

1 If this should occur or if a small
2 amount is bled out of a valve, for example,
3 in order to perform work on that part of the
4 piping system, then these individuals could
5 potentially be exposed to vapors from the
6 hazardous waste fuel.

7 **Southdown's** position has always been
8 to take the conservative approach, to be
9 protective of the workers who are in those
10 areas, and so because as part of their
11 activities, they may become exposed to it,
12 they should have this type of protection
13 available to them.

14 However, that does not imply that
15 there are always vapors present in any type
16 of normal operating situation. I think in a
17 maintenance situation when piping is being
18 disconnected, certainly that potential is
19 there.

20 However, given the close looped
21 vapor balancing system in place and the fact
22 that is an outside facility, **Southdown's**
23 position has been that under normal
24 circumstances, these types of vapors will

1 not accumulate. But that does not mean we
2 will remove the requirement for workers to
3 have that protection should the need arise.

4 DR. PINTO: I submit to you, though,
5 if you want to be conservative, I think good
6 engineering practice would be to install
7 vapor monitors in that area. What I would
8 like to ask you is, do you believe that that
9 would be an undue financial burden on
10 Southdown?

11 MR. SADOWSKI: No, that would not be
12 an undue burden. That's certainly something
13 that could be accomplished in the
14 engineering design of the proposed facility.

15 DR. PINTO: Again, I would recommend
16 to the Board that the installation of vapor
17 monitors is probably good engineering
18 practice for these types of facilities.

19 Thank you, Mr. Chairman.

20 CHAIRMAN IOANNIDES: Dr. Pinto, are
21 you completed with your discussions?

22 DR. PINTO: Yes.

23 CHAIRMAN IOANNIDES: At this time I
24 wish to act on the application in two

1 phases, first to vote on whether to issue a
2 container and tank storage permit, and then
3 if a permit is to be issued, to vote on any
4 necessary terms and condition of that
5 permit.

6 Dr. Pinto, will you please phrase a
7 motion for the Board's consideration?

8 DR. PINTO: Thank you, Mr. Chairman.
9 I move that the permit not be granted to
10 Southdown for this application.

11 CHAIRMAN IOANNIDES: Is there a
12 second?

13 MR. TYLER: Second.

14 CHAIRMAN IOANNIDES: Will the
15 executive director to the Board state a
16 motion?

17 MR. SHAPIRO: Mr. Chairman, the
18 motion on the table is that the permit
19 application not be granted. That would mean
20 a disapproval of the report and
21 recommendation.

22 Just to be clear, a no vote is a
23 permit denial, a yes vote would be against
24 that. If you vote no, that's denying the

1 permit -- I'm sorry, if you vote yes -- I
2 didn't want to do that. If you vote yes,
3 you are voting to deny the permit.

4 MR. MASON: Mr. Chairman, as far as
5 the time frame and structure, if a permit is
6 denied, what is the time period for
7 Southdown to reapply with an amended or new
8 application?

9 CHAIRMAN IOANNIDES: Mr. Shapiro.

10 MR. SHAPIRO: I would appeal to the
11 Agency. I think they could reapply
12 tomorrow.

13 MR. MCMANUS: I would say that would
14 be correct. They would have to begin the
15 whole process over again if there was a
16 denial.

17 MR. MASON: Since I'm -- You can
18 only get away with this once, but since I'm
19 the newest member of the Board, what is the
20 time frame for -- I'm assuming the hearing,
21 public hearings, public notice.

22 MR. MCMANUS: I think probably
23 Mr. Merrill could give you a good idea of
24 how long this whole process took because he

--

1 was involved in it from day one.

2 MR. MERRILL: This process has taken
3 almost two and a half years. The original
4 application was filed with the Board in I
5 believe October of 1991. Public hearings
6 and adjudication hearings were convened.

7 MR. MASON: Mr. Chairman, I guess I
8 have a concern. Originally I did like the
9 idea of tabling for additional information.
10 According to Robert's Rules of Order, one of
11 two motions can supersede a motion on the
12 floor as either a motion to adjourn or a
13 motion to table. I would like to move to
14 table for more complete review of
15 information and critique of Mr. Brown's
16 analyses.

17 CHAIRMAN IOANNIDES: Are there any
18 seconds to that? This is kind of unusual,
19 but let's proceed.

20 MR. KODISH: Mr. Chairman, as a
21 point of order, I'd like to have a brief
22 opportunity to comment on the motion and as
23 to how long this process will take, if I
24 may.

1 CHAIRMAN IOANNIDES: How long --

2 MR. KODISH: I would like to comment
3 briefly on Mr. Merrill's statement that it's
4 taken two and a half years to go through
5 this process. I believe that that's not
6 indicative of how long the process would
7 take if it were started over again. Much of
8 the technical work has already been done
9 here, and if Southdown wanted to usher this
10 application through in a more rapid fashion,
11 I think it would take a lot less time than
12 that.

13 CHAIRMAN IOANNIDES: You've
14 commented so.

15 There's a motion before the Board.
16 Any seconds?

17 I guess that motion is tabled.

18 Then any other discussions?

19 In order that our votes be recorded
20 and provide an opportunity to discuss our
21 votes, Mr. Shapiro will call the roll.

22 MR. SHAPIRO: Mr. Chairman, may I
23 restate the motion one more time to be sure
24 everyone knows what the motion is?

1 CHAIRMAN IOANNIDES: That would be
2 helpful.

3 DR. BAIR: Restate the procedure
4 with the modification.

5 MR. SHAPIRO: Before the Board is a
6 motion from Dr. Pinto, seconded by Mr. Tyler
7 to deny the permit. A yes vote would deny
8 the permit. A no vote, the motion fails and
9 then you would need another motion. So,
10 again, a yes vote denies the permit, a no
11 vote fails the motion.

12 MR. SHAPIRO: Dr. Pinto?

13 MR. PINTO: Yes vote. Can I expand
14 on the reasons for my vote at this point?

15 I think it is evident from my
16 questions earlier that the calculations
17 presented by Mr. Brown concern me with
18 regard to the technical competence of the
19 staff at Southdown. It went beyond just the
20 results of the risk assessment.

21 What I saw was **sloppy** engineering,
22 **sloppy** science, and it concerns me when the
23 State is giving the privilege to a company
24 to -- an important privilege such as the

1 handling of hazardous wastes, it is very
2 important that the Board be assured about
3 the technical competence of the staff at
4 that company, and that is the primary reason
5 for me voting yes to not grant a permit to
6 Southdown.

7 MR. SHAPIRO: Dr. Bair.

a DR. BAIR: I vote no.

9 CHAIRMAN IOANNIDES: Mr. Tyler.

10 MR. TYLER: With comment. I have
11 close and intimate knowledge of the deep
12 capability of the Agency. If there's one
13 comment I would make it is that that
14 capability was not adequately demonstrated
15 in this permit process.

16 I know the management of the Agency
17 and I know that it has very high goals with
1a respect to the standards it applies to its
19 various activities. And I would like to
20 encourage the staff of the Ohio EPA to be
21 more thorough as we evaluate other
22 applications, because the capacity to do so
23 is very much present in the Agency.

24 I support Dr. Pinto's motion.