENNINGTON: So let's say it's
21 3,500 feet right now.

22 MR. ROSS: It's 3,500 feet.

23 MR. BENNINGTON: So do you have an
24 updated version of where that no-fault zone is for the
25 additional level you're going down at Skunk Hollow? Is

1 it different from what it was before you got the
2 approval for the additional depth?

3 MR. ROSS: With respect to Skunk
4 Hollow, there is no model for the existing quarry on
5 record for that permit. There was none required when
6 that site was permitted originally. So there is no
7 groundwater model. It wasn't required at that time.
8 With filing for an expansion, say, for the Murphy
9 property, which is what we're here talking about as
10 far as rezoning, if we would file an application we
11 must submit a groundwater model, which is what Jeff has
12 done to define that area of influence.

13 MR. BENNINGTON: That's not what I
14 understand from -- you did your testimony and when Mr.
15 Ober participated in the conversation when I asked that
16 question many many meetings ago in that if you go down
17 one depth lower based upon approval by DEP, there is a
18 no-fault zone guarantee because DEP requires a no-fault
19 zone?

20 MR. OBER: Mr. Bennington, the
21 discussion we had, if you recall, was in terms of a
22 proposed agreement. DEP -- it was a voluntary -- we
23 volunteered to do that should the extension or the
24 expansion be granted. DEP, as I told you previously,
25 does not have a no-fault zone. DEP sets the limits to

1 which we must monitor and says that if there is an
2 impact on a well, if we impact it in any way, we must
3 replace it. But the question, was there a no-fault, as
4 I was proposing no-fault to you, there would be no
5 necessity to show that there was an impact.

6 MR. BENNINGTON: But the gist of
7 my question is, doesn't DEP require you to monitor
8 additional wells based upon the additional depth?

9 MR. ROSS: Yes.

10 MR. BENNINGTON: Okay. So can you
11 show us what additional wells you're going to monitor
12 because you're going down another depth lower on Skunk
13 Hollow?

14 MR. ROSS: Did you look at that as
15 far as additional monitoring, Jeff?

16 MR. PEFFER: I didn't get into
17 that specific issue about any additional monitoring
18 points.

19 MR. ROSS: There would be
20 additional monitoring points that would be proposed
21 within the area of influence for each respective level.
22 When Mr. Peffer did his model on what he presented at
23 the previous hearing he presented influence for
24 specific depth increments that would be proposed as far
25 as the expansion and mining at H & K Materials.

1 MR. BENNINGTON: I'm a little
2 confused though. Wouldn't DEP require that before they
3 gave you approval to go one depth lower?

4 MR. ROSS: They certainly would,
5 but understand there has not been an application filed
6 with DEP for H & K Materials which addresses any
7 expansion at H & K Materials.

8 So when that's filed for, yes,
9 that has to be a part of it, and that would -- and that
10 package would have to define what monitoring would be
11 done for each respective level as far as the depth
12 increments at H & K.

13 MR. BENNINGTON: So, again, DEP
14 has no requirement for no-fault currently; that was a
15 voluntary agreement on your part in the event that an
16 application was approved. Is that what you're saying?

17 MR. OBER: Yes, and, Mr.
18 Bennington, that was a good question Judy asked as far
19 as where we measured from.

20 MR. BENNINGTON: Yes, exactly.

21 MR. OBER: If it was within the --
22 we would probably, if we were to do this, utilize the
23 maps which would be eventually reviewed and approved
24 hopefully by DEP that Jeff has presented. In some of
25 those instances, I think, you go beyond 3,500 feet,

1 don't you?

2 MR. PEPPER: Right.

3 MR. OBER: Yeah, I thought so.

4 So it would be within however it's
5 drawn up there; and what DEP does -- and I'm going to
6 paraphrase what these guys have said already. But what
7 they do is they will look at the results of the
8 monitoring, which you have done, which you have to
9 report to them before they will grant you the right to
10 drop another level. Those conditions which they attach
11 to the permit, you're looking for something where you
12 can go to a book and read it. It doesn't work that
13 way. What they do is look at all of the circumstances
14 and this computer model that's been proposed and then
15 they say, okay, we're going to attach these conditions.
16 It used to be 4 or 5 conditions. Now it's almost
17 typical to have 35 or 40 conditions, which include
18 coming back and reporting to them as to what you have
19 monitored and saying to them, this is the impact which
20 we now project if we drop another 25 feet. Only then
21 would you be permitted to drop the other 25 feet.

22 MR. BENNINGTON: So they can agree
23 or disagree with your findings?

24 MR. OBER: Absolutely. And they
25 can say, go back and do some more studies.

1 There's been some recent case law
2 -- I don't want to bore you guys, but there's been some
3 recent case law saying that if there is a diminution in
4 the water supply as a consequence of this, that
5 responsibility is expanded even more. And I'll share
6 that with you, Frank. It just came down -- if you
7 don't have it -- the decision by Judge Miller.

8 MR. BENNINGTON: So if you notice
9 a diminution of the water supply as it is right now
10 that would require you to go out further on both Skunk
11 Hollow and Blooming Glen?

12 MR. OBER: Potentially. He would
13 do -- Jeff would do a study that would be submitted to
14 DEP. They would review it and either approve it or
15 disapprove it and say, go back and do some more
16 studies. They have hydros on staff that do the review
17 stuff.

18 MR. ROSS: If I can clarify, Mr.
19 Bennington, the ongoing monitoring program that we have
20 running at H & K Materials and we now have running at
21 Blooming Glen, that real-time monitoring provides the
22 baseline information for Mr. Peffer or Mr. Hirschfeld
23 to calibrate their models to real-time conditions; and
24 that's what Jeff had gone through in his previous
25 presentation. The real-time data that had been

1 collected prior to the time when he did his
2 hydrogeologic study he plugged into his model to
3 calibrate that model to be able to define what present
4 conditions are.

5 Then you're using that model as a
6 predictive tool with each depth increment or each
7 lateral expansion with respect to the area that's being
8 mined; and DEP looks at that same increment and says,
9 okay, you said you're going to affect or potentially
10 affect these areas in that increment, we want you to
11 guarantee that you're going to deal with those. And
12 you may say, okay, I've got four or five neighbors that
13 have potential to be affected. They have shallower
14 wells. I'm moving in that direction of their
15 residences. It's likely we may impact those wells.

16 You have to define for the
17 Department what you intend to do, whether you're going
18 to change them, replace them up front, deepen them or
19 whether you propose to monitor and track their levels
20 because they're out on a fringe. They may not be
21 impacted, but we're going to watch them as far as
22 monitoring them. You're defining an action that you're
23 going to do during that specific increment, and the
24 Department will condition your permit to say, you can
25 mine 50 feet. And at the end of that 50 foot period,

1 we're going to review all data. And if it's really out
2 of line with what you predicted on your groundwater
3 model, we want you to recalibrate that model based on
4 that information and give us a new model that predicts
5 what your next impact is going to be if we let you go
6 50 feet lower.

7 MR. BENNINGTON: Or 50 feet wider.

8 MR. ROSS: Exactly. So they're
9 looking at it. They're looking at the real-time data
10 along with what was submitted as part of the
11 application as far as a model impact, potential impact,
12 for that activity. And they're looking at both to make
13 sure that what you predicted you're staying within line
14 of it. If it drastically changes, they can stop your
15 operation. They ask you at that point in time to
16 recalibrate your model.

17 MR. BENNINGTON: How often are
18 their models updated? Weekly? Monthly?

19 MR. ROSS: As far as the
20 groundwater models?

21 MR. BENNINGTON: Uh-huh.

22 MR. ROSS: Right now on a 50 foot
23 vertical increment frequency, okay, because of the
24 effort, the extent of effort that's involved, the only
25 time you'd ever be asked to do it any more frequently

1 than by vertical increment would be if there's
2 something drastically going on in the system that was
3 not defined at the front end. It's not something you
4 can recalibrate every week.

5 MR. OBER: John, tell Mr.
6 Bennington how often you report --

7 MR. BENNINGTON: That was my next
8 question.

9 MR. ROSS: The data is collected
10 quarterly and it's submitted quarterly. They're
11 tracking that monitoring data with respect to that area
12 of influence as do we. We collect our monitoring data.
13 We look at it as well to see whether or not the wells
14 are responding and how they're responding within that
15 area of influence. And if there is something out of
16 line, then, obviously there's one of two things
17 happening. Either there's a severe impact happening
18 that you didn't figure would happen or somebody fouled
19 up a reading. Go back and re-check it. But you keep
20 track of the system to make sure that what is happening
21 real-time through the monitoring is what you're seeing
22 out in the field. And we track that seasonally.

23 MR. BENNINGTON: I remember.

24 MR. ROSS: I showed you graphs
25 previously as far as all that data. You can track and

1 see what the normal cycle should be between seasons;
2 and if you're starting to see impacts, are they
3 predicted impacts? If they are, you're starting to
4 track that impact and watch what's happening to the
5 system. If it stays within that realm of what your
6 model predicted, you're right where you want to be.

7 MR. BENNINGTON: So pretty much
8 your model can predict pretty close to reality who is
9 going to run dry and who is not going to run dry based
10 upon conditions as they exist and weather conditions
11 and everything else that affects the water supply in
12 this specific area.

13 MR. ROSS: You're using scientific
14 data and real-time data to calibrate a model that --
15 you know, assuming all the input information was the
16 best judgments that you get something that hopefully
17 mimics what the system is going to do. I believe Mr.
18 Peffer very well explained hydrogeology, and you're
19 using a lot of good science information along with the
20 very technical models to derive an answer.

21 MR. BENNINGTON: So in reality,
22 you can pretty much predict if Judy's well is going to
23 go dry, if she's in the sphere of influence?

24 MR. ROSS: Yes.

25 MRS. GREENHALGH: And what is the

1 prediction of that?

2 MR. BENNINGTON: That was my next
3 question, Judy.

4 MRS. GREENHALGH: I think I know
5 the answer.

6 MR. HIRSCHFELD: With regard to
7 your well and some of the wells on Blooming Glen Road
8 there, the model didn't show that those wells were
9 going to go dry like some of the wells maybe that were
10 located along Quarry Road, because I have a cone of
11 depression of influence that didn't extend out as
12 drastically in that direction.

13 So what I've done is because of
14 the history that you presented and the concerns of
15 those residents I put together to the DEP -- because
16 they came to a meeting also -- a program basically that
17 monitors those wells or a number of wells that
18 represents that grouping of wells, okay, sufficient to
19 their liking that I had enough data points to do that,
20 to watch it as we go deeper. So we got the depth
21 amendment; so I have a monitoring program that they've
22 asked me to present to them, which we record, as John
23 had mentioned, quarterly. But the start of the program
24 I had to take water levels every two weeks, and after
25 the first month -- they want them monthly -- and then

1 after six months, quarterly.

2 So all of that data from the
3 get-go from when we started going deeper, there's water
4 level data that I'm collecting. Right now I've not
5 seen any drastic things happening. I have not seen
6 water diminishing, okay; but that doesn't -- it's
7 continuing to be monitored. So I have to present that
8 data on a quarterly basis with hydrographs to the DEP;
9 and the charts will show if the water levels are going
10 down or if they're going up. If they for some reason
11 go down drastically then they will probably come back
12 to me and say, I think you need to take a look at this.
13 There's some people out there that have some wells
14 going dry. Your model doesn't look exactly correct,
15 and we would like you to recalibrate it and remodel it
16 with the new conditions that you're finding.

17 MRS. GREENHALGH: In the history,
18 were the wells out on Quarry Road -- there were some
19 wells out there, I believe H & K, Blooming Glen
20 Quarry -- re-dug, am I correct --

21 MR. HIRSCHFELD: Yes.

22 MRS. GREENHALGH: -- out further?
23 Were they going dry in the '90's at the same time the
24 wells were going dry over on Blooming Glen Road or did
25 they go dry in the 2000's?

1 MR. HIRSCHFELD: No. They went --
2 my recollection they began going dry in the late '90's,
3 2000, 2001, 2002.

4 MRS. GREENHALGH: That's when a
5 lot of ours did too. There were some in the early
6 '90's, but after '95 there were more.

7 Why would my well have gone dry
8 then when we were at 168 feet and the quarry dug to 200
9 and in '95 we almost thought we had to get a new well,
10 but we get a good yield. So the yield took over, and
11 we didn't have to redig. The well driller had to come
12 back in '97 because we did go dry at 200 feet -- at 168
13 feet, and the quarry was going down to 200 feet. Why
14 then did my well go dry if I'm on that fault system?

15 MR. HIRSCHFELD: I can't answer
16 that question. All I can tell you is that we're
17 monitoring your water levels now, okay, and I'm looking
18 for some correlation with our mining operations; and if
19 I see a drastic drop then I will know that -- the fault
20 system is the same structure. It hasn't changed. And
21 I will see from that data that we were affecting your
22 well. Then I can go back and say, well, that must have
23 been the case, you know, 15 years ago or when it went
24 dry, 10 years ago. And that's why what I presented to
25 the DEP -- and I'm not trying to play favorites with

1 someone on Quarry Road as opposed to someone on
2 Blooming Glen. What I'm trying to do is I ran the
3 model; I used the water level data that I was given for
4 my survey, canvas activities that I did; I plugged
5 those numbers into the model; and many of them were
6 also actual numbers that I collected over the course of
7 my hydrogeologic study; and then I ran the model; and
8 the model made a prediction. And that's how -- I used
9 that prediction to -- I presented that prediction to
10 the DEP and said that this is what I anticipate will
11 happen. This is the current condition based on the
12 actual water levels that I have on this date, present,
13 and predicting that I'll mine another 50 feet and then
14 further another 50 feet deeper, and expand into the
15 Rice tract. This is what is predicted to happen.

16 So I have the predictive model. I
17 have a calibrated model for the current, and I have two
18 predicted models for the next level down and the next
19 level down and associated -- as I showed on my
20 testimonies -- for the Rice tract. And those models
21 cannot be calibrated, the predicted ones, because we
22 don't have data to support -- other than its
23 prediction, we don't have the actual data to support it
24 at this time.

25 So that's why you put in the

1 monitoring program, and the monitoring program gives
2 you actual water level data over the course -- in
3 different wells over the course of the next period,
4 whatever that is, presented quarterly. And when you
5 get down to the next level and when you actually
6 expand, you use that data and you rerun your model.

7 That's why the conditions that I
8 received from the DEP was, okay, we buy what your model
9 predicts; we want you to implement the monitoring plan
10 that you propose; we agree with that; we think it's a
11 good plan. And then when -- but when you get to the
12 fifth level, we want you to take all the data and rerun
13 the modelings and show me what the model looks like.
14 Then if everything looks good, everything follows suit,
15 then, you know, they don't say it up front, but in
16 essence you get their blessing to go the next 50 feet.

17 MRS. GREENHALGH: But the fifth
18 and sixth levels -- 250 and 200 feet -- have nothing to
19 do with the expansion, correct?

20 MR. HIRSCHFELD: Correct.

21 MRS. GREENHALGH: The permit is
22 just for going down 250 and then 300?

23 MR. HIRSCHFELD: Right. We got
24 the permit to go to 300. Correct.

25 MRS. GREENHALGH: Now, you said

1 that the DEP requires reports. Do they also send out
2 inspectors regularly or do they just rely on the
3 reports that you send that you would fax them or
4 something like that?

5 I was under the impression when I
6 talked to them that they came out and did inspections.
7 Now, I may have misunderstood.

8 MR. HIRSCHFELD: They're at
9 liberty to do inspections. How many and when they do
10 them is at their discretion. All I'm required to do is
11 follow my monitoring program and report that to them.
12 If they choose to do an inspection they go out and do
13 an inspection. That's as far as I know.

14 MRS. GREENHALGH: Do they give a
15 report to the township or do you give a report to the
16 township also on this, on the monitoring? Does the
17 township get a report on that by DEP or by you?

18 MR. OBER: Judy, we would be
19 willing to give you -- give the township quarterly
20 reports.

21 MRS. GREENHALGH: I think that
22 would be --

23 MR. BENNINGTON: Judy, hold on a
24 second.

25 Isn't the quarry or DEP required

1 to do quarterly reports to the township, Frank?

2 MR. GRABOWSKI: No.

3 MR. BENNINGTON: There's no
4 requirement?

5 MR. GRABOWSKI: No.

6 MR. ROSS: With respect to your
7 question on the inspections --

8 UNIDENTIFIED SPEAKER: Say it so
9 everybody can hear you.

10 MR. ROSS: -- the Department is
11 required to do quarterly inspections by law. They're
12 obligated to do that. With respect to reporting to the
13 township they're not obligated to supply the township
14 with copies of inspection reports, but Mr. Ober
15 indicated that we can certainly provide the township
16 with the quarterly monitoring data. So that's not an
17 issue.

18 MR. OBER: We have also gone so
19 far in the past as to invite a township representative
20 to come out while we're monitoring.

21 MR. BENNINGTON: Doing what?

22 MR. OBER: While we're doing our
23 monitoring. If you want to send someone -- what
24 usually happens is they just quit doing it because they
25 see that they are getting accurate reports. But we're

1 certainly willing to do that as well.

2 MRS. GREENHALGH: Mr. Hirschfeld,
3 how many wells are you monitoring over in the Blooming
4 Glen area now?

5 MR. HIRSCHFELD: I had --

6 MRS. GREENHALGH: On what roads
7 are you?

8 MR. HIRSCHFELD: Oh, what roads?
9 They're all over the place. I have some on Hayhouse,
10 some on Blooming Glen, Quarry Road, a whole bunch of
11 them on Forest Road. They're not all on roads. I
12 mean, some on Minsi Trail -- for access to a home on
13 Minsi Trail but their well is kind of on the north side
14 of the quarry. Same on the south side. They're all
15 around.

16 MRS. GREENHALGH: Now, there's a
17 second fault system, am I correct, that goes under -- I
18 don't know the name of the people. They're going to be
19 moving -- under 870 Blooming Glen Road; am I correct
20 that that's where the second line went which could
21 impact --

22 MR. HIRSCHFELD: I believe --
23 there's three vertical fault systems. The second one,
24 the middle one, runs to your house. The first one --
25 what I shared was it runs out in the direction of

1 Quarry Road, and it comes in -- it runs on that little
2 corner tip of the quarry on the back end where the big
3 dirt pile is --

4 MRS. GREENHALGH: Right.

5 MR. HIRSCHFELD: It runs in there
6 and it kind of runs along the north -- kind of
7 parallels the north high wall, which is the high wall
8 along Quarry Road. And then there is an oblique fault
9 that cuts off -- that cuts that off on the corner of --
10 around the corner of Minsi Trail and Quarry Road. So
11 the extension of that I don't believe that continues
12 all the way out. There's a third fault that runs off
13 of the -- I guess it would be the southwest corner, the
14 corner off of Forest Road. It kind of parallels the
15 fault that runs through your house, but it just cuts
16 that back corner where the Rice tract is and kind of
17 goes out further, I guess, north -- further on down
18 Blooming Glen Road in the direction of --

19 MRS. GREENHALGH: 113 or Hayhouse?

20 MR. HIRSCHFELD: Towards Hayhouse,
21 that direction.

22 MRS. GREENHALGH: But you're doing
23 a lot of monitoring then? It's not just --

24 MR. HIRSCHFELD: Yes.

25 MRS. GREENHALGH: Another question

1 for the hydrogeologist, and this never was completely
2 answered either. It was kind of where one said, well,
3 I'm not a blaster. The blaster said, I'm not a
4 hydrogeologist.

5 My question was, does blasting in
6 the quarry pit, can that alter some of these
7 underground streams or the aquifers? Can it -- is it a
8 possibility so that you have a model, but now with the
9 blasting that is going to be taking place at deeper
10 levels, can that change some of the movement of those
11 underground streams?

12 MR. PEFFER: I think that was in
13 part addressed in my testimony.

14 MRS. GREENHALGH: And in Alan's
15 too. I know with the blaster we had asked him, and he
16 said, well, I'm not a hydrogeologist.

17 MR. PEFFER: The studies of
18 blasting impact show that increases in fracture
19 permeability from blasting are pretty localized. In
20 fact, sometimes -- I think in my original testimony we
21 even talked about blasting a well to improve its yield.

22 MRS. GREENHALGH: Right. That
23 I --

24 MR. PEFFER: In many cases that
25 doesn't even work.

1 MRS. GREENHALGH: Right.

2 MR. PEFFER: So blasting usually
3 increases through a combination of mechanisms: One,
4 actual fracturing of the rock, and another mechanism
5 known as stress relief. It increases the fracture
6 permeability, but in a very limited zone, close to the
7 blast. The impacts of any distance, any significant
8 distance, are non-existent, Judy.

9 MRS. GREENHALGH: Okay.

10 MR. BENNINGTON: Judy, I was
11 waiting for you to ask the one question you haven't
12 asked yet; maybe you're getting to it. But the
13 question for you two gentlemen is based upon your most
14 up-to-date, state-of-the-art models, time-sensitive
15 with the expansion included as part of those models,
16 how many wells do you predict are going to go dry based
17 upon proposed expansion for Blooming Glen and Skunk
18 Hollow?

19 Is that on your list, Judy?

20 MR. PEFFER: I think in my
21 original testimony, I talked in terms of tens, many
22 tens of wells, 40, 50.

23 MR. BENNINGTON: Tens of wells?

24 MR. PEFFER: I'm not talking about
25 Blooming Glen now.

1 MR. BENNINGTON: You're talking
2 about Skunk Hollow.

3 MR. PEFFER: Skunk Hollow. Tens
4 of wells, I think. And, again, let's be careful. Can
5 I interject two things here?

6 MR. BENNINGTON: You can interject
7 whatever you want.

8 MR. PEFFER: Oh, my gosh.

9 MR. BENNINGTON: You're the
10 expert.

11 MR. PEFFER: That's a lot of
12 license.

13 Mr. Ober earlier had made a
14 comment that I had talked in terms of more than 3,500
15 feet. Actually, when you look at what the model
16 predicted we were seeing drawdown predicted as far as
17 -- I believe it's Upper Church Road; is that the next
18 road to the northeast parallel to Callowhill, I
19 believe?

20 UNIDENTIFIED SPEAKER: Yes, it is.

21 MR. PEFFER: And that's more on
22 the order of 4,500 feet. So we were projecting 20 feet
23 of water table lowering as far as Upper Church Road.

24 The other thing about these
25 predictive models is we're dealing with fractured

1 bedrock where the most permeable material is 1,000
2 times more permeable than the least permeable material.
3 So we're trying to pick zones that are more or less
4 permeable. We're trying to pick averages; and you've
5 got to wonder how well we can do that when something
6 covers a span of a thousandfold. So these models are
7 our best shot; but in fractured rock aquifers they're
8 by no means exact, and that's -- and DEP recognized
9 that a long time ago, and that's why they built in this
10 re-calibration and reassessment at every significant
11 level.

12 MR. BENNINGTON: But they're your
13 expert models, and you're an expert hydrogeologist
14 who's just told me, and correct me if I'm wrong, that
15 tens of wells, meaning 20, 30, 40 -- when you say
16 "tens," that's what I mean -- are going to go dry in
17 the Skunk Hollow area based upon the proposed expansion
18 on your model.

19 MR. PEFFER: That's correct. I
20 mean, you really don't have to get into any fancy
21 science to just say what's the number that have been
22 affected by the mine so far with a hundred foot
23 penetration of the water table. Several wells have
24 already been affected. Have they been replaced or
25 hydrofracked -- you know, hydrofracked to improve their

1 yield -- and that's with a hundred foot penetration of
2 the water table and a limited affected area. That
3 affected area is going to get larger, and now we're
4 going to penetrate the water table by a couple hundred
5 more feet. So just by proportion it's going to go from
6 several to tens, and I think a conservative number
7 would be ultimately 40 to 50 wells could be affected.

8 MR. BENNINGTON: Okay, 40 to 50.
9 Okay, that's Skunk Hollow. What about Blooming Glen?

10 MR. HIRSCHFELD: Blooming Glen, I
11 predicted, I believe, about 18 to 20 wells that I
12 thought might go dry, not all at once. You know, maybe
13 a shot at the fifth level and then ultimately some
14 later once we got down to level six, 300 foot.

15 MR. OBER: May I ask a follow-up
16 to that?

17 Over what period of time, Jeff?

18 MR. PEFFER: In the case of Skunk
19 Hollow, 70 years.

20 MR. BENNINGTON: How many years?

21 MR. PEFFER: Seventy. I think we
22 were talking full mine development, 70 years. So those
23 40 to 50 aren't going to happen in the next three or
24 four years.

25 MR. BENNINGTON: What's the

1 short-term number?

2 MR. PEFFER: The short-term number
3 -- there's minimal -- the short-term number is probably
4 five or ten given the initial lateral expansion. That
5 number goes up given then the vertical expansion. As I
6 modeled it, I modeled it with an initial lateral
7 expansion at the 450 foot level, and we saw minimal
8 impact at that point. We began to see much greater
9 impact with the deepening of the quarry, which is
10 intuitive really. We're not lowering; we're just
11 shoving the area of impact out when we expand it
12 laterally. When we lower the pit, we're dramatically
13 expanding the cone of depression. So short-term it's
14 minimal, five, ten, over the next, say, five or ten
15 years of this mine expansion. Then the big impact
16 would kick in late, you know, as the mine progressed
17 to its maximum depth and its maximum lateral extent.

18 MR. BENNINGTON: Before we get to
19 Blooming Glen, maybe I'm a little bit more confused
20 than I was before; but I was under the impression if an
21 expansion is granted -- I'm not saying an expansion is
22 going to be granted, but if it were granted, you folks
23 had testified that you would not go deeper. You would
24 accept the expansion and go out. Am I missing
25 something here?

1 MR. ROSS: Yes.

2 MR. BENNINGTON: I thought you
3 said if you had an expansion approved that you would
4 just go out and would not go deeper.

5 MR. OBER: I think the testimony,
6 Mr. Bennington, was this: If we cannot laterally
7 expand, we go deeper now.

8 MR. BENNINGTON: Right, agreed.

9 MR. OBER: We would go deeper now.
10 But then if we can laterally expand, the deepening
11 would come after the lateral expansion.

12 MR. BENNINGTON: After the lateral
13 expansion has been completed; but you'd still go deeper
14 ultimately down the road. See, that's where I
15 misinterpreted what you said. I thought you told me
16 and the other board members at the time that if the
17 expansion was granted you wouldn't go deeper ever.

18 MR. OBER: No, it was the order in
19 which that would occur.

20 MR. BENNINGTON: Because I thought
21 you testified that the rock below was not the quality
22 that you wanted from the expansion process.

23 MR. OBER: I can't speak to that.

24 MR. ROSS: No.

25 MR. BENNINGTON: No?

1 MR. ROSS: No. It's always been
2 we would -- the proposal was to laterally expand first
3 and then continue to go deeper. There has never been
4 testimony that we would never go deeper or that the
5 material below that initial level would not be
6 acceptable.

7 MR. BENNINGTON: I'll have to look
8 at the testimony because that's what I understood.

9 MR. OBER: I think the emphasis
10 that was being placed on that was that the impact on
11 the wells would therefore be delayed, and that's why it
12 was -- we were arguing it was beneficial --

13 MR. BENNINGTON: -- to expand.

14 MR. OBER: Yes, to go laterally
15 before we went vertically.

16 MR. BENNINGTON: But if an
17 agreement was made between the township and H & K on an
18 expansion, the no-fault would then cover whatever wells
19 are protected by the model --

20 MR. OBER: As it expands over
21 time.

22 MR. BENNINGTON: Right. So all
23 these wells we're talking about going dry would be
24 covered by a no-fault agreement on the part of H & K?

25 MR. OBER: Mr. Bennington, we're

1 required to do that anyway. I don't want to mislead
2 you. We impact a well; we are required to replace it.
3 We are required to fix it.

4 MR. BENNINGTON: I know but you're
5 missing my point. My point is he's told me that
6 there's tens of wells in the Skunk Hollow area going to
7 go dry based upon -- predicated upon his model for
8 seven years, and then in the short term it's five to
9 ten. Those five to ten would be accounted for by you
10 and covered as part of the no-fault?

11 MR. OBER: Yes.

12 MR. ROSS: Yes, that's correct.

13 If I can just interject one item.
14 With respect to Blooming Glen, Mr. Hirschfeld's model
15 for Blooming Glen called for several wells on the
16 initial 50 foot increment that there was likelihood
17 that they would be impacted or lost, and the proposal
18 with DEP was that we would replace those wells; and
19 that process is ongoing right now to replace those
20 wells. And essentially you're replacing them before
21 they have an impact. So, again, they are not
22 inconvenienced with the water loss.

23 MRS. GREENHALGH: Am I correct in
24 saying that the process is still going on to look at
25 the neighbors who lost their wells back in the '90's

1 and early 2000's?

2 MR. HIRSCHFELD: Yes.

3 MRS. GREENHALGH: And how long do
4 you think that will take to come to that conclusion?
5 Years?

6 MR. HIRSCHFELD: It might. Right
7 now, like I said we've done the monitoring for a few
8 months, three or four months; and we haven't seen
9 anything yet, but we just began to build a ramp down to
10 the next level. So I think we're just about at fifth
11 level; so I think in the next year to two years, mining
12 to the fifth level will be critical.

13 MRS. GREENHALGH: This level will
14 be done when? That will be --

15 MR. HIRSCHFELD: I'm not saying
16 it's going to be finished. I'm saying we're going to
17 be mining --

18 MRS. GREENHALGH: Starting the
19 mining.

20 MR. HIRSCHFELD: -- starting the
21 mining in that level. So that would be critical to
22 watch the water levels then, and we have a good track
23 on them with the program.

24 MR. BENNINGTON: Again, Judy, I'm
25 missing something. Mr. Hirschfeld, if we're talking

1 about wells from the '90's and 2000's why is it going
2 to take two or three more years to determine?

3 MR. HIRSCHFELD: Well, I'm not
4 saying it is going to take two or three more years.
5 I might see something next month. What I'm saying
6 is what I did with those wells is I put them on a
7 monitoring program to watch as we mine -- monitoring
8 them actually -- right now I'm on a monthly program
9 right now. So once a month I'm getting water levels in
10 the wells. So as we're mining the fifth level if I see
11 something drastic, I have my correlation right then and
12 there. I might not see the correlation until later on
13 when we're halfway through the fifth level. If I see
14 it there I'll still have a correlation. It's just a
15 matter of when or if it happens, and that's what I'm
16 basing my reconstructive program with those residents
17 on that monitoring program.

18 MR. BENNINGTON: If you were one
19 of those people that ran out of water in the '90's,
20 would you be concerned about a two-year wait if it was
21 your well, Mr. Hirschfeld?

22 MR. HIRSCHFELD: I would be
23 concerned -- I would be concerned about my well going
24 dry, but I would be willing to watch, you know, and see
25 what's happening because basically the way the program

1 is designed I don't believe any well is going to
2 actually go dry. I'll catch it before it goes dry, and
3 then we'll fix it. So that's what -- that's why I have
4 that program in place, and that's -- DEP feels that I
5 put a pretty good program together. So they kind of
6 agree with that. So that's the way it was presented,
7 and that's how it's proceeding right now.

8 MR. ROSS: I think the issue is
9 the offer is open for the duration of mining at
10 Blooming Glen.

11 What Al is trying to say and what
12 DEP has explained and what we've attempted to explain
13 to Judy and the other people who are involved here: We
14 don't know that there was a direct correlation at all
15 to the quarry. Unfortunately, we can't go back to 1995
16 and replay the issue, okay; and there is no data to
17 really go back and do anything with it at this point.

18 What we have said is we'll monitor
19 your well, and we'll monitor it for the rest of our
20 mining operation at Blooming Glen. It may be that
21 somebody down Blooming Glen Road -- their well was
22 never really impacted by the quarry at all in which
23 case by the time we're done mining that second level,
24 we still won't see an impact.

25 You're saying two years. We may

1 not see anything in two years time. We may not see
2 anything in 15 years. We may not see anything by the
3 time we're done, okay; and the only answer to that is
4 there was no correlation to start with, okay. But the
5 offer is open, and the monitoring will continue, okay;
6 and that was the offer that was put on the table
7 because we can't go back and reconstruct where their
8 well was or the situation at the time that caused them
9 to lose their water.

10 We've had several scenarios of
11 heavy droughts, very serious droughts in this area, a
12 lot of issues that could impact somebody's well, not
13 necessarily all quarry-related. So it's impossible to
14 go back and redo it. Hopefully, that clarifies it a
15 little bit. We're leaving it open; we're not ending
16 it, okay. What I want to make clear to the township is
17 we're not saying, okay, five years if we don't see it,
18 forget it. We're not offering anything.

19 MR. BENNINGTON: Is that what you
20 understood, Judy, it was an open-ended agreement?

21 MRS. GREENHALGH: Yes.

22 MR. ROSS: And we stand by that.

23 MRS. GREENHALGH: I again wanted
24 to make it very clear.

25 MR. BENNINGTON: Absolutely.

1 MRS. GREENHALGH: I have a
2 question for Mr. Peffer. I believe you replaced four
3 wells at Skunk Hollow, am I correct, that's what was
4 replaced?

5 MR. PEFFER: I didn't. Haines &
6 Kibblehouse did. I think there's an exhibit -- I don't
7 know the exact number --

8 MRS. GREENHALGH: I think you
9 mentioned in your testimony three wells were redug and
10 one was fractured. My question would be, why do you
11 choose to fracture a well versus redig?

12 I know you get a better yield a
13 lot of times, is that correct, when you fracture a
14 well? In other words, would a homeowner have a choice
15 or would it be explained to the homeowner that we're
16 going to fracture your well -- is that the right term
17 or is it refracture?

18 MR. PEFFER: Hydrofracture.

19 MRS. GREENHALGH: -- versus
20 redigging?

21 MR. PEFFER: I mean, the mechanism
22 for that is administrative or a public relations
23 mechanism. I can't speak to that; but certainly the
24 hydrofracturing is one option, and drilling deeper is
25 another option. Drilling the well deeper or drilling a

1 new deeper well has always been a standard option.
2 Hydrofracturing has come about because -- in my
3 original testimony -- it's a technique that was picked
4 up from the oil and gas industry and it's been adopted
5 very strongly by the groundwater industry, and it's
6 cost effective. So if you're looking for a reason for
7 a lot of things dollars tend to be one of the driving
8 forces. It's sometimes much more cost effective to
9 hydrofracture a well than it is to drill a new deeper
10 well.

11 MRS. GREENHALGH: Then they may
12 have to do that more often possibly, would you say, if
13 the drill is deepened because of the effect of the
14 quarry pumping the water, and the well is deepened so
15 that it's in a safer area, but the refracturing may
16 have to occur more often then; am I correct?

17 MR. PEFFER: Well, if the
18 hydrofracturing is done once and done right and it's
19 deep enough -- I mean, if there's been 40 feet of water
20 table lowering in an area and then deep water shallow
21 yielding zone at say -- say, the original water table
22 was 30 feet deep and then there was 40 feet of water
23 table lowering so now we're at 70 feet, and the
24 original yielding zone was a depth of 60 feet and the
25 level's only 100 feet deep, if we went in and

1 hydrofracked just a little deeper then we're really
2 setting the stage to do it all over again. It doesn't
3 make a lot of sense to just sneak 20 feet below a water
4 table that's showing decline; but it does make a lot of
5 sense if you've got a 400 foot deep well and you lost
6 some very shallow yielding zones to go very deep in
7 that bore hole and hydrofrack those intervals.

8 MRS. GREENHALGH: Okay.

9 MR. PEFFER: So it's a judgment
10 call. If it's done right, you do it once and that's
11 it.

12 MRS. GREENHALGH: And that would
13 be the well driller. I know H & K uses Garber. They
14 do both actions? They redig the wells or they do
15 hydrofracturing?

16 MR. PEFFER: Well, this is
17 interesting because all of technology that's getting
18 thrown at this, there would virtually be several people
19 involved in the decision. You're right. I don't get
20 involved in the routine administrative decision.

21 MRS. GREENHALGH: I understand
22 that.

23 MR. PEFFER: You can sense that
24 Mr. Hirschfeld is deeply involved in it as Mr. Ross on
25 day-to-day; but, yes, it's usually a joint decision

1 between the hydrogeologist, sometimes the state, and
2 the well driller or the -- usually the contractor
3 that's doing the hydrofracturing is also a well
4 driller. But, yeah, if the call is done right, it's
5 done once.

6 MRS. GREENHALGH: I have one
7 question for Mr. Ober. In regard -- in a June 17th
8 meeting, you said in regard to application change of
9 zoning to quarry -- okay, this is mine. What is the
10 flaw? This is what you said. You said something about
11 a flaw in the ordinance with regard to transitional
12 areas. What did you mean by -- I'm asking what is the
13 flaw in the ordinance with regard to transitional
14 areas?

15 MR. OBER: I have absolutely no
16 idea, Judy. Can you tell me when and where I said it?

17 MRS. GREENHALGH: Yeah, meeting
18 three, page 65, I think June 17th.

19 MR. OBER: Right.

20 Do you have the page?

21 MRS. GREENHALGH: It was page 65.
22 When it was downloaded it was -- I think it's page 65.

23 MR. OBER: Mr. Chairman, would it
24 be appropriate to take a break at this time while we
25 figure this out?

1 MR. BENNINGTON: Yes, let's take a
2 break.

3 MRS. GREENHALGH: I think it's
4 page 65, and that's my last question.

5 MR. GRABOWSKI: Why don't we
6 finish up? Why don't we finish this?

7 MR. OBER: All right. Where are
8 you?

9 MRS. GREENHALGH: Here it is.
10 It's page 64 and 65 of the June 17th meeting.

11 MR. OBER: Okay, I see it.

12 MRS. GREENHALGH: It is my belief
13 that good planning would permit expansion as you're
14 asking that it be done to cure a flaw in the ordinance
15 with regard to that transitional area and at the same
16 time to accommodate a legal need which is imposed upon
17 this municipality by the state government and the
18 courts of this Commonwealth.

19 What is the flaw in the ordinance?

20 MR. OBER: Gentlemen, if you don't
21 mind I'd like to read it.

22 MRS. GREENHALGH: That's fine.
23 I'm finished after Mr. Ober answers that question.

24 MR. GRABOWSKI: All right. Why
25 don't we take a 15 minute break at this point, and then

1 we'll pick up with Mr. Ober responding to Judy's
2 question, and then we'll proceed to the next person.
3 We'll put the list back on the podium during the
4 intermission. If anyone would like to sign up, please
5 do so. Let's come back at 9 o'clock, please.

6

- - -

7

(Short recess.)

8

- - -

9 MR. GRABOWSKI: Okay, we're all
10 back now, and I think when we broke the question was
11 asked by Judy of Mr. Ober. Have you had an opportunity
12 to review the testimony?

13

MR. OBER: Yes, sir, I have.

14

The question you asked, Judy, was
15 -- what I meant when I used the term "flaw" in the
16 ordinance.

17

MRS. GREENHALGH: Right.

18

MR. OBER: We were talking about
19 planning and comprehensive planning, if you remember.
20 A flaw is -- there's a theory in the Municipalities
21 Planning Code and also contained in your comprehensive
22 plan that when you have an intense use, be it intensive
23 agriculture or a commercial shopping center or a
24 quarry, that you don't put residential zoning
25 immediately adjacent to it, instead you transition with

1 an intermediate type use before you go to residential.
2 Your zoning map does not do that. Your zoning
3 ordinance does not do that, and I view that as a flaw.

4 MRS. GREENHALGH: In reference to
5 quarrying or --

6 MR. OBER: Yes, ma'am.

7 MRS. GREENHALGH: -- to anything
8 at all?

9 MR. OBER: I looked only at
10 quarrying and what was adjacent to the quarrying.

11 MRS. GREENHALGH: May I ask two
12 more questions?

13 MR. GRABOWSKI: Yes.

14 MRS. GREENHALGH: The
15 hydrogeologist in talking about how many wells you're
16 predicting could go dry now as Blooming Glen Quarry
17 goes deeper to 300 feet, it's going to start to pump
18 out one point three-quarter million -- one point
19 seventy-five million -- one and three-quarter million
20 gallons a day versus about nine hundred thousand a day;
21 now, wouldn't that impact more with your model? Have
22 you included that as part of your model that now more
23 water is going to be pumped out?

24 MR. HIRSCHFELD: Yes, and that
25 increase doesn't all happen at once. That's over the

1 course of going to the next two levels and expanding.
2 So it's nine hundred and some thousand now, and there's
3 another level -- a portion of that will increase and a
4 portion more as time goes on.

5 MRS. GREENHALGH: Could that
6 impact your model more? Have you taken that into --

7 MR. HIRSCHFELD: Well, I included
8 it as part of my model in the projection; however, like
9 I said, the model could be recalibrated. If I see some
10 drastic things happening, then it will be recalibrated,
11 and that discharge was factored into the modeling.

12 MRS. GREENHALGH: And one question
13 for the township. When Mr. Coyne had asked if there
14 would be experts from the township that the township
15 supposedly hired to review testimony, will they be at
16 the next meeting?

17 MR. GRABOWSKI: No, they will not.
18 The experts who have been retained by the township are
19 giving reports directly to the township, and
20 information will then be used by the board to make a
21 final decision at some point. This is a zoning change
22 petition. It's legislatively discretionary in terms of
23 the board. They can say no based upon no testimony, if
24 they so desire. There's no -- there will be no
25 presentation by these gentlemen.

1 MRS. GREENHALGH: Does that ever
2 become public?

3 MR. GRABOWSKI: That's a policy
4 decision by the board that hasn't been made at this
5 point.

6 MRS. GREENHALGH: Thank you.

7 MR. GRABOWSKI: Thank you, Judy.
8 The next person who's on our list
9 is Mr. Godek.

10 Bill, can you give us your full
11 name and address when you get up to the podium for our
12 stenographer, please.

13 MR. GODEK: Bill Godek, 206 Broad
14 Street. The first question I have is concerning the
15 Skunk Hollow monitoring of the wells. How many in
16 total are being monitored in Skunk Hollow?

17 MR. PEFFER: The folks at Haines
18 & Kibblehouse know that answer better, but the number
19 -- it looks to be on the order of 15 off-site wells and
20 there are 11 on-site wells. Actually, it's closer to
21 18 -- 18 off-site wells and there are 11 on-site wells.
22 That's as of this 2001 report. The folks from Haines &
23 Kibblehouse may be able to speak to what it is
24 currently.

25 MR. ROSS: It's the same.

1 MR. GODEK: Out of those that are
2 being monitored, how many of those are between Conlin
3 Way and Hilltown Pike on Broad Street, the off-site?

4 MR. ROSS: I'd have to compare
5 some maps here. I can't answer that right off the top
6 of my head. Two wells off of Conlin Way that are part
7 of the monitoring program, they carry designations
8 HKM-40 and HKM-39. Additionally, on the southeast side
9 of Broad Street, there are three more and there are a
10 few more on the northwest side of Broad Street in that
11 area.

12 MR. GODEK: Ones that are on the
13 southeast side, are those the ones that had been -- had
14 gone dry and then been redrilled? Are they the ones
15 that are being monitored?

16 MR. ROSS: There are some that are
17 being monitored that have not gone dry. There are some
18 that are being monitored that did. I believe HMK-90,
19 which is along Broad Street near its intersection with
20 Limekiln Pike, I believe that was one well that was
21 replaced and is currently part of their monitoring
22 program.

23 MR. GODEK: Okay.

24 And in terms of when you're
25 monitoring the wells, these wells that are being

1 monitored, you mentioned about the yields coming at
2 different depths, the wells that are being monitored,
3 is it known at which depth these various wells are
4 receiving their yields from, 30 feet, 50 feet,
5 whatever?

6 MR. ROSS: In some cases it is,
7 and in some cases it's not. There's -- what they know
8 on most of the wells are the depth of the wells; but to
9 answer your question they have specific information on
10 some of the wells as far as the yielding zones. On
11 some of them they don't.

12 MR. GODEK: Would you say that's a
13 majority that they have current information as to where
14 the yield comes from?

15 MR. ROSS: I'd be guessing.
16 Without digging through a lot of detailed information,
17 I'd be taking a guess actually.

18 MR. GODEK: What you would dig
19 through that's public information?

20 MR. ROSS: Yes. A lot of it is.
21 A lot of the supporting information for the study was
22 part of what is referred to as an environmental impact
23 assessment, and I would say roughly -- let's see, a
24 majority, probably half of the cases anyway. That's a
25 pretty safe guess.

1 MR. GODEK: Okay.

2 And the document that you have,
3 that's the one that would list that information that
4 you're holding?

5 MR. ROSS: The document is the
6 report that I prepared, and it basically just lists the
7 depth of the well and the yield of the well; but it
8 doesn't list any information on yielding zones, on the
9 discrete yielding zones.

10 MR. GODEK: Okay.

11 What is the identification for
12 that particular document?

13 MR. ROSS: It's titled "A study of
14 potential groundwater impacts from a proposed lateral
15 expansion and deepening of the H & K Materials Quarry."

16 MR. GODEK: Okay. Thank you.

17 In terms of the blasting, I have a
18 question for the person from Vibra-Tech.

19 At several of the hearings we had,
20 meetings, there's been talk about peak particle
21 velocity. Is that the primary factor that's used in
22 determining whether structural damage occurs to --

23 MR. RESETAR: It's peak particle
24 velocity and frequency of that peak particle velocity.

25 MR. GODEK: And in all the

1 testimony that's been given and all the records,
2 there's nothing that's ever been recorded that says
3 they exceeded whatever the state --

4 MR. RESETAR: Not to my knowledge.

5 MR. GODEK: -- at Skunk Hollow.

6 MR. RESETAR: Correct.

7 MR. GODEK: And is that the only
8 criteria that's used in terms of whether structural
9 damage occurs to a building or not?

10 MR. RESETAR: That's with all the
11 -- state regulations are based on that. The USBM
12 standards are based on that. You can also monitor
13 vibrations in terms of acceleration and displacement,
14 and they are meaningful factors; but the true things to
15 be concerned about are peak particle velocity and
16 frequency.

17 MR. GODEK: And as an example of
18 how peak particle velocity would translate into
19 somebody like myself feeling it, you know, experiencing
20 a blast, if I'm in my basement and windows are closed,
21 and I have hanging on the wall two caulking guns maybe
22 about 16 ounces each and they're about 5 feet apart --

23 MR. RESETAR: Excuse me. Two
24 what?

25 MR. GODEK: Caulking guns.

1 MR. RESETAR: Oh, I see, okay.

2 MR. GODEK: And they're suspended
3 on the end of a bracket, and a blast takes place. And
4 all of a sudden as I'm in the basement observing this,
5 I see the one that's closer towards the side from where
6 the blast comes is motionless; and at the same time I
7 observe the one that's about 5 feet in the other
8 direction doing an arc of about an inch and
9 three-quarters and taking about maybe 20 minutes to
10 finally come to a stop. Would that be something that
11 would be categorized as occurring under the peak
12 particle velocity?

13 MR. RESETAR: Well, I think you'd
14 have to look at how the caulking gun is anchored to the
15 wall and so forth.

16 MR. GODEK: Just resting on a
17 bracket.

18 MR. RESETAR: I think you'd have
19 to look at the bracket and see -- obviously, there's a
20 difference between each of the brackets that would
21 indicate to me at least from the surface that there
22 must be something unusual.

23 MR. GODEK: They're both mounted
24 on the same wall and they're perpendicular to the
25 street, Broad Street; and in between them is my main

1 joist supporting the building, main structural beam,
2 one on one side and one on the other side. And I'd
3 like to know what would cause that to occur. I know
4 it's not air.

5 MR. RESETAR: I think I'd have to
6 have more information. I'd have to go on site to see
7 what the situation is. It seems very unusual.

8 MR. GODEK: And the other one I
9 have is, I have a cast iron sink on the opposite side
10 depending on what side they're blasting from, and low
11 and behold you have the drain and in the drain you have
12 plumber's putty. And after two occasions -- on two
13 different occasions when I went back, and this has been
14 there for several years now, low and behold after each
15 of these blasts here I see a section of the plumber's
16 putty protruding out of the base of the drain, after
17 each of these blasts. Is that something that can be
18 related to peak particle velocity?

19 MR. RESETAR: I don't believe so.

20 MR. GODEK: What would be causing
21 that in terms of vibrations?

22 MR. RESETAR: Again, I think you'd
23 have to investigate the situation. It seems unusual.
24 Maybe that's why you have to re-caulk and put that
25 putty back in there. It seems to be unusual. I don't

1 think it's really related to vibrations from blasting.

2 MR. GODEK: It's been there for
3 many years, and it's happened right after the blasting.
4 This is my word on it, what I have seen physically at
5 my property over the years with all this blasting
6 that's been going on and with the stuff about peak
7 particle velocity. I've seen this damage occur and
8 witnessed it for myself. I'm just trying to find out
9 from the point of view of a blaster what would be
10 contributing to that particular activity.

11 MR. RESETAR: I think it's a very
12 isolated situation. I'd have to ask you, are there any
13 other events, telltales, that would give me more
14 information? In other words, you tell me or you talked
15 about two different events here. I have to ask, are
16 there other events that are occurring in your house?
17 If it's related to blasting, in my mind, you would have
18 to have other events occurring.

19 MR. GODEK: This is related to the
20 time of blasting. Like I said, motionless on many
21 number of occasions that I've been down in the
22 basement, I've seen this -- you know, a blast, I'll
23 take a look, nothing. This one particular instance,
24 they hammered the house hard with the blast; and it was
25 on the northeast side of the house when it occurred.

1 And like I said I just happened to be downstairs when
2 that happened, and I'm watching with my mouth open as
3 I'm seeing like a pendulum going back and forth. I'd
4 like to have an explanation from the experts as to just
5 what happened with that blast. Nothing else
6 contributed to that.

7 MR. RESETAR: I'd have to say, it
8 sounds to me like a very isolated situation. How far
9 is your home located from the blasting at the quarry?

10 MR. GODEK: I'm right across the
11 street.

12 MR. RESETAR: At a distance of
13 what? About.

14 MR. GODEK: 250 feet maybe.

15 MR. RESETAR: Is that to the
16 actual blast site or to the property line of the
17 quarry, that 250 feet?

18 MR. GODEK: Probably to the end of
19 the quarry property.

20 MR. RESETAR: Or to the beginning
21 of the quarry property?

22 MR. GODEK: The quarry property
23 that backs up against Barbara Walsh's home on Broad
24 Street. My house is directly opposite that.

25 MR. RESETAR: How far would you

1 estimate they're blasting from that point, that 250
2 foot distance, another 250 or 150?

3 MR. GODEK: I don't know what
4 distance it was at that point in time. I can go back
5 and look at the records, I guess, to find out where
6 they were.

7 MR. RESETAR: It seems to me the
8 two events you're talking about seem to be very
9 isolated.

10 MR. GODEK: I know they're
11 isolated but they occurred.

12 MR. RESETAR: Right. They're
13 isolated. So something is occurring at that location
14 that is very isolated in nature. It's not encompassing
15 your whole house, okay. It's very isolated in
16 character. It's like a crack that develops in a
17 foundation because the pressure against a wall is very
18 isolated, okay. It's not causing any problems to your
19 wall on the other side of your house because the
20 pressure that's on the foundation wall is very
21 isolated, in other words, concentrated at that area.
22 So what I'm saying to you is those two events that you
23 talked about, the caulking gun and the sink thing, to
24 me they're very isolated. Something very unique is
25 occurring there that I don't know if I can offer you

1 any more information.

2 MR. GODEK: Would that be
3 something that would be acceptable to the DEP in terms
4 of affecting a resident of that activity?

5 MR. RESETAR: I don't think the
6 DEP --

7 MR. GODEK: Isolated as that might
8 be.

9 MR. RESETAR: I think you could
10 perhaps mention it to DEP, but I don't think they would
11 say that it's an indicator of some major problem. I
12 think they would be objective enough to say that there
13 must be some other factors that are involved here.

14 MR. GODEK: In terms of you
15 mentioning pressures on the foundation, is there -- if
16 a house is built on bedrock, is there any reason for a
17 house to settle?

18 MR. RESETAR: Well, in reality --

19 MR. GODEK: After 50 years.

20 MR. RESETAR: In reality, I don't
21 think any house is built totally on bedrock. A
22 portion --

23 MR. GODEK: Well, I have it from
24 my neighbor who was there when the house was being
25 built or around that time in the '50's and from another

1 individual that when they built it they laid it on the
2 bedrock. They couldn't go any deeper, and it's on that
3 gray stone that's being removed; and when I had a
4 septic tank put it they laid it on the bedrock because
5 they couldn't get it any deeper. That's my unique
6 experience. So I want to know -- the question was,
7 does a house settle if it's built on bedrock? I know
8 they build skyscrapers on bedrock.

9 MR. RESETAR: Well, I think
10 there's a certain amount of decay that's occurring to
11 the bedrock. I think you'd have to look at the
12 situation, but I guess it's possible. If you're
13 experiencing settlement and you're saying that the
14 house is on bedrock, something is occurring.

15 MR. GODEK: Now, the something
16 that's occurring, could that possibly be subsidence
17 whereas the water level is being dropped gradually over
18 the years like a cancer that the rock starts to go down
19 and anything above it also starts to go down?

20 MR. RESETAR: I think if the water
21 table is close to the surface there may be some
22 influence there, but at the levels of 20 or 30 or 40
23 feet, I think it's unlikely.

24 MR. GODEK: Levels of 20, meaning
25 the water levels --

1 MR. RESETAR: The water table
2 being down 20, 30, 40 feet, whatever the case may be.
3 I think it's unlikely.

4 MR. GODEK: The levels of 20, 30,
5 40 feet, if that drops 20, 30, 40 feet from where it
6 was originally, that would not affect --

7 MR. RESETAR: The water table?

8 MR. GODEK: Yes. If the water
9 table originally was 20 feet down and now it's 40 feet
10 down and you have a void in there over time, you're
11 saying that's not going to affect it as the ground --

12 MR. RESETAR: I think that might
13 be a better question for the hydrogeologist to address,
14 but I don't know of any studies that have indicated
15 that if there was a lowering of the water table --
16 unless you're in an area where there's voids that are
17 created, okay, and you have to have a certain soil or
18 stonework for voids to occur, like a sinkhole, that's
19 possible, yes. But to have something like you're
20 talking about, I think it's unlikely.

21 MR. GODEK: I see, okay.

22 That's the last question I have
23 for you. Thank you.

24 MR. RESETAR: Thank you.

25 MR. GODEK: Another question I

1 have concerns the blasting and the wires that are used.

2 MR. HAYES: Sure, that would be
3 me.

4 MR. GODEK: I was given a brochure
5 a ways back -- unfortunately, I don't have it with me
6 here right now; but on the brochure it had different
7 color codes, yellow, orange, and what the delays were.
8 I just want to know whether this was a typo or not. I
9 happen to remember that on there there were two wires.
10 One said -- two categories. One was black, and it said
11 that meant zero delay; and then there was another one
12 further down that was black and had a delay of a
13 hundred milliseconds. I'm not sure if that's the exact
14 number. But one says nothing and the other one says
15 here's a delay and it's both with the same color code.

16 MR. HAYES: We use nothing that is
17 black.

18 MR. GODEK: I'm just questioning
19 that particular -- is that accurate that there are two
20 different ones that would be with the same color code
21 and have two different delays?

22 MR. HAYES: No. Typically, when
23 delays are color-coded, they're always different. You
24 wouldn't have two the same color. That would be
25 different delay intervals.

1 MR. GODEK: So that would be a
2 typo?

3 MR. HAYES: Probably would be,
4 yes.

5 MR. GODEK: Thank you.
6 The last question I have now is,
7 we've heard from the witnesses. Are we going to hear
8 from the principals of the company under oath to answer
9 questions?

10 MR. GRABOWSKI: That's a question
11 that has to be directed to the people on the floor.

12 MR. OBER: I didn't hear what you
13 said.

14 MR. GRABOWSKI: I said that's a
15 question that is addressed to the H & K individuals,
16 including yourself.

17 MR. OBER: I have no intention of
18 calling further witnesses, sir.

19 MR. GODEK: Is that something that
20 the township would want to hear, to hear from the
21 generals versus hearing from the privates in terms
22 of --

23 MR. GRABOWSKI: We don't have
24 subpoena power. We can't force people to testify if
25 they don't want to. It's their case. They determine

1 who they want to present in terms of witnesses or who
2 they don't want to present. Does it factor into the
3 decision process? It could very well be, but we can't
4 force people to talk.

5 MR. GODEK: I understand. Has it
6 been requested by the township that principals speak at
7 these meetings and give testimony?

8 MR. GRABOWSKI: No.

9 MR. GODEK: Is there a particular
10 reason why the township would not ask?

11 MR. GRABOWSKI: Other than the
12 issues are being presented as they're being presented,
13 I think we want to hear from the experts, from that
14 standpoint. If there's any other information that we
15 need to hear, that's why we're having hearings.

16 MR. GODEK: Okay, thank you.

17 MR. GRABOWSKI: No other
18 questions, Mr. Godek?

19 MR. GODEK: No.

20 MR. GRABOWSKI: The next
21 individual that we have on our list is Margaret Zittel.
22 Am I pronouncing your name right, ma'am?

23 MS. ZITTEL: Right.

24 MR. GRABOWSKI: If you can give
25 your full name and address to our stenographer, please.

1 MS. ZITTEL: Margaret Zittel,
2 Z-i-t-t-e-l, 522 Skunk Hollow Road. I have a couple
3 questions.

4 My property abuts the quarry; and
5 when I moved there two years ago I was told that I was
6 being monitored. And I asked if I could get the
7 results, and they gave it to me; and I haven't heard
8 from them for over a year and a half. So I called them
9 a couple weeks ago and asked them if I was still being
10 monitored.

11 They said, Oh, yeah. We monitored
12 you a year ago.

13 So my question is, we're talking
14 about monitoring. Skunk Hollow Road, is that done once
15 a year for these 18 wells? That's not very often,
16 certainly. And do these people that are being
17 monitored, do they know about it? Do they get the
18 results? And if there's going to be an expansion how
19 many more wells will be monitored? Eighteen doesn't
20 sound like a lot to me when twenties are going to go
21 dry. How is that going to be determined?

22 MR. BENNINGTON: Mr. Peffer,
23 you're up. This is Skunk Hollow, ma'am, right?

24 MR. PEFFER: That's maybe more of
25 a question for Haines & Kibblehouse than it is for me.

1 MS. ZITTEL: The results are from
2 2001, and it's 2004 now. You're monitoring the same 18
3 wells and yet you've expanded, and how often are you
4 monitoring those?

5 MR. ROSS: As we stated earlier,
6 they're being monitored quarterly.

7 MS. ZITTEL: Quarterly? Well, I
8 haven't been monitored for a year.

9 MR. ROSS: I'd like to know who
10 you spoke to, number one.

11 The problem we have, and I don't
12 know whether you're home during the daytime or whether
13 you've given permission for somebody to pull water
14 off an outside tap?

15 MS. ZITTEL: I've given
16 permission, yeah.

17 MR. ROSS: Okay. I can't answer
18 why you're not getting monitored, but you should be.
19 All I can do is check into it and report back to you.
20 Other than that, I can't answer the question.

21 MR. BENNINGTON: Do you know she's
22 not being monitored at this point in time --

23 MR. ROSS: I don't know.

24 MR. BENNINGTON: -- or she hasn't
25 been contacted about being monitored?

1 MS. ZITTEL: I got a long message
2 that said, we were out there in December and you
3 weren't home and this and that and the other thing. So
4 it's been over a year. So it seems pretty haphazard to
5 me.

6 Are you being monitored?

7 UNIDENTIFIED SPEAKER: No, they
8 never give us the results.

9 MS. ZITTEL: So she's not being
10 monitored either.

11 MR. OBER: Objection. I don't
12 think that's what was said.

13 MR. GRABOWSKI: Well, for the sake
14 of the record, you pointed to another individual. Do
15 you want to give us a name?

16 My neighbor, Donna Everly, abuts
17 the quarry; and she is not being monitored.

18 MR. OBER: Well, the fact that
19 you're not receiving results, ma'am, does not mean that
20 you're not being monitored. We may have screwed up
21 with not giving the results, but we'll tell you in a
22 second if you're being monitored.

23 - - -

24 (Discussion off the record.)

25 - - -

1 MR. GRABOWSKI: Let's give these
2 gentlemen a moment. I think that they're looking to
3 try to locate your home.

4 Gentlemen, would it be worthwhile
5 if Ms. Zittel pointed out her house?

6 MR. ROSS: Can we just have a
7 couple minutes here to pull up the data?

8 MR. GRABOWSKI: Let's take five
9 minutes.

10

- - -

11

(Short recess.)

12

- - -

13

MR. BENNINGTON: We're back from
14 our break; right, Frank?

15

MR. GRABOWSKI: Yes.

16

MR. ROSS: Okay. For the location
17 of HKM-26, which is Mrs. Zittel's residence, monitoring
18 began in August of 1995. It has been ongoing and
19 continuous with the only reason that anything was not
20 collected initially -- and that was one sample in '95,
21 in November, no sample, no one home. February of '96,
22 there was no sample and no one was home. It was
23 continuous quarterly from June or -- excuse me, May of
24 '96 through each quarter of '97.

25

MR. BENNINGTON: Where is your

1 well located, Margaret, in the backyard?

2 MS. ZITTEL: Yes.

3 MR. BENNINGTON: And it's easily
4 accessible without you being there; so you would
5 willingly give them the right --

6 MS. ZITTEL: Exactly.

7 MR. ROSS: Well, let me finish,
8 please.

9 In 1998, water levels were
10 monitored for three of the four quarters. Three times
11 out of the four quarters no one was home to get a
12 sample; '99, it was monitored for all three periods.
13 Data was collected, and there was actually a fifth or a
14 fourth round taken. It was actually after the first of
15 the year 2000 and then four additional ones in the year
16 2000. Each time levels were taken and samples were
17 collected. And we apparently do have approval to pull
18 off the outside tap as of 2002; but 2001, three
19 readings -- or three times it was sampled or attempted
20 to sample, two readings, March and June. September, no
21 sample, no one was home. 2002 -- and I don't know when
22 you actually moved into the residence. The home was
23 sold, and I don't know if it was vacant for any time
24 period at all --

25 MS. ZITTEL: No.

1 MR. ROSS: -- but January, no
2 sample. The water was turned off on the outside
3 spigot. There was a water level reading taken. April,
4 there was a water level reading but no sample taken.
5 Again, the water was turned off with the outside
6 faucet. There again were three additional readings in
7 2002 --

8 MR. BENNINGTON: Hold on a second.
9 The water was turned off outside. That doesn't mean
10 you can't go into the well to see what the depth of the
11 well is.

12 MR. ROSS: We did. We took the
13 water level reading, but there was no water sample
14 taken because the outside spigot was turned off.

15 MR. BENNINGTON: Oh, okay. I'm
16 sorry.

17 MR. ROSS: So there were three
18 additional readings in 2002: June, September, and
19 December. Each time the water level was taken and
20 sample was also collected at those points. For 2003 --
21 and this only goes to June of 2003, again, two levels
22 were taken, March and June. There was no water sample
23 again. Indication that water was turned off on the
24 outside spigot. So we do apparently have approval to
25 take samples from an outside spigot when there is no

1 one home at the residence; but, you know, if you've
2 asked for data, we can certainly provide you with the
3 information. That's not an issue at all. Never has
4 been, okay. I don't have any more current information.

5 We have collected the two
6 additional rounds in 2003, and the first quarter was
7 collected in March of 2004. We're again scheduled to
8 do it this month in June. I can certainly verify
9 whether there were water levels or samples taken for
10 those periods; but if we're dealing with the same case
11 that no one is at the residence when we're there taking
12 the sample and the water is turned off outside, which
13 you indicated you don't know whether the tap is on or
14 off outside -- if it's off we certainly can't collect a
15 sample.

16 MS. ZITTEL: Well, in other words,
17 if the water is turned off, you can't get a sample but
18 you don't call to make another appointment or have
19 somebody do it.

20 MR. ROSS: I know there have been
21 instances where Scott who is a fellow that does the
22 water samples at H & K has left business cards at
23 people's front doors because we've had problems.
24 Either the tap's been turned off or we can't get a
25 sample or we're not allowed to collect data when

1 as well as the collected data, because it certainly
2 goes back long before you moved into that residence.

3 MS. ZITTEL: Exactly.

4 MR. ROSS: But, you know, I'm a
5 hundred percent certain it has been monitored up to the
6 present time, up through March.

7 MR. BENNINGTON: Well, if you have
8 the records, obviously --

9 MR. ROSS: I mean, I don't have
10 those last three rounds in this book. I'm positive
11 that it has occurred.

12 MR. BENNINGTON: So you want
13 information provided to you quarterly whenever they do
14 the tests?

15 MS. ZITTEL: Oh, yeah.

16 MR. BENNINGTON: All right. So
17 make a note of that, John.

18 MR. ROSS: I have no problem with
19 that. None.

20 MS. ZITTEL: Do you expect to
21 increase the number of houses that are monitored if you
22 do this expansion?

23 MR. ROSS: What will happen is,
24 assuming the township in their wisdom decides yea or
25 nay -- decides whether we can conduct an expansion on

1 If you expand space and hours of
2 production, how does that not equate to increased
3 productivity?

4 MR. OBER: Do you want to answer,
5 Jack?

6 MR. KIBBLEHOUSE: Sure. I'll
7 answer that, sure.

8 MR. OBER: Wait, you haven't been
9 sworn yet.

10 Would you swear Mr. Kibblehouse,
11 please?

12 - - -

13 (Whereupon, Jack Kibblehouse was
14 duly sworn.)

15 MR. KIBBLEHOUSE: The reason for
16 the expansion is, number one, the extra area to take
17 the quarry down to mine -- it's better to take it a
18 level at a time, two levels at a time, rather than
19 going to a deep pit, into a hole, and then coming back
20 up and going over into the quarry. It's much more
21 economical.

22 The other thing is we're talking
23 about water all night here, the water in the wells.
24 If we can mine continuously out at the same level that
25 we're mining now, that will take a much longer time.

1 that increasing the area that you're working and the
2 hours of operation will increase the productivity at
3 all?

4 MR. KIBBLEHOUSE: No.
5 (Inaudible).

6 MS. ZITTEL: I have one more issue
7 to discuss. Thank you.

8 As I explained, my property abuts
9 the quarry; and as I stand at the northern corner of my
10 property and look straight ahead of me, I see the Toll
11 Brothers tract of 65 acres that has yet to be
12 developed. Last year it was a cornfield. And as I
13 look to the right, I see the Murphy tract, which is 90
14 acres, which will soon be -- which could be developed.
15 This question is for the panel.

16 Is there any way that you have
17 considered -- how will you address the fact that we're
18 looking at the impact of a development of 90 acres for
19 the Murphy tract and in the next three years a
20 development of 65 acres which abuts that area? We're
21 all concerned with water, environment, dust, pollution,
22 traffic congestion and noise; but the development of 65
23 acres in a development would certainly have an impact
24 on traffic, congestion, noise, and our environment.

25 MR. GRABOWSKI: I'll answer that

1 question. First of all, this being a public hearing,
2 the questions are for the applicant; but in this case I
3 can say on behalf of the board these are all factors
4 that will be taken into consideration, as they always
5 are, whenever there is a request to change zoning.

6 MS. ZITTEL: Thank you.

7 MR. GRABOWSKI: Thank you.

8 Ms. Zittel was the last person who
9 had her name on our list. So I guess I need to assume
10 that no one else has any questions.

11 MR. BENNINGTON: I have one last
12 question if there is nobody else.

13 MR. GRABOWSKI: Let's just find
14 out. Is there anyone else who didn't sign up who would
15 like to ask a question?

16 Obviously, these hearings are for
17 you. If you don't ask questions now you're not going
18 to get a second shot although you could come back on
19 Monday night.

20 Okay, Mr. Bennington.

21 MR. BENNINGTON: Now that Mr.
22 Kibblehouse is sworn in, I was going to ask Mr. Ross,
23 but let me ask Mr. Kibblehouse, your folks have made a
24 presentation over the last 13 weeks about how there's
25 going to be no increase in production, even by

1 expanding out there's no increase in production. The
2 two quarries have "X" number of years until they run
3 out. The crux of the matter is, why are you requesting
4 an expansion today rather than down the road when your
5 quarries get closer to extinction?

6 MR. KIBBLEHOUSE: I think I
7 answered that for this last lady that was up. It's
8 much better to mine at a level that we're at now rather
9 than go down deeper in the quarries. So why not mine
10 this area that we have that we want the expansion on
11 for the future at this point in time when we can mine
12 this upper level. Down the road, there's more and more
13 public water in the area all the time. So 30, 40, 50
14 years from now when we're down at lower levels, maybe
15 folks in the area will be public water; and these
16 things that we talked about, about wells tonight, there
17 may be no question on it at that point in time.

18 MR. BENNINGTON: Well, that's an
19 assumption on your part that there will be public
20 water.

21 MR. KIBBLEHOUSE: Well, I'm just
22 saying what has happened over the last 25, 50 years and
23 it's continuing to happen. It would be better for us
24 to continue to mine rather than have deep wells that
25 you're working against all the time and everything.

1 MR. BENNINGTON: So, Jack, your
2 supposition is that it's better for the township to
3 allow your expansion now because the effect on the
4 township is minimal as you go out rather than deeper?

5 MR. KIBBLEHOUSE: Yes.

6 MR. BENNINGTON: And that's your
7 story and you're sticking by it?

8 MR. KIBBLEHOUSE: Yes, sir.

9 MR. BENNINGTON: That's it.
10 Any other questions from the
11 board?

12 MR. GRABOWSKI: All right, ladies
13 and gentlemen, we're definitely at the point of
14 tonight's meeting where we can probably adjourn. Let
15 me just say though before we do that that we have
16 advertised for Monday night, June 7th, another hearing
17 in this matter. The same gentlemen will be here. That
18 will begin at 7 o'clock. Our ad does say that
19 following the question and answer period that the board
20 will accept sworn statements and opinions from the
21 audience in attendance, requesting the expansion of the
22 quarry; so I would assume that -- we had a light
23 turnout tonight. I don't know how many people are
24 going to show up Monday night. If we don't have a lot
25 of people, if we don't have a lot of questions, I think

1 what we will do then at that point is go into sworn
2 statements, meaning that you can get up and give your
3 opinion. We cut you off in the past and said you could
4 only ask questions. Now we're going to give you an
5 opportunity to tell us what you think about the
6 projects.

7 So with that let's adjourn for
8 tonight, and we'll reconvene next Monday night at
9 7 o'clock here. Thank you.

10 (At 9:55 p.m., proceedings were
11 concluded.)

12 - - -

13
14
15
16
17
18
19
20
21
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

C E R T I F I C A T E

I, Vicki Haines, hereby certify
that the proceedings and evidence are contained fully
and accurately in the notes taken by me in the above
cause and that this is a correct transcript of the
same.

Vicki Haines
Court Reporter

HAINES & ASSOCIATES COURT REPORTING (215) 721-2221