

1 I'm accepting that the flame height
2 could differ from what we estimated, and I'm
3 accepting that the DREs may and will differ
4 from what we've estimated. I'm accepting
5 that the result of our calculations is at
6 best going to be within an order of
7 magnitude.

8 DR. PINTO: My point is slightly
9 different, and this is what I want you to
10 respond to. There are certain fundamental
11 engineering assumptions **that have been** made
12 in those calculations that are independent
13 of the sophistication of the knowledge in
14 these types of calculations. These are
15 well-known principles. There are errors in
16 applying these principles.

17 MS. FOSTER: I can't answer that
18 because that's not my area of
19 specialization.

20 DR. PINTO: At least that is what I
21 read from Mr. Brown's presentation.

22 MS. FOSTER: I would like an
23 opportunity -- I can't answer that specific
24 question. I keep coming back to what if,

1 what if. I don't think that the analysis is
2 not credible overall in this risk
3 assessment.

4 DR. PINTO: That's not what I'm
5 addressing. I'm addressing the technical
6 competence of the staff that did these
7 calculations and therefore the technical
8 competence of the staff at Southdown as well
9 to check the calculations or at least review
10 them.

11 I'm not sure if I should continue
12 with other specific questions that I do have
13 with regard, for example, to the fact that
14 you have an inconsistent temperature in the
15 calculation, which you admitted, and again,
16 to me any good engineering solution requires
17 that you have internal consistencies. There
18 are no consistencies in the temperature, and
19 there are no consistencies in the material
20 balances.

21 MS. FOSTER: Well, the burn rate
22 issue, the burn rate is the burn rate --
23 mass burn rate of the entire material that
24 is being combusted. The evaporation rates

1 that were calculated were for a specific
2 subset of POHCs and two products of
3 combustion.

4 DR. PINTO: That's correct.

5 MS. FOSTER: You wouldn't expect the
6 evaporation rate of those specific
7 constituents in the waste fuel to add up to
8 the burn rate that was calculated for the
9 material as a whole.

10 DR. PINTO: Well, the people who
11 checked these calculations in my opinion
12 should have seen that one part of the
13 calculation -- it's the same flame. One
14 part of the calculation used a stoic metric
15 ratio, the other did not. That to me is an
16 inconsistency in the material balance of the
17 solution.

18 The people who were doing the
19 calculations should have caught that, but I
20 can accept errors at that point, but the
21 organization should have had a mechanism in
22 place that would catch errors of that type.

23 Are there any further questions?

24 MR. TYLER: No questions,

1 Mr. Chairman.

2 DR. PINTO: Okay. Thank you, Ms.
3 Foster.

4 CHAIRMAN IOANNIDES: Please proceed.

5 MR. KODISH: Mr. Chairman, I'd like
6 to note an objection for the record. The
7 Applicant has had well over its ten minutes
8 to respond to the issues.

9 CHAIRMAN IOANNIDES: I will overrule
10 you. It is not unusual for this Board to be
11 courteous to the parties before us, and I
12 will offer the same courtesy to you, sir.

13 MR. MERRILL: Thank you, Mr.
14 Chairman. For the record, my name is Frank
15 Merrill representing Southdown. What I'd
16 like to do is maybe address some of the
17 questions that have been raised about the
18 technical nature of the risk assessment and
19 put that into perspective of what I feel the
20 Board's mission is here today.

21 Statutorily I believe the Board
22 needs to review whether the application as
23 before the Board meets the applicable siting
24 criteria. And of the siting criteria that

1 are stated in Ohio Revised Code 3734-05, I
2 believe the one that's the most applicable
3 or what is germane to the discussion to date
4 is the minimum risk of fire and explosions.

5 From a layman's point of view, the
6 flame temperature or flow rate, et cetera, I
7 mean is -- yes, there's a fire, there's an
8 explosion, it's going to be hot and it's
9 going to have some different parameters.

10 I mean, the inherent nature in
11 handling ignitable waste is that there is a
12 risk of fire and explosion, and I think we
13 all recognize that.

14 The issue is, does the application
15 provide prevention and mitigation measures
16 that minimize the risk of fire and
17 explosion; not how hot, not how big the fire
18 is going to be, but does the fire occur in
19 the first place.

20 I think that is the issue that the
21 Board needs to decide, and I submit to you
22 that if you review the application, you will
23 show, as the adjudication panel has
24 determined, that the application does meet

1 that requirement, that the application does
2 show that the Applicant is installing and
3 equipping this facility with all the
4 prevention measures possible.

5 For example, in the adjudication
6 hearing, there was a question about nitrogen
7 blanketing. The Applicant at first did not
8 have nitrogen blanketing as a measuring
9 system.

10 In response to questions from the
11 HWFB Staff, the adjudication panel, the
12 Applicant has revised its application to
13 include this.

14 That's just one example of the
15 Applicant's willing nature to provide
16 additional safeguards so that they
17 demonstrate a minimum risk of fire and
18 explosion.

19 And I submit to you that the issue
20 is, does the application demonstrate that
21 minimum risk, i.e., does the application
22 have the necessary safeguards, not how big
23 the fire is or how hot the fire is.

24 Those are the conclusions of my

1 comments.

2 DR. PINTO: Thank you.

3 We proceed now with the agenda. The
4 next party that will be given the
5 opportunity to speak is the Ohio EPA. Would
6 the Ohio EPA like to make a statement?

7 MR. MCMANUS: Yes. I think these
8 will be very brief. Unless there are
9 questions, I doubt we'll be using the whole
10 ten minutes. My name is J a c k M c M a n u s .

11 I think the position that the Agency
12 continues to take is that when viewed as a
13 whole, the record -- still our position
14 remains that the record indicates that the
15 party has satisfied the siting criteria.

16 The information provided today by
17 Mr. Brown was informative, but it is only
18 one part of the record. It is a discussion
19 of only one part of the record, and we have
20 continually stated that our position has
21 been a reflection of the record as a whole.

22 I think the comment that Dr. Pinto
23 raised regarding the credibility issue is an
24 appropriate comment to make, but again, I

1 think looking at the record as a whole, we
2 are satisfied that the siting criteria have
3 been met in this particular case, and I
4 believe a review of the record as a whole
5 will support that.

6 That would be it.

7 DR. PINTO: Are there any questions
8 from the Board for the Ohio EPA? Okay.

9 There being none, we'll now give the
10 Bath and Xenia Trustees an opportunity to
11 address the Board. Are there any
12 representatives that would like to speak?

13 Next on the agenda is the Greene
14 County Commissioners. Anyone present?

15 And, finally, the Greene
16 Environmental Coalition.

17 MR. KODISH: Mr. Chairman, Dr.
18 Pinto, members of the Board, my name is Jeff
19 Kodish. I'm an attorney with Sowash, Carson
20 & Shostak in Athens, Ohio, and we represent
21 the Greene Environmental Coalition,
22 intervenors in this case.

23 Chapter 3734 of the Ohio Revised
24 Code provides that the Board shall not