INDIANA GAMING COMMISSION

February 2, 1995

Volume III

Vanderburgh County Auditorium

Locust and N.W. Martin Luther King, Jr. Boulevard

Evansville, IN 47708

FORM LASER BOND A PENGAD/INDY 1-800-631-6989

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1 PROCEEDING

2 (February 2, 1995)

3 MR. CHAIRMAN: Ladies and

4 gentlemen, we'll come back to order. We will proceed with

5 our hearing. And on the agenda, we have the Mayor for the

6 City, Mayor McDonald.

7 MAYOR MCDONALD: Thank you, Mr.

8 Chairman. Good morning, Commission members. I understand

9 -- maybe this is not correct because you can't always

10 believe what you hear on television, but I understand today

11 is Chairman Klineman's birthday. Happy birthday.

12 MR. CHAIRMAN: Thank you.

13 MAYOR MCDONALD: We appreciate very

14 much the opportunity to appear before you this morning and

15 discuss with you the process that was used by the City of

16 Evansville to evaluate riverboat applicants.

17 With the passage of the riverboat gambling

18 legislation in the state of Indiana, you can imagine that

19 gaming companies began to descend upon the state looking at

20 various communities as possible sites and locations.

21 Evansville was certainly no exception.

22 We had visits this from over 20 companies in

23 our community at one time or another. All of them seemed

24 to manage to drop by the Mayor's office at one time or

25 another.

All of them seemed to insinuate that they were the very best for Evansville, that they could offer more and that they would produce more than anyone else and that they would be the best possible for our city. And they would do all those things in exchange for me standing before you today and telling you that they were our endorsed candidate.

Well, very early on, I decided that I was going to be very skeptical about everything that I heard from gaming operators.

I had seen other cities and other public officials in other communities kind of get all caught up in the hoot and hipe that sometimes comes when gaming is contemplated in a community and, therefore, we were going to remain neutral, not take a position in a referendum, and that we were going to go about the process of evaluating applicants in a very deliberate, open and fair thorough way.

Our process began by identifying a set of goals that we were seeking to accomplish out of the provisions of the legislation, and I would just like to say what those four goals are. They are in the front of the request for proposals that I know all of you have copies of.

First was to provide substantial long-term

1 economic impact for Evansville and Vanderburgh County.
2 Second was to generate tourism and related spinoff
3 development. Third to create quality and patterned
4 development which will promote the revitalization of the
5 central business district, and fourth to enhance the
6 physical appearance of the city of Evansville.
7 With these goals in mind, we issued the
8 request for proposal on September 17, 1993, with a
9 submission date of October 15th of 1993. And we received
10 seven proposals back in response to that RFP.
11 One of the companies never applied to the
12 State of Indiana for an application and immediately dropped
13 out of further interest in Evansville.
14 The six remaining proposals were made public
15 prior to the referendum so that the people in this
16 community could have some idea perhaps what may or may not
17 occur if, in fact, riverboat gaming came to Evansville.
18 After the successful referendum vote, we
19 appointed a broad-based citizens committee, 21 people
20 including myself as a non-voting member. This committee
21 was appointed representing various segments of our
22 community, law enforcement, namely the Chief of Police,
23 city and county government, organized labor, the local
24 business community, representation from downtown merchants,
25 representation from the YES Committee which was the

1 committee that was formed in our community to promote the
2 passage of the referendum, and representation from the NO
3 Committee, the committee that was opposed to riverboat
4 gaming. We also included on this committee all elected
5 representatives of the local minority community.
6 In a series of public hearings between
7 February and April of 1994, this company -- or this
8 committee began to dissect each of the company's proposals.
9 And it was apparent to us early on that no one in
10 Evansville had any experience in riverboat gaming, myself
11 included.
12 And so we hired the Big Six accounting firm
13 of Deloid & Toushe to do for us an economic analysis and
14 study of what perhaps we might realistically expect to
15 achieve if gaming were to come to our city.
16 And we used that study only as a guide to
17 begin to compare the six proposals that we had received.
18 Mr. Phil Schneider of Deloid & Toushe is here today. He is
19 not a part of our presentation but certainly is available
20 to answer any questions that you might have about his work.
21 After numerous meetings, public hearings,
22 public presentations, public discussions by our committee,
23 a vote was taken and all six of the applicants were ranked
24 one through six.
25 The instructions from the evaluation

1 committee to the City were that we should continue to
2 negotiate with the top three applicants, and that we did
3 which ultimately resulted in a project agreement with the
4 number one choice of the evaluation committee and a
5 memoranda of understanding with the second- and third-place
6 companies.
7 This morning we'd like to present to you in
8 greater detail a summary of the City's activities through
9 this process. With me today are a number of people who
10 will speak. I would first like to recognize two people who
11 will not be speaking, but who have been an integral part of
12 this process.
13 First is Mary Ann Colt who is the Executive
14 Director of the Department of Metropolitan Development, and
15 Ms. Colt has served as the primary contact person from day
16 one on the entire riverboat matter in Evansville. Her
17 office is the one that received all responses to the RFP.
18 She has been the contact person between the gaming
19 companies and the City.
20 Also an integral part of most anything I do
21 is my executive assistant Patrick Jackson who's seated next
22 to Ms. Colt, and he has been heavily involved from day one
23 in the analysis of much of the material that we have
24 received.
25 Speaking to you today will be, first, Mr.

1 Skip Simms. Mr. Simms is the general manager of the local
2 television station WEVV and served as a member of the
3 evaluation committee. He also currently serves as the
4 president of the Center City Corporation which is our
5 downtown organization that is promoting the central
6 business district. And he will discuss with you in more
7 detail the local evaluation process.
8 After Mr. Simms will be Mr. Phil Bayt. Mr.
9 Bayt is an attorney with the Indianapolis law firm of Ice,
10 Miller, Donadio, and Ryan. And Mr. Bayt served as the
11 City's chief negotiator with the top three finalists. The
12 Ice Miller firm has long been associated with our community
13 in various public financing, and we were very honored to
14 have Mr. Bayt at this table with us in the process.
15 After Mr. Bayt will be Mr. Steve Bohleber.
16 Mr. Bohleber is the president of the City's Board of Park
17 Commissioners, also served as a member of the local
18 evaluation committee. And he will discuss with you not
19 only the status of the park conversion, but also the
20 benefits of some 55 acres of new park property that the
21 city stands to receive.
22 And last but certainly not least will be Mr.
23 John Dunn. Mr. Dunn is the owner of the Dunn Group which
24 is the largest hotel developer in the city of Evansville.
25 Mr. Dunn operates three properties currently in our

1 community and has another under construction, also operates
2 properties in Bloomington, Indiana, Batesville, Indiana,
3 and has six other projects in various stages of
4 development.
5 And he will discuss with you
6 occupancy-and-demand issues as they affect the hotel market
7 in Evansville and, quite honestly, perhaps be able to
8 correct some of the misstatements that have been made about
9 the hotel market that you heard yesterday.
10 Following Mr. Dunn's comments, Mr. Chairman,
11 with your permission I would like to return for a few
12 closing remarks.
13 At this time, I will turn the podium over to
14 Mr. Simms.
15 MR. SIMMS: Thank you. Good
16 morning. Let me add my welcome to you to our fine city of
17 Evansville. My name is Skip Simms. I'm the president of
18 WEVV, Incorporated. We own and operate WEVV, Fox TV, and
19 TSN a local spots channel. Our studios and offices are
20 located just a few blocks away at the foot of Main Street
21 on the banks of the Ohio River. We believe our address, 44
22 Main Street, is probably the premier address in this city.
23 I'm also the president of Center City
24 Corporation. Center City was created 11 years ago from a
25 recommendation in the 1983 Evansville master plan which

1 identified several steps that should be taken to revitalize
2 and redevelop our central business district with the
3 downtown area. Its mission is to facilitate the growth and
4 development of business while enhancing the cultural and
5 historic assets of the area.
6 In July 1993, Center City was the first and
7 only organization to endorse and promote the passage of the
8 riverboat referendum. We created a pact called the YES
9 Committee. We recruited a bipartisan leadership committee
10 to create the organization and raise the funds necessary to
11 pass the referendum in November.
12 The YES Executive Committee had
13 representatives from both political parties, labor,
14 business, and the minority community, and I am proud to
15 have served on that committee.
16 In September '93, our Mayor instructed his
17 staff to draft the request for proposals to be sent to all
18 known gaming companies interested in putting a riverboat in
19 Evansville. This action sent a clear message to everyone
20 that Evansville was going to participate as much as
21 possible in determining its own destiny. It also said we
22 as a community were going to be open and fair with all the
23 applicants.
24 In October '93, the gaming companies were
25 invited to show the public their vision for riverboat

1 development and a revitalized downtown. The community was
2 overwhelmed by the size and scope of even the smallest of
3 the proposals. It was an opportunity for us to see what
4 could be, but also an awakening of sorts. Was this really
5 something this community wanted?
6 In November, we went to the polls with our
7 eyes wide open and said yes, we want this. Shortly after
8 the election, the Mayor outlined the City's next move. We
9 would embark on a thorough, unbiased citizen review of all
10 the proposals and choose the one applicant to endorse to
11 you, the State Gaming Commission, as our preferred
12 operative.
13 In January '94, the Mayor appointed a
14 20-member committee representing a real cross section of
15 this community, including some who publicly campaigned
16 against the referendum. We started meeting in February.
17 As a representative from the YES Committee,
18 the Mayor asked me to serve, and I eagerly accepted. He
19 made it clear from the beginning that committee members
20 were not to be solicited outside the public forum and all
21 committee members sign letters stating we could not have
22 any ties to any of the applicants.
23 What I originally thought would be ten
24 half-day meetings turned into 16 meetings averaging five to
25 six hours each. On two separate occasions, I picked up a

1 huge box filled with large binders containing the proposals
2 from each of the applicants seeking our endorsement.
3 We heard from each operator twice with plenty
4 of time for questions and answers. We also heard from the
5 City's lawyers and accountants. We had a day for public
6 comments. We heard reviews from the Coast Guard, the Army
7 Corps of Engineers. There was no excuse for anyone to say
8 they did not have the opportunity or enough time to be
9 heard.
10 Throughout the process, the Mayor chaired the
11 committee but made it known he would not vote unless there
12 was a tie. At one of our meetings, I opened the door for
13 him to make a speech, and he took full advantage of it. I
14 was annoyed at the time by comments I was receiving by some
15 people in the community that the decision had already been
16 made, that our committee was merely a front, a sham.
17 The Mayor made it very clear we were not a
18 front, we were not wasting our time, a decision had not
19 been made, that, in fact, whoever the committee selected as
20 its top choice, if willing to sign an agreement committing
21 themselves to what we believed to be the best deal for the
22 city would, in fact, be the one he would recommend to you,
23 the State Gaming Commission.
24 On April 21st we voted. Each committee
25 member made his or her own determination as to how to make

1 the selection. We may have all selected and got it the
2 same way. There may have been 20 different ways. I don't
3 know. But each of us did give a lot of thought to how we
4 were voting. And I attest to you now that I was not urged
5 by anyone, City Hall, an applicant, a friend, not anyone,
6 to vote for or against any particular applicant.
7 A matrix was created to tally the votes.
8 Across the top were the names of the six applicants. Down
9 the side were the names of the 20 committee members. We
10 each listed on a piece of paper the six operators in our
11 own personal order of preference. Each operator received
12 from one to six points depending on where they ranked on
13 each person's list.
14 Aztar ranked number one, receiving the most
15 points with 101. Jumer's, who later withdrew their
16 application was second with 96 points. Players was a
17 distant third, and Evansville Landing Gold Strike was dead
18 last, the committee's least favorite.
19 After negotiating with the top three
20 operators and getting each to sign agreements with the
21 City, which would be fine even if they were to get the
22 license, the Mayor called us back for one last meeting on
23 June 3rd. He reported the negotiations had been
24 successful. Aztar had agreed to do everything they said
25 they would and more, and there was no need to reconsider

1 our vote.

2 In a summary, the key points in the agreement
3 with Aztar were presented to the community. The Mayor then
4 asked and received a unanimous vote of support for Aztar as
5 this community's choice to be the riverboat gaming operator
6 in Evansville.

7 From the beginning of the process, I was
8 often critical of our Mayor. I told many of my friends
9 that I was disappointed in how the Mayor did or didn't do
10 things at certain times.

11 Today, however, I must admit my criticism was
12 unwarranted. Although frustrated during the referendum
13 campaign, his neutral position was wise. Although anxious
14 to get an operator chosen and under construction, his
15 patience proved prudent. He maintained the dignity and
16 integrity of his office by doing the due diligence and
17 following the will of the people.

18 All three of the remaining applicants could
19 do a good job here. All would be profitable, and all would
20 be beneficial for the city.

21 There are distinct differences between them.
22 There are differences in their financial resources, their
23 management strength and competitive abilities. There are
24 differences in their degree of commitment and understanding
25 as to how best to enhance our downtown. There are

1 differences in how they would promote and market our city.
2 There are differences in the quality of their development,
3 and there are differences in our comfort level on a
4 personal basis.
5 This community has been thorough and
6 thoughtful in its deliberations about whether or not we
7 want riverboat gaming and who we want. Unless you discover
8 something significant we don't know about, please give the
9 license to this community's preferred operator, Aztar.
10 MR. BAYT: Good morning. It's a
11 pleasure to be here today to give this report. My name is
12 Phil Bayt. I'm from the law firm of Ice, Miller, Donadio,
13 and Ryan. Our firm was hired by the City to advise it with
14 respect to matters of municipal law and to assist it as
15 chief negotiator with respect to the final phase of the
16 local process.
17 We fully understand the ultimate decision
18 rests with the commission. However, we also understand
19 that there are significant local interests in recommending
20 to this commission the gamer that was most responsive to
21 and compatible with the local interests in the city of
22 Evansville and Vanderburgh County and their citizens.
23 You've already heard about the first phases
24 of the local process. Our plan is in the final phase of
25 that process, to facilitate the negotiations with the

1 finalists. We read the discussion on the project
2 agreement. We referred the final results to the evaluation
3 committee for confirmation.
4 The three finalists selected by the
5 evaluation committee ranked in the order of voting were
6 Aztar, Jumer's and Players.
7 The negotiating team from the City consisted
8 of Mayor McDonald, executive assistant to the Mayor Patrick
9 Jackson, Metropolitan Development Director Mary Ann Colt,
10 City Controller Leslie Blemeth, and City Attorney Toby
11 Shaw.
12 An initial meeting was held with each of the
13 finalists. In those meetings, each finalist was asked a
14 list of general questions and asked for commitments on
15 those questions. In addition, each finalist was asked a
16 list of specific questions relating to their particular
17 project and also asked for commitments with respect to
18 those specific issues.
19 After the information that was obtained in
20 the first round of meetings was sifted through, a second
21 round of meetings was held with Aztar and Jumer's. We
22 focused on specific issues and negotiated on open items.
23 Follow-up discussions were held with all three but
24 principally with Aztar and Jumer's.
25 Although Players was clearly third after the

first round of meetings, we took some time to sort out the relative strengths of the other two. The negotiating team focused on various marketing processes and project financing as being the important difference between Aztar and Jumer's.

The final decision between the two centered around Aztar's aggressive and affirmative response to increase the formula and Aztar's ability to obtain a firm commitment from the Bank of America towards project financing.

The negotiating team took great care to create a level playing field. In the initial meeting each finalist was asked the same list of general questions. This limited the free flow of discussions from a standpoint but it kept the process fair. A complete summary of all questions and answers was delivered to this commission, to the evaluation committee, and made available to the general public.

Because of the significant impact of gaming on the community, the local government made several requests of the gamers. Some were made in the initial request for proposals, and some were made in the finalist round. For use in presentation they have grouped the requests of the City and Vanderburgh County into several categories. Those include permanent investment, charitable

1 contributions, civic contributions, infrastructural
2 improvements, economic protection, community resources, and
3 emergency response.
4 Permanent investment is of paramount
5 importance to all the community. As we all know from
6 experience in other states, boats can float out as well as
7 in. The city identifies it's principal of permanent
8 investment a 250-room, full-service hotel. The City sought
9 assurances with respect to the quality of construction, the
10 quality of service, and sought a multi-year commitment from
11 the operator with respect to that hotel.
12 The City asked for a parking garage capable
13 of handling all patrons that were expected to attend the
14 project and asked for a pavilion to handle the embarkment
15 and disembarkment of passengers.
16 The City asked for charitable contributions
17 to be made to the community as well, including a one-time
18 $200,000 contribution to the local United Way and a
19 contribution of $1.2 million over three years to Evansville
20 One, a not-for-profit organization formed to foster any
21 enhancement projects with regard to the neighborhoods in
22 Evansville.
23 Civic contributions. The City sought
24 $750,000 over three years as seat money for larger
25 renovations for Vanderburgh Auditorium, the building in

1 which we now sit. The City sought $3 million over three
2 years for a $10 million renovation of Dress Plaza. It
3 sought contributions to the downtown revitalization fund
4 and to the economic development revolving fund, a fund
5 designed to attract new businesses to the local community.
6 For those applicants that identified the
7 Riverfront Park as their preferred site, the City asked
8 those applicants to provide up to $3 million for park
9 replacement financing.
10 The City sought contributions for the
11 downtown Learning Center, for the renovation of the Victory
12 Theater, towards Pigeon Creek Greenwell's project and
13 $100,000 towards the construction of the structure at
14 Burdette Park.
15 All of the projects impact the city in
16 significant ways. Each project has a significant impact on
17 at least one intersection in Evansville. Each of the
18 finalists was asked to pay for needed improvements to a
19 principal intersection directly in front of the project.
20 All the finalists agreed to do so.
21 In addition, all of the finalists were asked
22 to pay for the running of any necessary utilities to the
23 project site. All of the applicants agreed to do so.
24 Economic protection. The local government
25 wanted to make sure that promises gaming had some meaning.

1 The local government asked each of the finalists to make a
2 monthly payment to the City, but gaming and certain hotel
3 operations was delayed. Each of the finalists agreed to do
4 so subject to matters beyond their control.
5 Noncompetition. As we heard yesterday, we
6 believe that it's an important issue both for the local
7 government and for the state of Indiana that it maintain,
8 they maintain the revenue status. We asked each of the
9 finalists to create a zone around the city of Evansville
10 with respect to their future operations. We asked the
11 finalist to agree not to seek other gaming opportunities
12 within a very small radius around the city of Evansville.
13 Aztar agreed. Jumer's agreed. Players declined to do so.
14 Letters of credit. Many of the gamers made
15 promises of local incentives, local charitable
16 contributions, civic contributions. We asked the finalists
17 to back those up with a letter of credit. Aztar and
18 Jumer's both agreed to provide letters of credit. In the
19 finalist round, Players declined to do so. Heard from them
20 yesterday that they were willing now to post a letter of
21 credit to strengthen their local promises.
22 Guarantee. All of the applicants who started
23 up companies that have only those assets that were provided
24 to them by their investors or funds that are available from
25 lenders. We asked each of the finalists to provide a

1 financial guarantee from a company of substance to back up
2 their obligations to the city and to the state. All the
3 companies in the finalist round agreed to do so.
4 We asked each of the finalists to reimburse
5 the City for its expenses in the local process. Aztar and
6 Jumer's agreed to do so. Players agreed that if it
7 obtained endorsement it would reimburse one-third of those
8 expenses and if it obtained a license it would be agreeable
9 to reimburse all the expenses.
10 Park Conversion. Two of the applicants in the
11 finalist round, Aztar and Jumer's identified Riverfront
12 Park as their preferred site. We asked them to pay for the
13 necessary cost associated with park conversions separate
14 and apart from the replacement park now. Both agreed to do
15 so.
16 It's extremely important to local government
17 that the gamer make strong commitments to the use of
18 community resources. Each finalist formulated a plan with
19 respect to local minority hiring, women hiring, the use of
20 WDE's and MDE's, the use of local contractors, the use of
21 local members and a plan for downtown development. Each of
22 the finalists agreed to fund programs up to $100,000
23 annually to help the company meet those goals if it was not
24 able to reach them.
25 All of the finalists agreed to fund a

1 preparational emergency response plan up to $50,000.
2 I believe it will be helpful to summarize the
3 responses of the finalists on economic issues. For ease of
4 comparison, I have focused only on Aztar and Players since
5 Jumer's has withdrawn its application.
6 Both agreed to fund $750,000 to the
7 renovation of Vanderburgh Auditorium. Aztar agreed to
8 provide $1.25 million over five years for the Evansville
9 One funding. Players indicated that its incentive formula
10 contained a significant chunk of money and that it would
11 not make an additional contribution to Evansville One.
12 Aztar agreed to provide $3 million for the
13 renovation of Dress Plaza. Players whose site is
14 immediately adjacent to Dress Plaza said that its
15 improvements would complement Dress Plaza and therefore
16 declined to make an additional contribution toward Dress
17 Plaza.
18 Both Aztar and Players agreed to provide
19 $200,000 to the local United Way, to pay for up to $50,000
20 toward emergency response plan.
21 Aztar agreed to provide $1 million to the
22 renovation of the Victory Theater. Players agreed to
23 provide $200,000.
24 Aztar and Players each in some combination of
25 base payments and formulas with respect to several issues,

1 including the downtown revitalization fund, the economic
2 development fund, the downtown, the Pigeon Creek Greenwell
3 and proposed lease payments.
4 In order for the comparison to be made most
5 effectively, I grouped these together. And as you can see,
6 $70 million expected annual adjusted gross revenue over
7 five years, $70 million with any number of combination but
8 it could be thought of as 1.4 million visitors times $50
9 per passenger.
10 Aztar's estimated to provide the city $17.25
11 million as against $16 million on these issues with respect
12 to local incentives.
13 You've seen a lot of numbers in the last few
14 slides, but how does it all add up? Here's how I believe
15 it adds up at two different levels of gaming.
16 At $70 million adjusted gross proceeds per
17 year, Aztar provides $6.3 million over five years more than
18 Players to local government. At $100 million adjusted
19 gross receipts per year, Aztar provides $6.5 million more
20 than Players. As the gaming levels increase, the
21 difference between Aztar and Players continues to increase.
22 The financing plans were extremely important
23 in the final selection. Aztar provided a commitment from
24 the Bank of America for $110 million. Aztar later replaced
25 that with $280 million revolving line of credit, $115

1 million earmarked to provide assurance that they would
2 complete the project.
3 Right at the end of the finalist round, we
4 received a letter from Players indicating that it was using
5 its then available cash to fund another project in another
6 state. It did not indicate that it was making a change
7 with respect to its financing plan, but simply indicated it
8 was using its cash for another project. It did not provide
9 us with a separate back-up plan or a different plan prior
10 to the end of the finalist round.
11 After the negotiating team selected Aztar,
12 negotiations began in discussions with representatives of
13 Aztar to finalize the project agreement. In that project
14 agreement, Aztar agreed to actively pursue the license, to
15 actively pursue development of riverboat operations and
16 hotel research. It promised to honor all of the requests.
17 It agreed to provide to the City a bid for
18 its preferred lease site with a minimum annual lease
19 payment of $1,100 and a formula to provide an additional
20 revenue as its gaming levels increase. It agreed to
21 provide the City with a design, construction and quality
22 approval with respect to the project.
23 The negotiating team identified several
24 reasons to choose Aztar, including it's long and diverse
25 gaming experience, the fact that it had a bank commitment

at. Its strong management team, the fact that it had the largest local economic impact, the fact that it honored all local requests, and that it was ranked first by the evaluation committee.

Although several months have passed since the work of the negotiating team, the local government has donated several reasons for the commission to choose Aztar now. It has since that time honored all the terms of the project agreement. It's made contributions to the local government when asked beyond the promises made in the agreement. It has its bank financing now and its boat is well under construction and its development and management team are in place for moving the project forward today.

For all of these reasons, the local government stands behind its local process and the selection of Aztar. The local government believes Aztar would be a worthy selection and a welcome new business for our local community. Thank you.

MR. BOHLEBER: Good morning. I am Steve Bohleber. And as the Mayor indicated, I am the president of the Parks Board, and I was also a member of the Mayor's riverboat evaluation committee.

For additional background, I am an attorney in this community and have had my offices located in downtown for the past 20 years since my admission to the

1 bar.

2 But today I'm speaking to you as president of
3 the Parks Board in support of Aztar's application because
4 of its positive, once-in-a-lifetime impact on parks,
5 recreation, and tourism in our community.

6 In addition to Aztar's commitments in
7 response to the City's RFP, directing the parks and
8 recreation, Aztar's site selection while creating
9 controversy has also created an added bonus to city parks.
10 Because the site selection of Riverfront Park has required
11 the City to seek permission from the Indiana Department of
12 Natural Resources and the Department of the Interior
13 National Park Service to convert that use for outdoor
14 recreation to and in part a gaming operation.

15 At this time, the Indiana Department of
16 Natural Resources has approved our conversion application
17 and has recommended its approval by the Department of
18 Interior. We have every reason to believe that the
19 National Park Service will approve application for
20 conversion any day.

21 The principal focus of conversion under
22 Department of Interior rules is to not allow it unless
23 there is replacement park land created. It is not by
24 acreage, but rather by value of the land. Aztar has filed
25 that agreement, agreeing to underwrite the entire cost of

conversion and replacement land acquisition.

The positive result is three new parks in the city. Now, I've handed you some materials that I'll have graphic on the screen to show you the relative location of those parks to Riverfront and downtown.

The three parks are as follows:

Covert Avenue Park. It's 25 acres in close proximity to Angel Mounds state historic site on the city's far southeast. This is a logical adjunct to the Pigeon Creek Greenwell plan that you've heard about, with picnicking, playgrounds and soccer fields.

This fills the City and Parks Department vision to expand public athletic fields and develop a new park on the quickly developing east side. This is supported by area residents, soccer clubs would be the primary beneficiaries and the public in general.

The second park is an addition to a downtown park that we call Sunset Park which is right in the middle of this entire property. This acquisition of 7.69 acres more than replaces the loss of green space caused by Aztar's proposal and is enthusiastically supported by downtown area residents, neighborhood groups, and merchants.

Right now, the 7.69 acres is scrub forest. It will be developed into jogging and walking paths, games

1 and picnicking. Likewise, this is a logical adjunct to the
2 Greenwell project.
3 The last park to be created by this
4 conversion is an addition to Howell Park on the city's far
5 west side. For many years the City and Parks Department,
6 environmental groups, schools, governmental agencies from
7 all levels, neighborhood associations have sought funds to
8 acquire this parcel of land next to existing Howell Park on
9 the city's west side due to its unique ecological and
10 environmental qualities.
11 This 22.85 acres has many striking features
12 and potentials that are unique to this part of the country.
13 The bio diversity of habitats allow the easy development of
14 a unique and vanishing wet land. In fact it is a lake at
15 the present time.
16 Plans include trails, boardwalks, and other
17 amenities to allow the citizens and visitors to experience
18 a historic wet land complete with Cyprus, swamps and all
19 the associated vegetation and wild life.
20 This is an important point to our Parks
21 Department because we have on the city's near east side
22 what we believe to be the largest homegrown forest in
23 Indiana within the corporate city limits known as Wesselman
24 Woods. The two of these together would provide a unique
25 outdoor and educational laboratory under control of the

1 Parks Department that are destined, in my opinion, to
2 receive national notoriety for a city parks department.
3 Three new parks as a result of this
4 conversion process, but let us not forget you will not be
5 losing Riverfront Park as someone suggested. The park is
6 leasing -- or the City is leasing that park to Aztar not
7 selling it, and Aztar plans will not consume the park.
8 It will result in a greatly enhanced
9 Riverfront Park with entertainment, the same magnificent
10 views of the city that we now enjoy, the same places for
11 quiet reflection because they only utilize about half of
12 that four acre park. The balance will be maintained and
13 improved as a public park at Aztar's expense.
14 Quite honestly, this may be the best thing
15 that could happen to Riverfront Park. While it's a
16 beautiful place, it's little used and little known by
17 citizens throughout the community.
18 For all these reasons, the Parks Department
19 supports the Aztar proposal because of the tremendous
20 benefits to the community recreational needs, it's a
21 licensure. Thank you very much.
22 MR. DUNN: Mr. Chairman, Commission
23 members, I'm John Dunn, the president of Southern
24 Hospitality, a diverse Evansville-based hotel company with
25 three operating hotels in the Evansville market and one

1 under construction on Evansville's west side near the
2 downtown area totaling 412 guest rooms.
3 We also have under construction the
4 convention center at the Marriott Hotel in Bloomington,
5 Indiana, and another Bloomington area hotel under
6 development with six more hotels in various stages of
7 development in Indiana, Kentucky, Illinois, and Missouri.
8 We also manage a hotel in Batesville, Indiana.
9 I point this out to belay the recent comments
10 that the hotel industry is belabored in Evansville. Quite
11 to the contrary, the overall city-wide occupancy in
12 franchised hotels is in excess of 65 percent with many
13 hotels including ours experiencing occupancy from the low
14 70's to the mid-80 percent occupancy.
15 1994 city-wide revenues for all hotels was
16 $8.9 million, up 4 percent over 1993. And while we've just
17 begun 1995, our properties are already running over 5
18 percent ahead of last year. Evansville currently has an
19 inventory of over 2,700 guest rooms located in 30 hotels
20 and motels. Of these, over 1,000 rooms in 13 properties
21 are considered by the major franchise hotel companies as
22 noncompetitive in a need of major renovations to compete in
23 the market place today.
24 In the recent past, six new hotels have been
25 built in Evansville and two are presently under

1 construction now. These hotels will eventually replace the
2 tired and worn-out facility.
3 We've been asked since the beginning of the
4 riverboat questions how our company viewed the development
5 of another downtown hotel in conjunction with the
6 riverboat.
7 Our comments were at first very guarded. And
8 until I and members of our senior staff visited several
9 communities where riverboat activity was in operation, we
10 came to the conclusion early on and report today that a new
11 250-room hotel located adjacent or near a riverboat in
12 downtown Evansville will not have a negative impact on the
13 hotel industry in Evansville.
14 Quite to the contrary, we strongly believe
15 that a new hotel will have a positive impact on attracting
16 a more discerning person these hotel rooms will be heavily
17 discounted in appreciation for it's business, thereby
18 leaving an overflow open to the other local hotels.
19 We would further suggest that in today's
20 competitive environment any hotel not able to capture its
21 share of the market would be of its own making. A hotel
22 guest today is more discriminating than ever demanding
23 modern, clean and safe hotel rooms. Operators who fail to
24 maintain an acceptable standard of excellence will find its
25 base of business diminishing at a rapid rate.

1 Evidence of this is apparent in our own
2 community. In 1991, the total economic impact reported for
3 progressions of the related activities was $8.25 million
4 and grew at an average annual rate of about 6 percent. In
5 1994, $10.6 million was spent in Evansville on convention
6 and related activities. During the same time period,
7 occupancy dwindled from an estimated 7 percent to around an
8 estimated 30 to 35 percent on our downtown hotel
9 facilities.
10 The convention and related business hasn't
11 been lost. It's been moved to more modern and competitive
12 hotels in our community. This business will stay
13 dislocated until a proper basic plan is drafted and
14 creative financing arranged to allow for an outstanding
15 convention center complex which I deem should include the
16 Vanderburgh Auditorium, the Victory Theater, along with
17 updated hotel rooms. It is reasonable to expect that plans
18 would also include a new 250-room hotel as proposed by the
19 two present applicants.
20 We believe the introduction of a riverboat
21 gaming operation in downtown Evansville will provide the
22 attraction that will return the convention and related
23 business to downtown. Current estimates project the need
24 for 65,000 to 200,000 room nights from gaming alone.
25 With added business from conventions

1 returning to downtown Evansville, no one will be in a
2 better position to take advantage of this opportunity than
3 the existing and future hotels in downtown Evansville.
4 Our company engaged in a preliminary
5 discussion with several of the original interested
6 contenders for the riverboat license.
7 These discussions centered on their group's
8 level of interest in light of the building, on managing the
9 new hotels. We've had contact with one or more
10 representatives of each of the applicants and can
11 unequivocally say that no deal has been made or offered to
12 me or any member of our staff to work with or endorse one
13 applicant over another.
14 In closing, I would point out that as a
15 dues-paid member of the Evansville Chamber of Commerce who
16 had a representative on the riverboat committee, as
17 president of the largest based hotel company in Evansville
18 and as a lifelong citizen of Evansville and after reviewing
19 the proposal of all three gaming applicants, I support the
20 recommendation reached by the community-wide riverboat
21 committee in its selection of Aztar as the gaming company
22 we wish to operate in our city.
23 MAYOR McDONALD: Our purpose today
24 has been to try to share with you the process of the City
25 of Evansville when attempting to arrive at its decision to

1 select Aztar Corporation. And I would like to just review
2 with you and answer that question, "Why Aztar?"
3 The clear choice of the local evaluation
4 committee, over 50 percent of the committee members ranked
5 it first, 75 percent of the committee members ranked it
6 either first or second.
7 Economic impact. We believe that the Aztar
8 proposal provides the greatest opportunity to increase
9 tourism in our community. We believe that their riverboat
10 will generate the greatest demand for additional hotel
11 space, and that their hotel will not be able to handle all
12 that supply.
13 Aztar has pledged to work with the Evansville
14 Visitors and Convention Bureau, not only to funding of the
15 bureau but also to present itself and make itself available
16 on sales trips.
17 Aztar's plan integrates the downtown. They
18 have committed to the hiring of a full-time marketing
19 specialist to work with the coordination of downtown
20 activities and to serve as sponsor of major downtown
21 events.
22 Aztar clearly has the largest marketing
23 budget proposed of any of the applicants and brings with it
24 considerable company resources from its data base to its
25 reservation systems to promote the Evansville property.

1 Over $14 million in public, private
2 initiatives. Aztar has committed to funding the downtown
3 Learning Center, the Victory Theater, the renovation of
4 this building, the Vanderburgh Auditorium, contributions to
5 the United Way, contributions to the Downtown
6 Revitalization Fund, not to mention 55 new acres of park.
7 Commitment to minority and local hiring
8 first. We believe that they have made extraordinary
9 commitments to this community, 10 percent minority hiring
10 in the first year, 45 to 55 percent female employment in
11 the first year, 15 percent contracts to WDE's, MDE's, and a
12 commitment of 90 percent Vanderburgh County resident
13 employment.
14 I believe this is where we can start to begin
15 to separate some of the fiction from the fact.
16 One thing to talk about competition. It's
17 something else to deal with it. When you talk about
18 operating a riverboat in a small Illinois community of
19 6,700 population with no competition in sight or when you
20 talk about operating a couple of land-based casinos with
21 some Days Inn, Quality hotels attached on an interstate
22 highway between Nevada and California, literally in the
23 desert in the middle of nowhere, Gene, Nevada, population
24 175 and picking off the truck traffic and car traffic
25 between two states, it's a lot of difference from when you

1 talk about Aztar Corporation operating major casino
2 property, hotel property on the boardwalk in Atlantic City,
3 competing day in and day out with people like Donald Trump,
4 the Taj Mahal, Caesar's World, yes, Resorts International.
5 I would point out they've been in bankruptcy on more than
6 one occasion.
7 It's a major difference when you talk about
8 operating a property in one of the fastest growing gaming
9 markets in the United States, Laughlin, Nevada. And of
10 course, Aztar is the only applicant before you that
11 operates in the most competitive gaming market in the
12 world, Las Vegas, with a major hotel and casino property on
13 the strip and competes against Caesar's Palace and the
14 Mirage and the Hilton's and the Circus Circuses and the and
15 Luxer's and the Excalibur day in and day out. And right
16 across the street from their property is the largest hotel
17 and casino complex in the world today, the MGM Grand. That
18 is competition.
19 And Aztar brings to Evansville something that
20 is absolutely critical that the other applicants do not
21 measure up to and that is the ability, the prudent ability
22 to compete in a competitive market.
23 It is inevitable that you will license other
24 operators along the Ohio River. And as you do, they will
25 become competitors to Evansville. We in our proximity to

1 Southern Illinois are going to have competition there and
2 its already there in Metropolis. We are going to be in
3 competition with East St. Louis, St. Louis only three hours
4 away.
5 And eventually the state of Kentucky is going
6 to respond to your actions. Ellis Park on this side of the
7 Ohio River but still viewed as being in Kentucky is just a
8 short distance from us. The most likely scenario will be
9 the legalization of some type of land-based gaming at those
10 race tracks. That is going to be competition for
11 Evansville.
12 We need an operator in this community that if
13 you want to say knows all the tricks of the trade and knows
14 how to compete, can sustain a project for the long term.
15 Anyone can be successful operating a riverboat for a short
16 period of time, especially if there is no competitors.
17 Monopolies are very easy to operate. But when competition
18 comes on board, the whole ball of wax changes.
19 And Aztar is clearly the applicant with the
20 experience to deal with the competition. They have strong
21 management. Senior management of this company has on an
22 average of 15 years of casino and hotel industry
23 experience, 10 years average tenure with this company.
24 Financial strength. New York Stock Exchange
25 Company, a company that has assets in excess of

1 three-quarters of a billion dollars. They have access to
2 the capital markets in good times and in bad. Irregardless
3 of what Alan Greenspan is doing with the interest rates,
4 irregardless of what position the stars might be in, they
5 have the ability to finance and to access capital markets.
6 Their most recent revolving line of credit
7 from Bank of America for $280 million has a $110 million
8 provision earmarked in it for Evansville. This project is
9 already financed. They have the City an irrevocable letter
10 of credit to ensure all of the public and private issues in
11 the amount of 13.4 million.
12 I must tell you that a company that size to
13 be asked for a letter of credit for 13.4 million is rather
14 unusual. They thought it was rather unusual. We said we
15 don't really care how big you are, you either put up or,
16 you know, you don't. They came through, and they came
17 through in very short order with that letter of credit.
18 They have an outstanding physical plan.
19 Their quality and the scope of development is second to
20 none. A $99.8 million investment plan that includes the
21 largest boat, a quality 250-room four star hotel, parking
22 and other infrastructure improvements. Total site control.
23 They have all the land that they need under their control
24 to get this project immediately.
25 Their development is not disruptive to our

1 community. Their location is the best location for our
2 city. It does not disturb the historic district. It does
3 not disturb the single largest event that occurs in our
4 community each and every year on Dress Plaza, Thunder on
5 the Ohio. It is a project site that integrates well into
6 our downtown, and they have a commitment to rapid
7 implementation.
8 You've heard about the boat under
9 construction, the temporary site. They are ready to be in
10 business quicker than any other applicant that stands
11 before you, and that means that we get a sooner economic
12 impact and benefit to the state of Indiana and the city of
13 Evansville.
14 Let me just say in conclusion that Aztar in
15 our judgment offers the right combination of marketing
16 know-how, competitive ability, financial strength,
17 management experience. And they couple that with strong
18 commitments to minority and local hiring and purchasing and
19 to the long-term growth and development of this community.
20 Aztar Corporation, Aztar Indiana Gaming truly
21 offers the total package and the best package for the city
22 of Evansville.
23 Let me say that as Mayor of the city of
24 Evansville I fully understand and I fully respect and I
25 appreciate the fact that you, the Indiana Gaming

1 Commission, are the sole authority on who receives this
2 license.
3 However, I would respectfully ask that you
4 give very, very serious consideration to the work of this
5 evaluation committee, the work of this city administration.
6 Because after you make your decision and go home, we are
7 going to have to work with and live with your decision for
8 a very, very long time.
9 I thank you for the opportunity to speak with
10 you.
11 MR. CHAIRMAN: Thank you, Mayor.
12 According to our schedule, we are to take a break right
13 now. Do you want to make it a short one, ten minutes?
14 Okay. We'll take a ten-minute break.
15 (Thereupon, a break was
16 taken; after which, the
17 proceedings continued
18 as follows:)
19 We quit for break a little early and a little
20 out of order, so I apologize for that. But we will now go
21 in with a questioning period of the City. The City will be
22 back later today when we have what I'll call round robin on
23 all of the applicants and the city all in one session.
24 But at this time, do any of the Commissioners
25 have any questions of the City?

QUESTIONS AND ANSWERS SESSION

COMMISSIONER: Yes. I have a couple. One is yesterday we saw a card presentation of one site versus the other indicating that there was some problems with the boat turning around if it located -- the Aztar boat being able to turn around. And a problem with the Kentucky border for water being -- I guess it's narrower at that point.

Can you talk to us about the safety, the benefits of one location over the other?

MAYOR MCDONALD: I can tell you that when we sent out the initial request for proposal we did not have a preferred location. We put the Dress Plaza site and the Riverfront Park site because they were both City controlled pieces of property.

Since that time as we have learned more and the process has unfolded, it becomes increasingly clear to evidently what was perhaps understood by the gaming companies initially because five of the six selected the Riverfront Park site. We weren't that smart initially. But over time, I think we have learned that Riverfront Park is clearly the best site for the riverboat facility.

And there are a number of problems with Dress Plaza. I enumerated on some of the festival activities

1 that occur. You cannot drive down to Dress Plaza today and
2 go down on the lower drive because for four or five months
3 on average out of the year Dress Plaza is closed.
4 It makes it extremely difficult to service
5 any type of an operation that would be located down there,
6 plus it's very disruptive to Thunder on the Ohio activities
7 and other community events that sometimes occur on the ()
8 above Dress Plaza.
9 As far as the issue of a boat turning around
10 or being able to turn, I'm not an authority on boats. But
11 I do know that a lot of the riverboats that are constructed
12 today have, and I'm not going to use the proper terms I'm
13 sure, where they can down river this way and then they turn
14 around and they come right back up river this way.
15 They can go either way, and it's not called
16 going backwards. And that's what I call it, but that's not
17 the proper term. I've seen riverboats that are -- they
18 will turn in place and not -- there's none of this having
19 to swing out real wide and make a -- make a turn.
20 So the ability to turn a boat or the ability
21 to navigate with the Kentucky boundary, we're really
22 getting into a little bit perhaps of the domain of your
23 jurisdiction as far as how we deal with the state of
24 Kentucky.
25 But I'm confident that maybe the Aztar people

1 this afternoon can speak to you about how specifically
2 their boat turns. But I believe the Riverfront Park site
3 is clearly the best site for the city.
4 COMMISSIONER: You are -- I'm sure
5 we will ask everybody about that. Okay. The other thing
6 is that your chosen applicant, Aztar, should -- their
7 numbers of expected attendance are much higher than the
8 average.
9 What I'm concerned about here is they're
10 already paying high interest rates for their money.
11 Interest rates went up again yesterday. What if they don't
12 achieve those high expectations, interest rates continue to
13 go up, are all our dreams going to come crashing down? And
14 I will ask them that also.
15 MAYOR MCDONALD: Let me give you a
16 different perspective on that, and I would like to ask Mr.
17 Phil Schneider from Deloid & Toushe who is here to discuss
18 with you a little bit about the projections that he had his
19 study of 1.4 million visitors and Aztar's projections of
20 2.3, and I believe that he can rationalize for you the
21 difference in those numbers very easily.
22 As far as their financing, probably that's a
23 question for them. If the projections drop as they project
24 after the first couple of years, then they would be more
25 right on target. The Deloid study really and the Aztar

1 study are not all the same, and I think Mr. Schneider can
2 enumerate on that. Bill.
3 MR. SCHNEIDER: The initial
4 projections that we made as to --
5 MR. CHAIRMAN: Do you want to
6 identify yourself for the record?
7 MR. SCHNEIDER: Bill Schneider of
8 Deloid & Toushe, and I manage the economic impact study.
9 Particularly, the projections were not based on any
10 particular vote. And the projections of 1.4 million, the
11 projections were quite conservative, and we also assume
12 that other that other boats will be on the Ohio river at
13 that time. And our analagies was drawn approximately a
14 little more than one year ago.
15 It was assumed at that time that other boats
16 would be popping up at the same time, so in our competitive
17 market analysis, we assumed essentially that that the
18 Louisville market would be lost to either a boat in
19 Louisville itself or close by, somewhere on the Ohio river,
20 and at best a boat here with a hope to split the west side
21 of the Louisville market probably would lose all. So our
22 projections is assuming no Louisville market. If this boat
23 is first and there's no other competition as this boat
24 starts its operations, it is reasonable to expect that
25 Louisville or the Louisville market, which is within a

1 hundred and twenty-five mile radius, that we assume is a
2 logical market and that -- so it's reasonable to expect
3 that for the first few years of operation if there's no
4 other competition that the attendance would be much higher.
5 I think that is a reasonable assumption.
6 But our assumption assume that boats were
7 already in place and competing for this boat.
8 COMMISSIONER: I don't -- I don't
9 recall seeing that caveat in your present schedule.
10 MR. SCHNEIDER: We have market
11 analysis and we're willing to share the analysis that we
12 did, that we shared with the -- with the city.
13 COMMISSIONER: I'm not showing a
14 hundred and twenty-five miles.
15 MR. SCHNEIDER: A hundred and
16 twenty-five miles and then the -- with the competition
17 currently existing for a plan and divide that hundred and
18 twenty-five mile ring between that competition and assume
19 that 50 miles was the core, but a hundred and twenty-five
20 miles would be the core and then there would be competition
21 within that hundred and twenty-five miles. And our
22 analysis assumed that that competition would either be in
23 Louisville or close to Louisville and that market would be
24 lost, and we're willing to share your plan with you.
25 COMMISSIONER: So this -- it

1 assumes that a boat was available for the Louisville market
2 or closer to the Louisville market, would you believe that
3 your numbers would be more actively addressed?
4 MR. SCHNEIDER: Again, I am certain
5 that it will at least be 1.4 million. And again, if this
6 boat is in place before there's other competition any
7 place, then that would capture the Louisville market. It
8 is reasonable to assume that the capture would be much
9 higher initially.
10 COMMISSIONER: Okay. I'll get back
11 with you about that.
12 MR. SCHNEIDER: Okay.
13 MAYOR MCDONALD: If I might, I
14 might ask Phil Bayt to address part of the questioning to
15 the 1.4 and to the letter of credit.
16 MR. BAYT: In the finalist round we
17 identified all of the applicants on a baseline of 1.4
18 million passengers as a -- as a conservative estimate.
19 When you look at those numbers and as I graphically showed
20 Aztar's is still well ahead on local incentives and local
21 lease payments than would be Players. And based upon some
22 early numbers that I brought based upon what we learned
23 yesterday from Evansville Landing, Aztar would beat
24 Evansville Landing as well on local incentives and at that
25 level of gaming.

In addition, Aztar has provided a letter of credit to back up those local incentives.

MR. CHAIRMAN: Okay. Anything further?

COMMISSIONER: Yes. I have a couple of questions. It's termed that you had your slide presentation and so forth prepared before the meetings yesterday, that would be my conclusion. Did you hear anything yesterday in the presentations that would have -- that you would have put down more favorably than you did during your own investigations or interviews?

MAYOR MCDONALD: I want to be fair here. I've heard in a lot of respects yesterday, some of what we've heard about a year ago when it comes to Evansville Landing. It was pretty vague a year ago and it was pretty vague yesterday. It seems to change all the time. A year ago there was no site control and there's still no site control. There didn't appear to be a really well developed plan a year ago, and I don't think there's a real well developed plan today. The incentives seem to kind of fluctuate and they seem to be changing as they sat at this table yesterday. I sense four partners, big flash, big money, but not a whole lot of commitment.

And I will just tell you that a year ago and even today, the idea of the city of Evansville becoming

1 somehow another stepchild to Ellis Park or Henderson,
2 Kentucky is not something that appeals to this community
3 and does not appeal to me. And I fear that they're desire
4 is to use the Evansville site as kind of a foothold into
5 the Kentucky scenario as soon as it unfolds, and they
6 really are more interested in protecting Ellis Park than
7 they are in doing business with the city of Evansville long
8 term.
9 That's what I heard yesterday as well. Mr.
10 Thar asked them about five years or ten years. I also
11 heard Mr. Montross yesterday say at this podium during
12 their presentation that when you have four partners it's
13 sometimes hard to get them to all follow the script. And
14 that concerns us in this community also. Who are we going
15 to be really dealing with? And is the partnership going to
16 fluctuate, and is it going to change? Who's in charge and
17 who isn't, and it seems like it fluctuates a lot from
18 presentation to presentation. So from the standpoint of
19 Evansville Landing, the record -- and keep in mind I never
20 voted, but evidently I'm trying here to summarize for you
21 the evaluation committee's feelings.
22 They were not impressed a year ago with
23 Evansville Landing, and I did not hear anything yesterday
24 that would cause me to have a different persuasion about
25 their proposal.

1 COMMISSIONER: Well, I think that
2 the big part of it, of course, was the renovation and the
3 rehabilitation I suppose of the Executive Inn, and there
4 was some support, at least I thought I heard about
5 attempting to do that.
6 MAYOR MCDONALD: If I might. Let
7 me say that the 11 and three quarter an hour announcement
8 on the renovation of the Executive Inn was not something
9 that was unanticipated in the community. I had been talked
10 about in the past. There have been a lot of people look at
11 the Executive Inn, talk about purchasing the Executive Inn.
12 One of them is sitting up here at this table today. And I
13 know that there are people out here in this community that
14 still have an interest in purchasing the Executive Inn and
15 trying to renovate the facility.
16 I'm interested in seeing that facility
17 sustain in Evansville, and I would love to see it
18 renovated. It is the convention facility that we have in
19 our community. But I don't want to see a new 250 room
20 hotel on the riverfront at all haunting the Executive Inn.
21 The Executive Inn is a victim of it's own mismanagment and
22 the failure to reinvest in the property over the years. It
23 served our community well for many, many years, but for
24 whatever reason the owners did not maintain it properly.
25 When I travel around the state of Indiana and

1 I go to other similar sized cities as Evansville, Fort
2 Wayne, South Bend, and I see their hotel and their
3 convention facilities and then I return to Evansville, and
4 every so often we have the opportunity to host the city's
5 and town's conference that is also in Fort Wayne and South
6 Bend, it's embarrassing that we don't have a little finer
7 facility to offer than that. The greatest thing that could
8 happen to the Executive Inn is riverboat gaming with a new
9 hotel downtown, the spin-off effect, the overflow crowd,
10 and I suspect, and I'm not going to try to put words in one
11 of the people that sitting up here's mouth, but I believe
12 there are other people who are interested and willing to
13 step forward and do something with the Executive Inn.
14 COMMISSIONER: Okay. In the
15 presentation this morning there was a pretty high priority
16 place on the experience level of Aztar relative to the
17 other two applicants. And yet we heard yesterday during
18 the presentations, depending on who was speaking, that
19 Aztar had no riverboat management experience and that the
20 boat of the other two did, and the boat for the other two
21 had been successful in that field.
22 So, you know, just listening to your comments
23 this morning I would have been led to believe that the
24 opposite is true. Now, can you -- can you give us some
25 insight into the reason that you discounted their

1 experience in riverboat management?
2 MAYOR MCDONALD: I can share with
3 you, Commissioner, that from our perspective in this city
4 this isn't about who can operate a riverboat. Anybody can
5 buy a boat. Anybody can hire a couple of captains.
6 Anybody can run a boat up and down the river with the
7 proper training with gaming equipment on them if they have
8 a license, and anybody, almost, can be successful
9 short-term if there's no competition. What we're looking
10 for is more than the short-term fix in Evansville. We're
11 looking for the long-term project long after some others in
12 Indiana have gone by the wayside.
13 We looking for a project in Evansville that
14 is still moving forward. So it's gaming experience, it's
15 the ability to compete and the ability to successfully
16 compete long-term, not a start-up company. Players is a
17 fine organization but they've never been tested. The
18 question is: Are they lucky, or are they good? They never
19 gone head-to-head with competition. Aztar depth of
20 experience and its management ranks, Aztar's ability to
21 compete successfully, head and shoulders above the other
22 applicants. That's our view.
23 COMMISSIONER: Okay. But again,
24 you know, it's a little confusion from the standpoint that
25 I seem to recall one of the participants yesterday

1 indicating their resumes of over a hundred years of
2 management experience and the most solid returns, I guess,
3 in the industry and so forth. It's --
4 MAYOR MCDONALD: Well, I alluded to
5 their projects in Nevada. I have visited both of the
6 projects in Gene, Nevada. I have walked through both of
7 those facilities. Literally, you take a car trip out of Las
8 Vegas and you drive along that highways and it's flat on
9 both sides of the road and you see absolutely nothing. And
10 out in the horizon all of the sudden in here in the middle
11 of nowhere sits Nevada Landing and Goldstrike Resort
12 properties right right across the highway from each other.
13 And when you stand there and you look around
14 and you don't see anything else the population, a hundred
15 and seventy-five. But they picked that truck traffic off
16 pretty good and that car traffic off pretty good that's
17 coming between California and Nevada back and forth.
18 That's not competition. They're in competition with each
19 other across the road, but that's not competition.
20 Now, I will give them credit for their boat
21 in Elgin, Illinois and the success that they've had there
22 and they're the new boat and that's a pretty established
23 market and their numbers are pretty good right now because
24 they're the new kid on the block. The real question will
25 be how they do two, three years down the road? What

1 happens when Chicago come on board or Lake Michigan, their
2 lakefront? Those numbers may or may not be good. I don't
3 take anything away from Mr. Schaeffer.
4 Mr. Schaeffer is one of the most astute
5 people in the gaming industry that I've ever seen appear
6 before a local evaluation committee. I told him one time
7 that he's was about the smoothest talking person that I
8 have ever encountered in my life, and I meant that with
9 respect. His credentials and his success, phenomenal. But
10 that doesn't legate the fact that that's one person, and
11 that's one part of the partnership and the partnership
12 causes a lot discomfort level for us, long-term in the
13 gaming.
14 COMMISSIONER: And you -- you
15 discount Players experience also?
16 MAYOR MCDONALD: Granted Players
17 has been in operation for a couple of years in Metropolis,
18 Illinois, a rural community. They've done well. I give
19 them credit for the fact that they, you know, have a very
20 successful operation in Metropolis, and they -- and they're
21 in a very similar kind of situation of no competition in
22 Lake Charles, Louisiana, and they're the first hit and
23 they're doing well there. But when it comes to being side
24 by side or in head-to-head competition with somebody 50
25 miles away from you, they haven't been tested.

1 COMMISSIONER: Okay. Thank you.
2 COMMISSIONER: I would hope that
3 the -- that the company that you've selected has the same
4 commitment to the city as you seem to have in them, so I
5 commend you in the commitment.
6 MAYOR MCDONALD: Thank you. I
7 believe they do have that commitment. We've had a lot of
8 conversations about that commitment. They have honored
9 everything that they had promised to this community, and I
10 told you in my opening remarks that I was sceptical of all
11 of them. I -- I made public comments in the past that we
12 didn't get off the boat yesterday.
13 We don't know everything in this community
14 about riverboat gaming so we hired some outside expertise
15 to help us. But we didn't take Aztar for their word. We
16 checked them out. We saw their properties, when they were
17 aware that we were looking at them, and when they were not
18 aware that we were looking at them, and we feel good about
19 them, and they've honored their commitments so far.
20 COMMISSIONER: Mr. Mayor was there
21 -- is there a public poll taken about the boat location?
22 Is there anything outside the your committee that -- and I
23 know that the city seems to want this boat at the park
24 area. Is there -- was there public poll taken about the
25 boat location?

1 MAYOR MCDONALD: I'm not aware of
2 -- firsthand, I'm not aware of any poll. I've have heard
3 rumors that Players conducted some kind of a survey or poll
4 that's never been shared with me about sites or where we'd
5 like to locate a boat, but I've not seen that. If someone
6 quite honestly, Commissioner, who has made their career in
7 public life run a few polls themselves. I also understand
8 that those, often times, it's how you ask the question will
9 get you the answer you're looking for.
10 COMMISSIONER: They took a poll --
11 now, you're saying they took a poll. There was some public
12 poll taken in the newspaper -- you know,nobody knows. So
13 really the citizens of the community, other than the
14 committee -- this committee's representing it's citizens.
15 It takes a lot.
16 MAYOR MCDONALD: Well, to the park
17 conversion process where we've had public hearings here in
18 Evansville, more than one public hearing involving the park
19 conversion process. There's has been public discussion
20 about Riverfront Park and it's uses as a gaming site. And
21 I will just tell you that as far as opposition goes in
22 Riverfront Park being a gaming site, there is not
23 opposition in this community to that other than the
24 opposition that has be orchestrated by Players, and I was
25 -- I give them credit.

1 I was pleased to hear them basically
2 acknowledge that when questioned, and I was very pleased to
3 hear them say that if they did not receive this license
4 that they would no longer pursue trying to block the park
5 conversion.
6 COMMISSIONER: I have one more
7 question and then some comments probably. Mr. Dunn, you've
8 talked about the hotel business in the community. It's my
9 understanding we have a courtyard. I'd like to give my
10 name for parents weekend.
11 MR. CHAIRMAN: That is something
12 too valuable to ask for.
13 COMMISSIONER: I have another
14 question that I forgot to answer -- ask a while ago. What
15 is this non-compete zone? What's the radius that you're
16 looking for around Evansville?
17 MR. BAYT: We asked each of the
18 gamers in the finalist round to identify a radius. I
19 believe Aztar identified a 100 mile radius, Jumer's who's
20 no longer in the process identified a 90 mile radius and
21 Players declined to agree to any non-competition radius
22 zone, and of course, we have not yet heard from Evansville
23 Landing.
24 COMMISSIONER: Would this 100 mile
25 radius that Aztar agreed to have included any properties

1 that Players already has an interest in?
2 MR. BAYT: I believe that since
3 Metropolis is maybe about only 90 miles away, that they
4 would suggest that Aztar would agree not acquire a
5 Metropolis site.
6 MR. CHAIRMAN: Anything further?
7 COMMISSIONER: I've got a few
8 questions. Mr. Dunn, you made reference to a hotel that's
9 being built on the west side of Evansville. How many rooms
10 in that hotel?
11 MR. DUNN: Currently, that was 78,
12 but it will expand up to a hundred and twenty-two.
13 COMMISSIONER: And where is that
14 located?
15 MR. DUNN: It's next -- an addition
16 to parks on the Lloyd Expressway.
17 COMMISSIONER: Do you -- what
18 opinion do you have about the Executive Inn, about the
19 possibility that if Evansville Landing doesn't get the
20 license that another buyer will come along, if you can
21 answer that question? I have a real concern about, as I
22 said yesterday, a 470 room flop house being there if it
23 just closes, or if no one comes along to do anything with
24 it.
25 MR. DUNN: Well, I'm under the

1 opinion that there are buyers out there. I know of one. I
2 actually know of another one that had made an offer on the
3 hotel. The problem is that the hotel has got a value, as a
4 hotel, it has a value for one purpose, but it being
5 attached to a riverboat it's got another value. I would
6 $10 million tomorrow if I got I riverboat license with it.
7 But as a hotel, that's another totally different matter.
8 COMMISSIONER: Do -- do you think
9 it's worth $5 million?
10 MR. DUNN: No, it isn't. Now, when
11 I say that, Mr. Vowels, in it's present condition. The
12 hotel needs to be totally renovated. You've probably got
13 $10 million dollars worth of renovation costs in there, and
14 $10 million is probably a reasonably accurate number to
15 renovate the hotel. But I don't think you're going to
16 renovate it to Hyatt standards for $10 million. You may
17 renovate it to some other brand that doesn't have the same
18 level of competition as the Hyatt Hotel does. And that's a
19 personal opinion. Well, -- that if you put the hundred and
20 four conventions that we are fortunate enough to get in
21 Evansville like the Jaycee's and all that, that type of
22 business in a Hyatt Hotel, it won't look like a Hyatt very
23 long. It just -- that's part of business of a hotel, and I
24 would be -- I would be concerned.
25 COMMISSIONER: What about a parking

1 garage? Have you looked at that?
2 MR. DUNN: Yes, I have.
3 COMMISSIONER: Do you have an
4 opinion in reference to the parking garage, where it needs
5 to be refurbished and what that will cost?
6 MR. DUNN: We looked at that early
7 on and we have a plan that we would probably be willing to
8 share at the right time which addresses the parking garage
9 as well as the convention center, so --
10 COMMISSIONER: Do you agree that it
11 would have to be refurbished?
12 MR. DUNN: I think so, yes.
13 COMMISSIONER: Let me ask a
14 question. Is it fair to say that the city -- the
15 conference you must have with somebody purchasing that
16 property or you could have certainly made this part of the
17 deal? I mean -- you know, and I listened to what your
18 requirements were for 19 million of this and 2 million and
19 one million and, you know, $200,000 to the United Way.
20 MR. DUNN: You know, I would think
21 that if I were one of these operators that that might be a
22 good deal. I mean, they want that hotel to fail, you don't
23 want it to fail. You received a million opportunities for
24 them to belly-up and say, you know, we think we can do
25 something with this, unless you had the confidence somebody

1 else was going to do something with it.
2 MAYOR MCDONALD: I believe in
3 marketplace, Commissioner. I believe in competition. I
4 believe that there are people out here, maybe local, maybe
5 out of town, that when it gets right down to serious time
6 are very interested in that property. I did not make it a
7 requirement that somebody buy that hotel. It really
8 disturbs me that kind of the 11th hour that all of a sudden
9 it's like the Gaming Commission and the city of Evansville
10 are somehow being held hostage by the fate of the Executive
11 Inn. This license and this decision is -- is much more
12 than that issue alone.
13 COMMISSIONER: I -- and I hear what
14 you're saying. I think, you know, our point is is do you
15 have an opinion of what you want your city to be? It's
16 kind of hard for us as somebody said a little earlier,
17 you're on top, to look at it and not say -- that doesn't
18 make sense to us.
19 MAYOR MCDONALD: I don't want the
20 Executive Inn to be boarded up and go out of business.
21 COMMISSIONER: Nor do we. And I
22 guess the point of my question -- you answered the
23 question. There is talk that somebody's -- that you're
24 confident that that will probably happen or you could have
25 -- I said to one of these people, we want you to do

1 something with this hotel along with building this other
2 one.
3 MAYOR MCDONALD: Well, I don't have
4 a signed agreement, and I'm not going to sit here and tell
5 you that I know. I'll just tell you that the gentleman at
6 the other end of the table down there I know has made an
7 offer on that hotel in the past.
8 COMMISSIONER: Obviously you're
9 confident. We're trying to get the answer here. So you're
10 confident with some of the others, I guess that's my point.
11 And if you are, then I'm satisfied. It's that simple for
12 me. It may not be for you.
13 MR. CHAIRMAN: Anybody else have
14 anything.
15 COMMISSIONER: I have a question
16 for Mr. Bohleber.
17 MR. BOHLEBER: Yes.
18 COMMISSIONER: There was a brief
19 article in the newspaper last night about the National Park
20 Service and their approval in reference to Riverfront Park.
21 After being here 11 hours, I have to admit my powers from
22 reading the newspaper is not great. Was there some reason
23 developed yesterday that moves that forward, as far as the
24 approval process?
25 MR. BOHLEBER: I have not spoken to

1 the National Park Service since that article appeared, nor
2 did I or anyone on behalf of the city speak with them
3 yesterday to my knowledge about the accuracy of that story.
4 We have every confidence, however, that it's accurately
5 reporting the status of the conversion process based upon
6 the prior contact with the Department of Interior. The
7 delegate the responsibility of the primary investigation
8 and replication to the states since that conversion.
9 They got a very glowing and positive
10 recommendation from the Indiana Department of Natural
11 Resources. It is my impression that that project
12 coordinator has made recommendations to the Department of
13 Interior or likewise enthusiastic about the plan. We have
14 every reason to believe that that will be improved.
15 Frankly, we were hoping that it would be approved by today.
16 We believe that it's very -- it could happen today. It
17 probably will happen before February 10.
18 COMMISSIONER: Okay. The question
19 -- I'm not familiar with the procedure. If the National
20 Park Service would approve that conversion to the other
21 site and Players and the other two people who have locked
22 points against that, is that the administrative hearing or
23 is the administrative law judge involved? I just want to
24 know where the process will end.
25 MR. BOHLEBER: I don't think anyone

1 can tell you where the process will end. In our society we
2 have the opportunity to walk into court, piece of paper,
3 and it's a frustrating process. As far as the Department
4 of Interior is concerned when they make their decision the
5 conversion is complete.
6 COMMISSIONER: Is the
7 Administrative Law Judge involved in during that period of
8 time?
9 MR. BOHLEBER: The Administrative
10 Law Judge is totally an Indiana process it's beyond that at
11 this point. I frankly do not know the legal ramifications
12 of the current administrative law process. It's not
13 something that is slowed down or stopped by the
14 determination by the Department of Interior, however.
15 COMMISSIONER: Okay. Just another
16 brief question to the Mayor. In Players materials they
17 have an opinion from a lawyer about the liability of the
18 city in which the property if there would be an accident.
19 Have you received any legal opinion in reference to that?
20 There were a couple of case that they had cited, Indiana
21 cases and I didn't have an opportunity to look at those,
22 but do you have an opinion from either corporate counsel or
23 any other of the attorneys?
24 MAYOR MCDONALD: We have not had
25 that researched, and we've quite frankly not heard any such

1 idea as well as reports in that presentation until
2 yesterday. Certainly as Mr. Bohleber just said we don't
3 anticipate or foresee any problem with that. If I might
4 respond to your park conversion question? We say, Mr.
5 Bohleber and myself and others visited with the National
6 Park Service a couple of weeks ago in Omaha, and we feel
7 good about the conversion process.
8 And I think what prompted that story quite
9 honestly yesterday was -- was a reporter making a call out
10 there trying to find out what the status of the application
11 was. We've not received any additional notification as of
12 today, but the major hurl of that conversion process of
13 course is the one that's been involved by Players and
14 Players acknowledgment yesterday that they will not block
15 or attempt to fight that process any further if they are
16 not awarded the license. Then that removes the controversy
17 and I would anticipate approval rapidly.
18 COMMISSIONER: Okay.
19 MR. SIMMS: If I might add with
20 respect to the liability issue on the project agreement
21 Aztar's agreed to provide the city with $25 million worth
22 of liability coverage, and that's already in place with
23 respect to the project.
24 MR. CHAIRMAN: Mr. Thar?
25 COMMISSIONER: I have three quick

1 inquiries. Let's go back to the Executive Inn. Mr. Dunn,
2 if we assume for a moment that gaming was not coming to
3 Evansville, what happens to the Executive Inn?
4 MR. DUNN: With respect to the
5 Executive Inn, Mr. Thar, riverboat gaming was already being
6 talked about in the community. It is a viable property.
7 It's getting down to a matter of funds and what somebody is
8 willing to put in it to bring it back to an accepted
9 standard.
10 COMMISSIONER: Does riverboat
11 gaming coming to Evansville enhance the ability of the
12 Executive Inn being sold to someone?
13 MR. DUNN: I think so.
14 COMMISSIONER: You indicated in
15 your discussion with the Commission about the $25 million.
16 Could you articulate what those differences are between the
17 three companies as viewed from the selection committee?
18 MR. SIMMS: Sure. I'm -- I guess
19 they're going to be anxious to hear this too because we
20 haven't really shared that with them. And I can't really
21 speak on behalf of the whole committee, but I -- I do have
22 kind of a sense and I think we were fair and uniform on a
23 lot of our opinions. My opinion is -- first of all, you
24 saw yesterday with the Evansville Landing presentation,
25 although you may not have been aware of it at the time

1 exactly why they rated where they did.
2 They are hardball players. They are tough,
3 good business people that generate a lot of profits. And
4 it came through loud and clear over and over in their
5 presentation to the Committee that that's the type of
6 people they are, which is great for them. It works for
7 them. They negotiated with people in New York and all over
8 the world. But with us, when you hedge, when you're vague,
9 when you were specifically asked to be forthright and
10 forthcoming and continued to hedge and be vague, we got
11 real uncomfortable with that.
12 When we -- the Mayor specifically asked every
13 one of the applicants upfront to be forthright and lay all
14 of their cards on the with this Committee, they all agreed
15 to do so. And yet yesterday the do an end run like they
16 did unrespectful. We're just uncomfortable with -- with
17 that kind of activity. We're good old boys here in -- in
18 Evansville, Indiana, and we're good, smart and business
19 people. We've all had a lot of success in business, yet we
20 can still do things occasionally on a handshake. I'm not
21 sure we would be all that comfortable doing business on a
22 handshake.
23 It was yesterday that was kind of interesting
24 with the Evansville Landing presentation as well. It was
25 the first time. See, up until then, they had told us that

1 although Hyatt was a partner, they're involved and would
2 help with the development of a hotel, that Evansville was
3 too small of a market, and that the quality of the hotel
4 that would be built here by them wasn't good enough for the
5 Hyatt name. Yet suddenly, they can take the worst facility
6 in this city and bring it to Hyatt standards and put the
7 Hyatt name on it. What's changed? That's how much I
8 suspect and all of these people see coming from a casino
9 that they were justifying.
10 So that's why our comfort level with them --
11 and I think that was probably the single biggest factor
12 that drove them to the bottom of the list. Players has a
13 lot of strengths, and I think the Committee gave them full
14 benefit of those. I think there were several on the
15 Committee who preferred Players site quite frankly.
16 COMMITTEE: Several on the
17 Committee voted Players number one?
18 MR. DUNN: Yeah, Players received
19 number one votes -- one person voted them number one, quite
20 a few number two's, six.
21 COMMISSIONER: And what was the
22 major difference between Players and Aztar viewed by the
23 Committee?
24 MR. DUNN: I think it had gone back
25 down to largely what the Mayor has already articulated. I

1 think Players has been very successful with what they've
2 done so far, certainly in Metropolis and at Lake Charles,
3 but when you take a look at the bigger picture and you try
4 to look at everything. I mean, all of those -- all of the
5 applicants had certain strengths, but we and you who have
6 to look at a variety of aspects of the development. And I
7 think that if you look at the whole, suddenly Aztar --
8 that's when Aztar started surfacing as -- as the choice.
9 They've been in competitive markets.
10 Players had the riverboat experience, but
11 then, you know, even they had a first boat. Everybody had
12 to do the boat first once, and all of them have been
13 successful. I believe Aztar, as obviously the Committee
14 did, we didn't really consider that big of an issue as the
15 Mayor articulated. Anybody can put a boat out there and
16 make money. The question was the quality of development,
17 and we were convinced that Aztar was going to be putting in
18 a superior project.
19 COMMISSIONER: Thank you. And the
20 last area. You indicated project financing was the key
21 issue, and both the Committee's overlooked as well as the
22 negotiations. And I think this Commission has some
23 relatively serious concerns over the project financing
24 based on the information received yesterday from the three
25 applicants. It would appear that Aztar pay -- would have

1 the highest interest rate against any money borrowed based
2 upon their present financial condition. So I would ask you
3 to address now if there's anything you know about the
4 various financial conditions of Aztar, stipulate whether
5 you evaluated them, and whether or not you have any
6 concerns -- the Committee has any concerns as to whether or
7 not Aztar's fulfilled its obligations to the city should it
8 not meet expectations in terms of the attendance because of
9 it's debt surfaced.
10 MR. DUNN: At the time the
11 finalists were being considered for final endorsement,
12 Aztar was the only applicant that had a financing package
13 completely in place for the entire amount of the project
14 scope. That distinguished Aztar from Jumer's, who ran
15 second, which could not at that time provide that kind of
16 financing commitment. Players had indicated that they were
17 interested in financing the project with cash, and that
18 they were prepared to put $30 million in an escrow.
19 Their cash position at that time then changed
20 because they indicated before final round was over that
21 they were going to divert some cash to another project. At
22 that point then it became unclear whether they had the
23 ability to do the deal on an all cash basis, because in the
24 letter that they sent us with respect to their diversion of
25 that cash, they began identifying the high interest rates

1 that would be faced by any of the applicants in order to
2 borrow money for the project, so we didn't hear from
3 Players from that point on with respect to financing.
4 What I heard yesterday from all of them is
5 that Evansville Landing has the cash to do the project.
6 They didn't say they were going to use the cash for the
7 project. They said they had cash to do the project.
8 Players, again, said the same thing but they didn't
9 indicate what their choice was going to be. Aztar has a
10 fixed rate financing. They have two different financing as
11 I understand, one at 13 and three-quarters and one at a
12 light lower base arrangement.
13 As I understand that all of their financing
14 is at fixed rates. Those rates in one respect, the 13 and
15 three-quarters rate, is certainly higher than what Players
16 had and Evansville Landing have indicated they are
17 currently borrowing at, but those rates, as far as we can
18 tell, that Aztar is going to be utilizing, are comfortable
19 with respect to the project projections, both at their high
20 numbers and at the more conservative $1.4 million numbers
21 that we had used in our analysis.
22 In addition, we focused on the fact that
23 Aztar has already provided an irrevocable letter of credit
24 for all of the local commitments that it's made, and we
25 believe that their representations to us and to you that

they can operate comfortably at the lower numbers continues to provide us with a comfort that they will be able to get the job done even in a changing interest rate market, even in a changing environment where's there's additional competition.

COMMISSIONER: One last question on that and then I'll be finished. There was an interesting point made yesterday about the downside risks with regard to the Aztar proposal. There were potential upside benefits for the other two. Do you agree or disagree with that?

MR. DUNN: I believe that Aztar has demonstrated to us that they are the most conservative of the companies with respect to their ongoing operations. I think their projections may be the most obvious. Their overall operation has been quite conservative and their management style is quite conservative, and although they're in the gaming business, to me they seem somewhat risk diverse, which from the point of view of Evansville was a good thing. The downside potential does not disturb me because I believe all of the applicants have the staying power and the financial strength to weather the type of competition that we know is going to be forthcoming.

On the upside, I think what's clear from the numbers that I've seen before from both Aztar and Players,

1 and I'm trying and analyze the numbers that I heard for the
2 first time yesterday from Evansville Landing. The upside
3 at least with respect from the local government is that as
4 gaming levels increase, Aztar's formulas provide much more
5 money than Players in the long term.
6 Evansville Landing's numbers I must point
7 out, just a couple of observations, are number one: They
8 are -- the formula is based on net rather than gross, and
9 the legislature can't always be accused of having wisdom,
10 well, at least with respect to this particular statute.
11 They have the wisdom to identify the gaming taxes being
12 associated with a gross number rather than a net. I don't
13 believe it's the position of the city of Evansville because
14 it doesn't have the resources to identify the
15 reasonableness of expenses or the appropriateness of the
16 expenses to determine whether they're going from a gross
17 number to a net number makes any sense and is appropriate.
18 What's that going to be? And that's unclear with respect
19 to Evansville Landing numbers.
20 Evansville Landing numbers as far as I can
21 tell from the overall prospective on the upside at $70
22 million just in gross revenues, Aztar continues to provide
23 more money to the local government than do either Players
24 or Evansville Landing. As those numbers increase, I can't
25 tell what's going to happen, but I think there's a positive

1 upside from all of the applicants.
2 MR. CHAIRMAN: Well, I guess that
3 about concludes it. Mayor, I want to thank you sincerely
4 for appearing here today, and I think the group that you
5 put together to present the city's view was a well selected
6 group, and the I personally want to compliment you on the
7 way you have handled the whole situation on the appointment
8 of the Committee. I want to congratulate Mr. Simms on what
9 I believe to be the operation of the Committee, which even
10 some of the people who were not named, number one have told
11 us yesterday that they thought the process was fair. The
12 only problem they had was they didn't end up as number one.
13 So I think that indicates the way the people
14 feel about what you've done. And I want to personally
15 congratulate you. I think you did the right thing the
16 right way.
17 MAYOR MCDONALD: Thank you, Mr.
18 Klineman.
19 MR. CHAIRMAN: Uh-huh. And we'll
20 now excuse the city and ask the Coast Guard after a couple
21 of minutes to come forward.
22 COMMISSIONER: Mr. Mayor, I'd like
23 to thank you for the excellent hospitality.
24 MR. MAYOR: Thank you.
25 MR. CHAIRMAN: I'd like to welcome

1 the Coast Guard to these proceedings. They've been kind
2 enough to come before us previously, and we're also
3 interested in your position because we're all working
4 towards the same goal, which is the safety of whatever
5 patrons happen make riverboat cruising something that they
6 want to do. So, Captain, if you'll proceed.
7 MR. MORANI: Good morning, Mr.
8 Chairman and members of this Commission. I want to thank
9 you again for this opportunity to make the presentation.
10 (Copied into the record from
11 presentation document as
12 follows:)
13 "U. S. Coast Guard Presentation before the
14 Indiana Gaming Commission Evansville, Indiana, February 2,
15 1995.
16 "Good morning, ladies and gentlemen. I am
17 Captain Bill Morani, Commanding Officer, U. S. Coast Guard
18 Marine Safety Office, Louisville, Kentucky. With me is
19 Commander Mark Kerski, Commanding Officer, U. S. Coast
20 Guard Group Ohio Valley. We want to thank you for giving
21 us another opportunity to address this Commission on
22 matters pertaining to gaming vessel operations,
23 particularly as they relate to the Evansville area.
24 "On April 8, 1994, I gave you a summary of
25 our varied roles, missions, and responsibilities, and

1 stressed the need to include contingency planning in your
2 licensing process. I'd like to complement you on your
3 work in creating the "Criteria for Riverboat Casino
4 Emergency/Diaster Plans". It's implementation will be a
5 major step in addressing safety issues on gaming vessels.
6 The State of Indiana has taken the lead in this area. It's
7 clear to me that safety is one of your priorities. The
8 contingency planning requirement is a critical element in
9 an overall systematic approach to help ensure the safety of
10 Indiana's riverboat casinos. It will provide for a well
11 planned out response in the event of an emergency.
12 "Another equally important element in this
13 safety approach is the reduction of risks or hazards
14 associated with the operation of these high capacity
15 passenger vessels. These risks should be identified and
16 evaluated through a Site Risk Analysis. This type of study
17 will close the loop -- it will address the preventative
18 side of the safety formula. It will also make the
19 contingency plan more effective since it will better
20 identify the types of emergencies that may arise during
21 operations. We are working with the Army Corps of
22 Engineers to ensure such a risk analysis is conducted as a
23 part of their permitting process. To understand how that
24 might occur, I'll start with a brief review of our role in
25 the Army Corps of Engineers permitting process and then

1 outline the maritime elements of the risk or hazard
2 analysis.
3 "We routinely provide input into the Army
4 Corps of Engineers permitting process. Our involvement
5 actually starts when the Corps puts out a notice for public
6 comment on a particular permit application. We evaluate it
7 and, if appropriate, send the Corps written comments
8 concerning navigation safety. Our review and
9 recommendations are based on such factors as marine
10 casualty history, river flood stages vessel
11 maneuverability, weather, other river operations (including
12 both commercial vessel traffic and recreational boating),
13 and the extension of mooring structures into the waterway.
14 River gaming vessel site locations and operating areas are
15 important factors when looking at the overall waterway
16 safety issue. There are several factors we look at --
17 safety of the vessel while moored, docking, undocking, and
18 underway, as well as the site location itself and the
19 hazards it may pose to normal river operations. In
20 formulating our recommendations, we solicit comments from
21 waterway users. We do not provide comments on preliminary
22 site proposals. When contacted by prospective applicants,
23 we inform them of our role in the permitting process and
24 that our comments will be limited to those general areas
25 affecting navigation safety described above.

1 "As you know, several tow boat pilots have
2 expressed concern about locating a gaming vessel in the
3 Evansville area. Evansville is located on a 'U' shaped
4 bend in the Ohio River. Anytime you add a structure,
5 mooring facility, fleeting area, or marina to the river's
6 edge, the risk of something going wrong increases -- how
7 much more risks is introduced, and whether it's acceptable
8 depends on the several factors I mentioned earlier. A risk
9 or hazard analysis should be undertaken to identify the
10 risk added by introducing a gaming vessel in the Evansville
11 area. Such an analysis will help this Commission,
12 community officials, and government agencies evaluate the
13 risks created by gaming vessel operations and take
14 corrective action to reduce risk to an acceptable level.
15 "Accordingly, I've requested of the Army
16 Corps of Engineers that they consider having the applicant
17 for the Corps permit conduct a risk or hazard analysis of
18 the sitting and navigational safety of the proposed gaming
19 vessel operation in the Evansville area. We all want to
20 ensure an appropriate level of safety is established before
21 a gaming vessel is operated in this area. I'm sure you'll
22 agree we must all be better informed of the risks and
23 consequences in advance of any final acceptance of mooring
24 and operational arrangements. Among other things, such a
25 study could reasonably include:

"- regular and seasonal local river traffic patterns including, but not limited to:
  - traffic volume and areas of high activity, such as barge fleeting areas;
  - the size and type of vessels transiting the area;
  - the presence of dangerous or unusual cargos; and,
  - potential interference with the flow of vessel traffic this new operation may cause;

"- port and waterway configurations and variations, such as fixed obstacles to navigation, seasonal flooding, river stages, ice, fog, snow, high winds and storms;

"- the numbers of passengers and shoreside persons at risk;

"- the routes and operating characteristics of the proposed gaming vessels;

"- redundancy of propulsion, steering, and other vital equipment (or lack thereof) on board the vessel that may serve as a safety backup;

"- the varying river stages and their effect on vessel operation and safety;

"- the proportion of time the vessels are underway versus moored; and,

"- the restricted ability of these vessels to maneuver while mooring, getting underway, and cruising.

"In the case of Evansville, we all would benefit by having the interim license holder conduct such an analysis. It would also aid you in making the determination under IC Rule 4-33-4-13(a)(2), which states:

> 'After consulting with the United States Army Corps of Engineers, the commission may do the following: . . . determine the navigable waterways that are suitable for the operation of riverboats under this article.'

"The results of this analysis could also be used by the vessel master as a tool in deciding whether to get underway or not as allowed under you (sic) excursion rules.

"Our partnership has been productive. We look forward with you to ensure the safety of Indiana's

1 riverboat casinos.

2 "Commander Kerski and I will now answer any

3 questions you have.

4 "Thank you."

5

6 QUESTIONS AND ANSWERS SESSION

7

8 MR. CHAIRMAN: I want to compliment

9 you for having come down to Evansville to hear the

10 presentations of the applicants. I think it will put you

11 in a better position to understand where they are and maybe

12 -- and I'm sure will help in the process. So I appreciate

13 you and your associates coming. I think they're

14 worthwhile.

15 Does anyone have any questions for the Coast

16 Guard?

17 COMMISSIONER: Mr. Morani, you

18 were watching the presentation yesterday they computerized

19 the boats turning around. I think I was fascinated by the

20 boats turning around and it was proposed that a large boat

21 couldn't turn around in the channel provided in Indiana

22 water. You probably have an opinion about that.

23 CAPTAIN MORANI: This is Captain

24 Morani. I'll just make a brief statement, and then I'll

25 turn it over to Commander Kerski or Chief Warrant Officer

1 Cunningham. But first of all, there's somewhat artificial
2 constraints. I think when you -- when I saw the
3 presentation, it kind of looked like it was bouncing back
4 and forth kind of like a pinball machine, but those are
5 because of the buoys. Okay. From a -- let's say from a
6 marine safety standpoint, a vessel traveling upriver or
7 downriver and he -- you know, there's usually good water to
8 a certain extent that these gentlemen here addressed. If
9 it was necessary for the safety of the people onboard, the
10 master would take it a little bit farther to start with and
11 go beyond the buoys to avoid the disaster. I think he can
12 do that.
13 But from a channel standpoint, I'll let
14 Commander Kerski or Chief Warrant Officer Cunningham
15 address that.
16 COMMANDER KERSKI: I'd just like to
17 reiterate -- Commander Kerski. I'd just like to reiterate
18 what Captain Morani has indicated. We keep the safety of
19 the vessel and passengers onboard and the crew of primary
20 importance. And we would hope that the Commission would
21 recognize that the state line between Kentucky and Indiana
22 wouldn't be used by the master nor would we expect the
23 master to use it to keep from getting himself or herself
24 into a position where there would be in extremis with
25 another vessel, a tow vessel or even another private craft.

1 And we believe that the commissioners all recognize that
2 the safety of vessels is paramount.
3 With respect to the presentation made
4 yesterday, the length of the vessel, the width of the
5 vessel certainly impacts your decision on how to operate
6 that vessel within the state of Indiana. We don't think
7 that we have the expertise to tell you whether a particular
8 state line is. We don't have the expertise to tell you
9 which boats can turn around on that state line without
10 actually knowing where what the barriers are. And as you
11 know, we haven't officially received the notification from
12 any of the applicants that indicate that, other than the
13 presentations we viewed yesterday.
14 So to give you some actual professional
15 opinion as to whether they can turn around or not will be
16 forthcoming in who they select. With respect to that,
17 there certainly are more the various applicants to stay
18 within the state boundaries because alternatives would
19 depend on water levels, the current condition, the rainfall
20 in the area recently, and it certainly also depends on the
21 master's ability to navigate that vessel and the vessel's
22 ability and its propulsion systems, whether it's valve
23 thrusters or different types of propulsion systems. And
24 certainly the man who indicated that some of them can turn
25 on a dime and there are other alternatives such as digging

1 out the channel on the Indiana side so that there is a
2 turning basin. Again, we haven't seen any of those things
3 officially from the applicants, but alternatives that allow
4 these companies to meet your rules but at the same time
5 we're going to look at holding the master accountable for
6 the safety of the vessel whether they meet your rules or
7 not would be your decision.
8 COMMISSIONER: Are you going to be
9 here all afternoon, later this afternoon?
10 COMMANDER MORANI: Yes, sir.
11 COMMISSIONER: I might ask you
12 again, because I'm going to ask this question again. I'm
13 sure the people are interested in the answer. People have
14 investments in some good size crafts, and as they've shown
15 yesterday, and they're going to ask us to grant a license.
16 And the first thing that they're not capable of doing is
17 staying within the law of the state of Indiana and
18 Kentucky. And that doesn't make a lot of sense. The way
19 they have to maneuver those boats, backing out as one of
20 them said yesterday and moving starts conservative, but all
21 of a sudden they're going to start to say, well, this boat
22 can't do this but we can do this and that's kind of what
23 he's saying.
24 So now we come to the problem safety versus
25 the law, and this concerns me. I mean I hope you're around

1 this afternoon. Maybe you'll feel better about it because
2 I'd like to ask you again.
3 When you're hearing these people, that maybe
4 you could give us a comment on what they say.
5 COMMANDER KERSKI: This is
6 Commander Kerski again. Keep in mind that the rules we set
7 up with the Commission are that the you put us in a
8 precarious position to make an opinion on something that we
9 haven't seen and we'd like to help you interpret your state
10 law, but, you know, we're going to precluded by statute
11 from doing that.
12 COMMISSIONER: So then I would
13 assume though that once we grant a license or grant a
14 certificate of suitability and these plans are submitted to
15 you officially, then you would at that time have specific
16 comments or opinions on those plans? Would that -- am I
17 thinking of the timing correctly here?
18 CAPTAIN MORANI: Yes. What'll
19 happen as I explained it a little bit, it'll follow the
20 normal Army the Corps of Engineers' permitting process.
21 They'll submit a site proposal plan on some item.
22 Hopefully they would have done the risk analysis and an
23 assessment. And well, we do that. And if we -- and if we
24 feel that will addressed to certain things and they've been
25 able to manage the risks. Now, from a risk management

1 standpoint, and one of the -- I think I would say the
2 advantages of the -- a limited excursion of the rules that
3 you have in place may very well be that you've identified
4 the risks, that the channel is so narrow that if we have
5 any vessels coming upbound or downbound, that's going to
6 put us in a position where we're going to be either meeting
7 them or overtaking them.
8 Then the management of that risk will be that
9 we will not get in the way, and the rules will allow for
10 that. So there's a response. And that's to me, from a
11 safety standpoint, I think that's an acceptable response.
12 From a political standpoint, whether that's acceptable
13 under your rules or under the Indiana rules is a separate
14 matter, but where the problem comes into play is where you
15 take that decision making clarity out of the hands of the
16 master. And in order for them to conduct business, and
17 that's what they're there for, they have to get underway.
18 Then you're going -- then you're going to
19 start -- decisions are going to be reduced to a economics,
20 and it's going to be well, we're going to have to get
21 underway. We know we shouldn't from a safety standpoint,
22 but I have to get underway, and then the situations that
23 we've talked may come up. And then they're going to say,
24 well, we have to do it. So, you know, when I looked at
25 your rules and I looked at the different risks and so on, I

1 felt pretty comfortable that most of the risks could be
2 managed, either through some structural alteration barriers
3 for someone or operational decision such as you need to get
4 underway or not get underway.
5 COMMISSIONER: In reference to the
6 applications, are there separate applications that go to
7 the Coast Guard and to the Corps of Engineers, or is there
8 one application?
9 CAPTAIN MORANI: No, no. We don't
10 have a separate application, and the deal with the Army
11 Corps of Engineers is handled through them, and we receive
12 copies just like any other public party gets a copy of the
13 permit, and we get to comment on it and so on and so forth.
14 We work through the Corps and provide our comments directly
15 to the Corps. This other license and issue that we're
16 talking about is just a marine license for the pilot who
17 operates the vessel.
18 COMMISSIONER: Do we have --
19 CAPTAIN MORANI: The certificate of
20 inspection is a separate process that's ongoing.
21 COMMISSIONER: And when you make the
22 -- these comments that you submit to the Army Corps of
23 Engineers, would we have access to you opinion?
24 CAPTAIN MORANI: Well, you would be
25 -- sure, it's a public record. We can send you a copy just

1 as I've done with many other of those that I've sent to the
2 Corps and elsewhere, whatever we send to the Corps of
3 Engineers. In fact, I would -- I would want to include
4 you in there so that you know what's going on so you'll
5 catch up to speed.
6 COMMISSIONER: This is -- this is
7 really primary --
8 CAPTAIN MORANI: Certainly.
9 COMMISSIONER: -- the safety of the
10 people who are going on our boat.
11 COMMISSIONER: The statute you
12 talked earlier about, the master having the call on whether
13 to go out or not. I was just reviewing the statute after
14 you talked about that. It specifically deals with the
15 master of the riverboat being able to determine that
16 there's a danger to the riverboat, specifically in
17 reference weather conditions or water conditions. It
18 doesn't appear that if there's other traffic coming down.
19 CAPTAIN MORANI: Well, I don't know
20 if you're reading -- you're looking at this as -- Captain
21 Morani, again. Are you looking at the -- is there a new
22 one that you're looking at or something else --
23 COMMISSIONER: They -- they were
24 all --
25 CAPTAIN MORANI: I thought I gave you

1 several. There was several.
2 THE CHAIRMAN: We have two things.
3 He's reading the existing state statute, but you're
4 referring to the -- a proposed excursion.
5 CAPTAIN MORANI: Right. I misled
6 you, and I apologize. I'm referring to the proposed
7 excursion rule.
8 COMMISSIONER: Well, what I'm
9 referring to is what exists now, which is specific weather
10 conditions and water conditions. I know you can't give an
11 opinion, but the water conditions seem to me not to give
12 the master an option and a reference to barge traffic or
13 other tow traffic. It would seem whether the river is high
14 or low. But in your opinion it would be necessary to give
15 the master that opinion?
16 CAPTAIN MORANI: Well, what I'm
17 saying is he -- he, the master, has the authority anyway.
18 It he doesn't want to get underway, he doesn't have to.
19 It's a matter of whether he wants to keep his job, or
20 whether the company wants to conduct business. I mean,
21 they're two different decisions.
22 COMMISSIONER: Okay. And then that's
23 your call then, regardless of what the statute say, the
24 master --
25 CAPTAIN MORANI: Well --

1 COMMISSIONER: I'm just looking the
2 authority for the master to be able to do that.
3 CAPTAIN MORANI: Well, if his license
4 is on the line, if he -- if he makes a decision -- you
5 know, but typically, if you're in an accident, we all look
6 back to see what happened. And if it comes down to the
7 master making a decision of getting underway when the
8 conditions are such that by golly, you should not have
9 gotten underway. Well, guess what? He's in trouble. His
10 license is on the line.
11 COMMISSIONER: That's fair.
12 THE CHAIRMAN: Anything further?
13 COMMISSIONER: This is just a quick
14 question, because maybe I'm a little confused. If -- if
15 one of these boats are in the water and there's traffic
16 coming towards it and it was a problem, he -- he has the
17 authority then to move into Kentucky water, if you will, to
18 avoid the problem.
19 CAPTAIN MORANI: Well -- well, let me
20 put it this way. If he's got enough water under his keel
21 to do that, from the Coast Guard's standpoint, from a
22 safety standpoint, I mean, he -- he -- hopefully, he will.
23 I mean, just -- if he doesn't because he's likely to cross
24 the state line, then --
25 COMMISSIONER: Well, that's what I'm

1 saying, the guys goes all of a sudden, you know, to
2 Kentucky instead of having -- move along to Kentucky
3 because you've moved into Kentucky water with a gaming
4 boat, and so, you know, you're damned if you do, damned if
5 you don't kind of scenario.
6 CAPTAIN MORANI: Right. From a
7 safety standpoint, that line, as far as I'm concerned, does
8 not exist.
9 COMMISSIONER: Okay. That's fair.
10 Thank you.
11 MR. CHAIRMAN: Anything further?
12 Anything further? I need to thank you for coming and --
13 oh, Mr. Thar.
14 COMMISSIONER: Captain Morani, the
15 Commission has received or been the subject of an extensive
16 letter writing campaign by the American Land Mariners, a
17 non-profit association for professional mariners. Are you
18 aware of that organization?
19 CAPTAIN MORANI: I wasn't until I
20 also got the hundred and fifty-seven copies of whatever
21 they sent. I have since become aware of the organization.
22 COMMISSIONER: If you got the same
23 letter this Commission has received, they basically have
24 taken the position that they do not want to see any
25 riverboat gaming develop between mile marker 781.8 and 793

1 along the Indiana side of the Ohio river.
2 CAPTAIN MORANI: I'm sorry. Can you
3 repeat those two mile markers?
4 COMMISSIONER: I want to know if
5 you're receiving the same letter.
6 CAPTAIN MORANI: Yes, sir. Yes,
7 sir.
8 COMMISSIONER: 791.8 through 793.0.
9 It's the same letter that you received a hundred and
10 fifty-seven copies of.
11 CAPTAIN MORANI: Yes, sir.
12 COMMISSIONER: Is the Coast Guard's
13 position as strong as that express by the American Mariners
14 Association?
15 CAPTAIN MORANI: Well, our position
16 is -- first of all, let me tell you there's -- there's --
17 there's two extremes. And it depends on who you talk to.
18 If you talk to recreational boat owners, they'll tell you
19 that there shouldn't be barges along the Ohio river.
20 They're just like big trucks and they'll run you over. So
21 they don't want to see tow boats operating on the river.
22 If you talk to tow boat operators, they'll tell you that
23 there shouldn't be anything in their way whatsoever. We
24 shouldn't have anything on the -- on the -- on the -- there
25 shouldn't be recreational boats. There shouldn't be any

1 facilities. So anything that -- that's on the river,
2 there's a chance that they could run into it.
3 So, you have two extremes. And we all know
4 that they're dealing with waterway usage issues, and we
5 should have -- we have just as much right to use the
6 waterway as somebody else. And certainly, like I said, any
7 time you have anything on the river, you're going to
8 increase the risk, and I think what some -- some boats are
9 trying to do is to reduce the risk. And -- and perhaps
10 they are -- they're suggesting that their approach to risk
11 management to don't put them, but what I'm saying is that
12 maybe other -- other solutions to brace and manage the
13 risks.
14 And I think today, later on this afternoon,
15 somebody will be testifying that -- I'm trying to remember
16 -- on the part of the organization or has some knowledge of
17 that organization as well. But my -- my position is not
18 that there shouldn't be anything down upon the water's
19 edge. I think our position is that we need to take a look
20 at some of these plans a little closer, and that there's --
21 there's a way to address that through risk management,
22 through either dredging, not dredging in protective areas.
23 I mean, the technology today is just fantastic, and there's
24 different ways you can address the problem.
25 COMMISSIONER: But to the extent of

1 this letter and writing campaign, it can be read on the one
2 hand, saying there should be an absolute prohibition of
3 that type of vessel there. The Coast Guard would not go
4 that far. We'd rather see the plans, assess the risks, and
5 then make a determination.
6 CAPTAIN MORANI: Well, what tells me
7 is -- you know, let me tell you, first of all, I just
8 didn't trash numbers, I looked at them. I mean, that's
9 part of the input that I consider when I'm formulating my
10 -- my response to the Corps of Engineers just as much as I
11 do when I hear from the Ice Committee. Now, what it says
12 to me is that there's more of a need, more of a
13 justification on we should go through this process that I
14 call risk management. That perhaps to addressing and
15 undertaking the risk management program that some of the
16 concerns that they've raised, hopefully will identified,
17 and there will be a response to it. There will be
18 management.
19 Now, I don't know. You can ask that -- that
20 group today or after reviewing risk management plans for
21 risk assessment, and I ask that that be submitted, whether
22 they are all of the opinion. You may get a different
23 answer. Whatever they're saying, hey, listen, don't just
24 commentarily issue a license. Think about certain things.
25 We've got a concern. Here's our concerns. Thank you very

1 much. And I hear them. I've read them. I'm listening to
2 them, and that's just another reason why I recommended to
3 the Corps of Engineers that some type of a risk assessment
4 be initiated.
5 COMMISSIONER: I believe in response
6 to some of the questions posed to you by Mr. Vowels and Mr.
7 Sundwick, the Coast evaluates not only your position with
8 the Ohio river with regard to the issues of traffic safety
9 and water safety?
10 CAPTAIN MORANI: Well, I there's
11 some jurisdiction also with the various state. We -- we
12 deal with waterways management issues. Let's put it this
13 way. That incident that we had last week, fortunately,
14 they removed the barges from that particular site, having
15 not done so then I would have ordered them to be removed.
16 So I can do that.
17 COMMISSIONER: What if there are
18 some state laws that conflict with the laws of the Coast
19 Guard, who should prevail?
20 CAPTAIN MORANI: I don't know. I'm
21 not aware, but -- sorry I can't answer that, but I'm going
22 to go out on a limb and make a wild guess and say probably
23 the Coast Guard. Is that the right answer? Are there any
24 lawyers here?
25 COMMISSIONER: To the extent that

1 any boundary problems can be eliminated between the states
2 of Kentucky and Indiana, that will alleviate a major
3 portion of the safety concerns of the Coast Guard in the
4 Evansville bend area? If the master didn't have to worry
5 about which state he was in, much like you say, the Coast
6 Guard is not concerned with the borders. Does that
7 alleviate certain safety concerns of cruising a riverboat?
8 CAPTAIN MORANI: Oh, I think it will
9 give the master more flexibility as to wherever he can go,
10 where she can go. You know, like I said before, that
11 boundary, as far as I'm concerned from a safety standpoint,
12 is it really doesn't exist. I mean, if the master needs to
13 go over into the Kentucky borders, from a safety
14 standpoint, and there's sufficient water for him to do
15 that, then I would hope that he would do it.
16 COMMISSIONER: Are you the primary
17 authority over the master's license?
18 CAPTAIN MORANI: Well, the owner has
19 probably more authority over his license than I do, but the
20 Coast Guard, right, we can. If we have problems with the
21 masters and we investigate and we've got problems from
22 either negligence or misconduct or violations of any laws
23 or regulations and so on and so forth, we can charge him or
24 we can take him before an administrative law judge to take
25 his license away. And the state can't do that.

1 COMMISSIONER: So at least from the
2 Coast Guard's point of view, you're going to be looking for
3 the master to operate his craft safely regardless of any
4 states lines?
5 CAPTAIN MORANI: Yes, but that's not
6 to say that we're also not concerned about management
7 practices. For example, in my opening -- my opening
8 remarks, I talked about the investigation that I was
9 involved in, and it doubled the fishing vessel in Alaska.
10 Well, during our investigation, we also look at company
11 practices, their procedures, their policies, because there
12 are a bunch of things that impact the masters decision
13 making process. The training programs, maintenance
14 programs. So I don't want you to think that we're just
15 interested in the master. If we've got some problems, you
16 know, I'll pick up the phone and I'll call management and
17 and we'll get an answer.
18 COMMISSIONER: But you're looking at
19 the vessel on the river and how it operates, in terms of
20 the company and the master?
21 CAPTAIN MORANI: Yes, sir.
22 COMMISSIONER: What about -- you've
23 participated, in fact, in the review of the proposed
24 excursion rule by this Commission?
25 CAPTAIN MORANI: I believe I have,

1 yes, sir.

2 COMMISSIONER: And you in fact gave

3 some input to the Commission Staff?

4 CAPTAIN MORANI: Yes.

5 COMMISSIONER: And did you find the

6 portion of the rule with regard to the intermediate or --

7 excuse me, limited excursion to increase the safety of

8 operations on the Ohio river?

9 CAPTAIN MORANI: I felt that it gave

10 a master much more flexibility. I think it gave him the

11 opportunity to manage risks, and if you can manage risks

12 then you can -- for example, that example I gave you

13 earlier about not being -- not getting underway because

14 perhaps they'll -- they'll be at a passing situation in a

15 narrow part of the channel. Well, to me, if the master can

16 say, I'm not getting underway, then he can still conduct

17 dismissal, and then I'd think he'd made the river safer.

18 COMMISSIONER: And you find that

19 such flexibility of a master generally makes the river

20 safer than what the state attempts to legislate to that

21 area?

22 CAPTAIN MORANI: Well, you know -- I

23 -- you know, when you say taking the discretions away from

24 the master, I think that you're taking -- and you want to

25 combine it with being able conduct business in taking the

1 discretion away. I mean, the master still can not get
2 underway if he doesn't want to. So if I answer yes, then
3 I'm -- and I'm probably getting involved in the master's
4 decision and whether he can still conduct business or not.
5 Certainly, if -- oh, I don't know. What would happen if he
6 didn't have that rule? I guess, you know, if he didn't
7 have that rule --
8 COMMISSIONER: From the Coast
9 Guard's point of view, if you give flexibility to the
10 master, assuming the company agrees with it as to whether
11 or not to get out of the way, as far as any type of
12 situation that you're willing to eliminate discretion.
13 CAPTAIN MORANI: I think it gives --
14 it gives him more flexibility, and it has to make things
15 safer.
16 COMMISSIONER: All right. Thank
17 you.
18 COMMISSIONER: I just have one other
19 question. Based on the answers you were giving to Mr.
20 Thar, we've been told that it's relatively easy to put a
21 boat in the water and run an operation successfully, but
22 you're talking about you look at the company and its
23 operations and the policies. Is it your -- I mean, what do
24 you think about that statement that anybody can put a boat
25 in the water?

1 CAPTAIN MORANI: We don't -- we
2 don't look at it ahead of time. You know, --
3 COMMISSIONER: But just -- just your
4 opinion that the case or the experience is important.
5 CAPTAIN MORANI: Well, we have
6 minimum -- we have minimum standards. We go down and we'll
7 inspect the vessel, and if it meets those standards, it
8 gets a certificate of inspection. We require that the
9 vessel be operated by a licensed master or has certain
10 qualifications, and then produce that particular person
11 with those qualifications and they meet our standards. And
12 another company can do the same thing, that's not to say
13 that one company is better than the other. Now, that's not
14 to say that over the lifetime of the operation of that
15 vessel there may not be some problems. For example, there
16 may be repairs to the vessel not being taken care of as
17 quickly as we would like, or certain things are occurring
18 that we kind of don't like.
19 Well, I'd probably spend a little more time
20 on the vessel. We'd -- we -- you know, from a risk
21 standpoint, we would say, well, we need to spend a little
22 more time on that vessel. And the Coast Guard overall is
23 looking at the concept of a model company where -- certain
24 programs that the company may have. They may have
25 self-inspections, self-safety programs, exercising the

1 crew, getting involved in disaster response drills. One
2 that would probably spend less time on that vessel than he
3 would somebody who's had some problems.
4 So, I mean, I'm not going to tell you that
5 based upon the presentations that I've seen would company
6 do I feel better with.
7 COMMISSIONER: I'm not asking you to
8 do that.
9 CAPTAIN MORANI: I know that they
10 can produce a vessel that gets its certificate.
11 COMMISSIONER: So then it would be
12 more like experience during the lifetime of that vessel --
13 CAPTAIN MORANI: Yes.
14 COMMISSIONER: -- that you would be
15 looking at.
16 CAPTAIN MORANI: Yes.
17 THE CHAIRMAN: Okay. That's all. I
18 want to thank you again for coming.
19 I guess we have the Corps of Engineers to
20 address us next. If you'll proceed. I appreciate you
21 coming. You didn't make the final agenda, but we're
22 certainly happy you're here. We welcome you.
23 MR. CRISTMAN: Chairman, members of
24 the Commission, my name is Bill Cristman. I'm the chief of
25 the regulatory for the district Corps of Engineers. I

1 have with me here today, on my left, immediate left, Mr.
2 Doug Sheldon. He's the section chief in the section who
3 will be processing the application for the group that you
4 ultimately give the original license to. On his left we
5 have the civil engineering section Ms. Divine, which will
6 be the project manager on that application, and on my far
7 left, Mr. Gary Cosine from the public defender's office.
8 I'd like to thank you by the way for giving
9 us an opportunity to address you today. As we indicated to
10 you in earlier meetings held up in Indianapolis, the Corp
11 of Engineers has jurisdiction under two sections of law for
12 work on the Ohio river, Section 10-8-99, which is the
13 Harbor's Act and Section 404 of the Clean Water Act.
14 All of the facilities that we heard described
15 here yesterday, both the permanent and temporary
16 facilities, would require permits from the Corp of
17 Engineers under both of those two sections of law. Captain
18 Morani has pretty effectively described the procedure that
19 you would have to go through in terms of putting out a
20 public notice, giving every federal and state local agency,
21 members of the public, everyone with a chance to comment,
22 and then in the end putting this together and making an
23 overall public interest decision.
24 I say public interest decision. We're
25 required to consider every factor which could impact on the

1 overall public interest, but we recognize from the very
2 beginning that particularly with regard to the Evansville
3 sites that navigation safety and the public safety were
4 going to be overwhelming concerns.
5 I believe every one of the potential
6 applicants, and I'm not just talking about these three that
7 everyone has been considering at any stage in the process,
8 has been here to talk to us. Very early on when we talked
9 in the application process the three that you have heard
10 described yesterday, they came in, they listened to our
11 concerns. Everyone of them made very significant
12 modifications in particular to the mooring arrangements
13 that they originally proposed, and the responsiveness I
14 think speaks very well for all of them because they
15 obviously addressed a great deal of concerns that we had
16 had and that various other people have had.
17 As you know, in April of last year, we signed
18 a letter of agreement with the Commissioner concerning
19 processing of requests of so that we weren't tripping over
20 each other, and we agreed that we would accept an
21 application only from whichever, and this doesn't apply of
22 course -- this was the Evansville site, but to any of the
23 sites within the Louisville district. We'll accept an
24 application for processing once the Commission had issued a
25 provisional license and made the preliminary decision.

As a part of that we informed the Commission or we agreed that whether there was competition with any given market, that prior to making that determination based on what we saw from the various applications, we could see a significant difference in processing times, and we would inform you of that before your decision.

Having looked over all of these at this time, both the temporary plans and the permanent plans, based on what we see or what we know of the temporary plans, admittingly in some cases where there hasn't been -- at least in one case where there hasn't been a final site selection, it's a little bit harder to say. But based on what we do know so far, we see no difference in terms of the temporary sites.

In terms of the permanent sites, we also see no difference, provided of course that there's no federal agency objection, I think it was the National Park Service or whatever, to the potential park conversion, and I understand that process just hasn't reached it's maturity yet, but it will apparently very shortly. Assuming that there is no problem in there, we see no difference in terms of procession times on any of the sites.

We will begin processing of the application just as soon as you make your determination. In the case -- in any case in which a temporary site has not selected,

1 then we will also contingent on -- on the applicant in
2 making a final determination on that. As we have told you
3 in the past, we expect the processing of the application,
4 which we prefer to process of course of the temporary and
5 permanent locations in one action. It would save time for
6 everybody.
7 We told you earlier that we expect that
8 process to take no more than six months, and I hope we're
9 being conservative. I hope it can be done in a
10 considerably shorter time than that based on all of the
11 work that's been done. I willing to commit to myself and
12 -- and the rest of the people here to do everything we can
13 to try and cut a few months off of that.
14 I brought the letter with me by the way that
15 -- giving this in a little bit more formal language, signed
16 by Colonel Grieco, who is the current commander of the
17 Louisville district, and we'll be submitting that for the
18 record.
19 Thank you for giving us a chance to address
20 you, and we're prepared to answer any questions you may
21 have.
22 (Letter copied into the
23 record as presentation by
24 the Department of the Army:)
25 "The purpose of this discussion is to outline

1 Department of the Army (DA) permit requirements as the
2 apply to the construction, mooring, and operation of
3 floating gambling casinos on the Ohio River in Evansville,
4 Vanderburgh County, Indiana. These requirements are
5 applicable to both temporary and permanent facilities.
6 "In accordance with Section 10 of the Rivers
7 and Harbors Act of 1899, a DA permit would be required for
8 the construction of any structure in or over the Ohio
9 River. The term "structure" as defined by the Code of
10 Federal Regulations includes and "pier, boat dock, boat
11 ramp, wharf, dolphin, weir, boom, breakwater, bulkhead,
12 revetment, riprap, jetty, artificial island, artificial
13 reef, permanent mooring structure, power transmission line,
14 permanently moored floating vessel, piling, aid to
15 navigation, or any other obstacle or obstruction."
16 "Additionally, any activity which requires
17 the placement of dredged or fill material into the Ohio
18 River would require a DA permit in accordance with Section
19 404 of the Clean Water Act. Under both of these two Acts,
20 jurisdiction begins at the Ordinary High Water elevation
21 and extends riverward. However, if any part of a project
22 requires authorization, the entire project is generally
23 brought under public review.
24 "Based upon the information submitted to me
25 by the three applicants, I have determined that each would

1 require authorization in accordance with both of the
2 above-mentioned laws. Furthermore, I have determined that
3 no proposal has an advantage in processing times over any
4 other proposal based upon the construction methods or
5 proposed temporary or permanent facility sites. I expect
6 that it may take approximately six months from the issuance
7 of a Public Notice until a permit decision can be made.
8 "In accordance with the April 1994 Letter of
9 Agreement between the Indiana Gaming Commission and the
10 Louisville District of the Corps of Engineers, I will begin
11 processing the Provisional Licensee's application upon
12 submittal of a completed application. I will inform the
13 applicant and the Indiana Gaming Commission of my decision
14 on the issuance or denial of the required Department of the
15 Army permit as expeditiously as possible.
16 "Thank you for allowing my Regulatory staff
17 to make this presentation on my behalf. They are available
18 to answer your questions.
19 "Ralph Grieco, Colonel, Corps of Engineers,
20 Commander and District Engineer."
21 MR. CHAIRMAN: Well, again, thank
22 you for coming. Does anyone have any questions of the
23 Corp.
24
25

QUESTIONS AND ANSWERS SESSION

COMMISSIONER: This is a pretty quick one. Two of the plans talk of cutting into the shoreline. Is that a particular concern or is that a normal procedure? And one is quite a cut.

MR. CRISTMAN: We don't see -- it is the common procedure for certain types of facilities, and as a matter of fact, that was the case I believe primarily on our recommendation out at the preapplication process. We were in effect telling everybody that came in that we were going to be on the outside of Evansville bend, of your facility to include the boat protruding beyond what is now the riverbank, you're chances of getting a permit were very, very, very, very limited.

I believe virtually everybody that came in, and Mr. Sheldon can correct me here. He is the one that was involved in directing the gamings, virtually everyone that came in originally had to go somewhere that had a reference, and we were finding nice buraeucratic ways to tell them that that wasn't never going to fly.

MR. CHAIRMAN: Well, Mr. Thar.

COMMISSIONER: You indicated that you have received plans for possible temporary sites from some of the applicants here?

1 MR. CRISTMAN: Yes. Yes, sir, we
2 have. And we've even discussed the temporary sites I
3 believe with all of them. I believe two of the three --
4 one -- one of the three has given us actual plans. The
5 second one has told us precisely where it will be but
6 hasn't yet provided the plans, which for all we know, they
7 have, and would be willing to provide as soon as they're
8 selected. I don't know. A third is still looking at
9 alternate sites here. And I guess for all we know, they
10 might have in mind of what they're temporary site will be,
11 but they haven't narrowed it down to something like three
12 or four places.
13 COMMISSIONER: Are you at liberty
14 to tell us which applicant has submitted the plan, which
15 one is about ready to, and which one hasn't yet narrowed it
16 down?
17 MR. CRISTMAN: I'm at liberty, but
18 I'm afraid of making mistakes so I'm going to have Ms.
19 Divine answer that question.
20 MS. DIVINE: Players is the one who
21 has already submitted their temporary plan. Evansville
22 Landing, they have just talked about it. Aztar, they
23 really haven't told us what their final temporary site will
24 be. Just here at the meeting they mentioned and ATMS on --
25 there at Pigeon Creek. So we don't have any plans from

them either.

COMMISSIONER: Has Aztar mentioned that temporary site before this year prior to the hearing?

MS. DIVINE: No.

COMMISSIONER: Thank you. That's all.

MR. CHAIRMAN: Okay. I guess that's all. Thank you again, all of you, for coming, and I appreciate it and we appreciate your working with the Commission. That makes us feel that what we're doing is worthwhile.

(Thereupon, a break was taken; after which, the proceedings continued as follows:)

We'll return then and proceed with the rest of the agenda. We're again running behind, but that's our own fault. Thank you. We have a small clarification of one of the questions that was asked a few minutes ago. You may proceed.

MR. CRISTMAN: Yes. This is Bill Cristman with the Corp of Engineers again. I was asked to correct a kind of misconception I might have left with regard to temporary mooring sights, particularly by Aztar. I said that we had plans on hand from Players but not from

1 Aztar. They had contacted the chief of operations about a
2 month ago and were prepared to submit plans, and because
3 we're waiting on your process, we have told them to go
4 ahead and hold them. In any event, anybody who has their
5 plans ready to submit, whether they give them to us now or
6 give them to us an hour from now or if it's an hour, it's
7 not a critical time frame. I don't -- just provided that
8 the potential applicant does have good plans in order and
9 ready to go, whether they're holding them or we're holding
10 them makes not difference with regard to time.
11 MR. CHAIRMAN: As you explained it,
12 you're not going to go to work on them until we do our
13 thing.
14 MR. CRISTMAN: We are not going to
15 touch any of them until we hear which one you selected to
16 give the provisional license.
17 MR. CHAIRMAN: Okay.
18 MR. CRISTMAN: Thank you, sir.
19 MR. CHAIRMAN: Thank you very much.
20 All right. On the agenda now is Mr. Boyd here, and we will
21 move into Aztar's --
22 MR. BOYD: Thank you, Mr. Chairman.
23 I'm Jay Boyd from the law firm of McCullin & Welch. Our
24 firm and the Evansville firm who represents the Aztar
25 corporation, we have submitted to the Commission, and I

1 hope all of you Commissioners have copies of the binder
2 with these letters of endorsement of the nine different
3 organizations with with Aztar has business relationships
4 are included. Among these letters are letters from the
5 president of the National City Bank of Evansville, from
6 Industrial Contracter, Inc., of Evansville and Jeff Boat
7 from Jeffersonville, Indiana which will be constructing our
8 boat.
9 In addition a copy of the letter from City
10 Sports, Inc., which is a local minority owned firm. Here
11 to speak to you this morning we have three individuals with
12 whom Aztar does not have a business relationship. The
13 first of those is Mr. Bill Kelley. Bill if the executive
14 vice president of Old National Bank in Evansville. He's
15 the past president of the Center City Corporation and will
16 be speaking on behalf of this organization. Bill.
17 MR. KELLEY: Thank you, Jay.
18 Members of the Commission, as Jay said, my name is Bill
19 Kelley. I'm the executive vice president of Old National
20 Bank. I am the immediate past president for Center City
21 Corporation, having served from 1992 to 1994 and have been
22 on the board of directors for five years.
23 I feel privileged to speak on behalf of Aztar
24 Corporation today. The reason being the following people
25 also wish to speak on behalf of Aztar, but time constraints

1 would not allow them. I would like to take a moment to
2 share those names with you, some of which have been
3 mentioned: Tom Osmand, National City Bank; Carol Smith,
4 City Sports, a minority business owner; Steve Milfred,
5 president of the Evansville City Council; Mayor Davis from
6 Curuthersville, Missouri; the Reverend W.R. Brown, Senior,
7 minister of the New Hope Baptist Church; Jack McNeally,
8 president of the Building Trades Council of the Lower Ohio
9 Valley; and last but not least, Howard Igrims, owner of De
10 Jong's, a local department store and also president of the
11 Evansville Redevelopment Commission.
12 Center City Corp is a non-profit organization
13 incorporated in June of '94. This organization was formed
14 as the direct result of the 1984 Downtown Master Plan,
15 which uncovered the need for an independent organization to
16 spearhead the Evansville downtown revitalization process.
17 Evansville, through Center City Corp, is an Indiana Main
18 Street community. The Indiana Main Street program is the
19 division of the Indiana Department of Commerce, and we
20 follow their four-point approach.
21 Center City coordinates programs and projects
22 that encourage people to work, live and play in downtown
23 Evansville. From cultural arts and entertainment programs
24 to business development to design and review, we fulfill
25 our mission of bringing businesses and people to the heart

1 of the city while preserving it's historic character.
2 Over the past three years, several community
3 organizations, including the Convention and Visitor's
4 Bureau, the Chamber of Commerce, have worked toward --
5 together to give the citizens of Evansville and to
6 Vanderburgh County the opportunity to decide for ourselves
7 whether to license riverboat gambling.
8 Center City realized the tremendous economic
9 development potential this type of entertainment can have
10 on our downtown. We strongly believe riverboat gaming will
11 greatly increase overall activity downtown and produce the
12 economic and cultural development Evansville needs. For
13 this reason, Center City organized the YES Committee. The
14 committee was organized, passed into the referendum to
15 allow riverboat gaming in Evansville. Our board of
16 directors voted to take the leading role in this
17 revitalization opportunity because of the substantial
18 economic development and benefits that will occur.
19 We realize that a riverboat is not the big
20 fix. Because the downtown issues are complicated and they
21 do take a long time with many solutions, no one project
22 will revitalize the area. We have visited communities with
23 riverboats, and have found many of the downtowns have
24 actually not developed as expected. Because of this, it is
25 vital that the riverboat company make a strong effort with

1 the existing downtown businesses and the joint marketing
2 promotional effort that will encourage total downtown
3 development.
4 Because of the tremendous importance of this
5 decision, the Center City monitors the riverboat selection
6 process continually. I personally sat on the Selection
7 Committee along with four other Center City board members.
8 I too have spent countless hours listening to proposals,
9 debating the issues and questioning the riverboat
10 operators.
11 We ask the Indiana Gaming Commission to
12 accept the Selection Committee's recommendation of Aztar
13 Corporation as the Evansville riverboat operator. In fact,
14 on August 31, 1994, Center City Corporation's board of
15 directors endorsed Evansville's riverboat gaming selection
16 because we felt the process was fair and very
17 comprehensive. We have met many times with Aztar to
18 discuss what will be our goals, objectives, mission and
19 vision for the downtown, and what the successful
20 integration with a riverboat in downtown communities should
21 be like.
22 We believe Aztar is and will be a partner in
23 sync with our goals and objectives and will be a catalyst
24 for further downtown development. Thank you members.
25 MR. CHAIRMAN: Thank you.

1 MR. BOYD: Our second speaker is
2 Mr. Pat Tulley. Pat is associated with the advertising and
3 public relations firm of Oswald & Associates in Evansville.
4 We're using another firm for our public relations and
5 advertising functions. Pat is the vice president of the
6 Vanderburgh County Commissioners. He's a life-long
7 resident of the city of Evansville.
8 MR. TULLEY: Thank you, Jay.
9 Members of the Commission, as you heard, my name is Pat
10 Tulley. I was elected to the office of Vanderburgh County
11 Commissioner in November of 1992. I currently serve as the
12 vice president for the board of commissioners. During
13 1994, I was president of that same board. Prior to that, I
14 served eight years as treasurer of Vanderburgh County.
15 Last year I was fortunate to be one of the few county
16 elected officials to serve on the Mayor -- I'm sorry, to
17 serve on Mayor McDonald's Riverboat Evaluation Committee.
18 As a former county treasurer, I was impressed
19 with Aztar's financial package to propose investment of
20 some $99.83 million for the riverboat, pavilion, hotel and
21 parking garage it submitted. Equally impressive is the
22 fact that Aztar has in place a $110 million credit facility
23 from the Bank of America to finance this project.
24 In addition to the financial strengths of the
25 Aztar proposal, the strengths and the springs of it's

1 management team is another plus. With over 15 years of
2 experience in the gaming business with Trop World,
3 Tropicana and Ramada Express and even longer experience in
4 the hospitality industry. Aztar brings substantial gaming
5 and hospitality experience to Evansville.
6 As a member of the board of commissions, the
7 local government body responsible for overseeing
8 Vanderburgh County's various public facilties, I am pleased
9 with Aztar's commitment to provide funding for a variety of
10 community projects. Two of the 12 projects in which Aztar
11 has placed funds include the Vanderburgh Auditorium and
12 Burdette Park, both of which are county-owned facilities.
13 Vanderburgh Auditorium is in need of a major refurbishing
14 and upgrading. With the admin of riverboat gambling in
15 Evansville, it is likely to see greater utilization by
16 conventions and entertainment business which will make it,
17 refurbishing that much more employment.
18 Aztar's plan that $250,000 per year for the
19 first three years of gaming operation will certainly assist
20 the effort. Likewise, Burdette Park is earmarked to
21 receive $100,000 within 30 days of the started gaming
22 operation. Burdette Park is the only county-owned park in
23 which experience would increase usage as riverboat gaming
24 attracts over a million visitors to our area annually.
25 Aztar proposed monthly plan will address not

1 only it's own facilities, but also propose to promote a
2 number of special events in the downtown area, including
3 those at the Vanderburgh Auditorium and at the Victory
4 Theater. Aztar has also pledged to work with other
5 conventions and tourism groups to promote sites and
6 opportunities to the entire area.
7 Aztar has proposed a quality development that
8 will compliment the riverboat development that has occurred
9 in recent years. The plan, as it is proposed, is also the
10 system with the community's development goals as stated in
11 the request of proposals on which their plan is based. The
12 location of the Aztar development, including the proposed
13 hotel, which will provide the city of Evansville and
14 Vanderburgh County with a new front door for our community.
15 The pavilion, the hotel and the physical improvements to
16 the Riverfront Park will create a high quality, first-class
17 venue for new businesses that will encourage people to
18 visit and make it part of the community.
19 In picking this location, Aztar has ensured
20 that's it's development will not intrude or adversely
21 affect the residential areas that is surrounding, including
22 the city's historic district. The site is accessible by
23 the city's main thoroughfares, and as such, will not burden
24 residential areas with existing traffic and noise.
25 As an elected official representing

1 Vanderburgh County on the Mayor's Riverboat Evaluation
2 Committee, Aztar was my first choice. Aztar's project
3 offers a good economic return to the city, the county and
4 the state. If offers the best physical development for the
5 city, and Aztar has the management and financial strength
6 to sustain a successful operation.
7 Thank you for allowing me to speak.
8 MR. CHAIRMAN: Thank you. Jay,
9 we've got the honors system because I forgot to look at my
10 watch.
11 MR. BOYD: We're -- we're finished.
12 And we're going to be clear inside 15 minutes.
13 MR. CHAIRMAN: Okay. Thank you
14 very much. All right. The next Jeff Cohen for the
15 Evansville Landing public endorsements.
16 MR. COHEN: Good afternoon,
17 Commissioners. My name is Jeff Cohen and I'm co-counsel to
18 Evansville Landing. I'd like to introduce Ed Cummings,
19 counsel to Green Construction, the owner's of the Executive
20 Inn.
21 MR. CUMMINGS: Hello. My name is
22 Ed Cummings. I'm an attorney from Vincennes, Indiana, and
23 I'm an attorney for Green Construction of Indiana. Green
24 owns the Executive Inn, the parking garage, the convention
25 facilities which is just up the street from here.

1 I'm here to emphatically support the
2 application of Evansville Landing. Evansville Landing has
3 entered into an option agreement with Green Construction to
4 buy these properties. The agreement is contingent upon
5 their receiving the gaming license. If it is granted the
6 license, Evansville Landing intends to make an
7 extraordinary renovation effort and create a Hyatt Hotel
8 complex which will make this property not only the hub of
9 downtown Evansville but a focal point for the entire
10 region.
11 Unfortunately, if it does not get the
12 license, we think this is the last and only hope for the
13 property that Green Construction owns. As I will explain
14 to you, so I that I have you believe if Evansville Landing
15 does not get the license, we will be forced to close the
16 doors of the Evansville Executive Inn. This will be a
17 tragedy, not only for Green, but we think also for the city
18 of Evansville.
19 Let me explain how we got into the
20 circumstance. Robert E. Green acquired the former Ramada
21 Inn in 1968 at a time when the owners were in the legal
22 dispute as to whether the property should go into
23 bankruptcy. This property and properties in Terre Haute
24 and Vincennes and other properties in Indianapolis were all
25 part of the Ramada and Builder's Realty at that time.

1 Mr. Green purchased the property. Over the
2 years he acquired many properties building the parking
3 garage with athletic facilities, a large convention center,
4 so it now consists of the three city blocks that you're
5 familiar with. He did this to draw people t downtown
6 Evansville. Unfortunately, by the late 1980s, the downtown
7 Evansville market had deteriorated.
8 The occupancy had dropped steadily. During
9 this time it was clear that significant renovations must be
10 undertaken immediately. It was not such clear -- it was
11 not so clear, however, that such expenditures would be able
12 to turn around the occupancy rates enough to offset the
13 larger cost of renovation. In 1990 Mr. Green had contacts
14 with the parties that expressed an interest in purchasing
15 the Evansville Executive Inn. We prepared an initial
16 proposals, but nothing developed. As I continued to
17 realized there are a number of people who will contact us
18 expressing an interest in the hotel and talking a very good
19 talk, but would have no financing to go with it whatsoever
20 to purchase such a large operation.
21 Much time has taken in talking to these
22 people and finding out about them, even though as we
23 eventually learn, they do not have resources to buy the
24 property. Mr. Green died in December of 1991. We hired an
25 individual from Indianapolis familiar with hotels and asked

1 him to appraise the hotel properties which we owned, which
2 included Owensboro, Kentucky and Vincennes, Indiana.
3 He did that and his analysis of the
4 Evansville hotel was as follows. He told us that the hotel
5 market in downtown Evansville was diminishing, but the new
6 hotels and motels would be built on the east side, on 164
7 particularly, and they have good occupancy rates. He said
8 that our hotel would need significant renovation expenses,
9 but will be extraordinarily difficult to increase room
10 costs sufficient to offset the added -- to offset the added
11 charges that we would need to include if undertake such
12 renovation effort. He said in fact that increased room
13 rated might further diminish our traffic.
14 In the Spring of 1992, after Mr. Green's
15 death, his family met and discussed the condition of Green
16 Construction and the need to liquidate various corporate
17 assets. The Evansville Executive Inn was given a priority
18 position, since it at that time and continues, was losing
19 the most money.
20 Let me summarize the attempts that have been
21 made to see the Executive Inn since our meeting about two
22 and a half years ago. From that date forward, we have
23 attempted to follow-up every legitimate inquiry. And I
24 challenge the Mayor, Mr. Dunn or anyone else to show us
25 that we have not followed up every legitimate inquiry.

1 We've talked to realtors and management companies for other
2 hotels. We have sent information to brokers and
3 prospective purchasers. We've entered listing agreements
4 with brokers. We have provided interested parties with
5 financial data, the opportunity to talk with our personnel
6 and perform due diligent investigations.
7 We have drafted agreements and negotiated
8 terms with a large number of people and entered into option
9 agreements with three different entities. When we first
10 learned that the gaming license was going to be awarded to
11 a licensee in Evansville, we knew this had a potential to
12 boost the property values of the downtown. However, when
13 the Mayor's committee evaluated prospective gaming
14 licensees, made clear their desire for a new hotel for many
15 prospective licensees. The effect was devastating on the
16 Evansville Executive Inn.
17 Obviously, any new hotel subsidized by the
18 proceeds of riverboat gambling will further diminish the
19 downtown market for the Executive Inn, and a number of
20 persons we have talked to during this time period from '92
21 the present have indicated this to us and indicated that
22 that effects how they view our property. Even though we
23 placed the priority on selling the Evansville Executive
24 Inn, it's only problem, owned by Green Construction, other
25 than the Owensboro that we have not sold, and we have the

first assets including the airport, jet airplane with the reach of the Executive Inn, improved property, unimproved property, our home office, all of that has been such.

From 1992 to 1994 the Evansville Executive Inn has lost over $3.6 million. It continues to lose now. I assure you the fact that it has not sold is not due to lack of effort on our part. I think our feelings with the Evansville Landing people and others from 1994 on were of the problems which Green has encountered in attempting to sell the Evansville Executive Inn. By 1994 a number of parties had expressed general interests in the Evansville Executive Inn property. Early in 1994 an option to sign with Players International, but it was not exercised.

By early summer we had four prospects, two that we knew to be commercially, which would we knew to be financially solvent and sound and the other two that we knew very little about. One of the financially solvent groups was Evansville Landing. We met with their people in June and they made a proposal to us, and the proposal was to purchase a one-half interest in the hotel and to provide money for a complete renovation. They submitted us a written proposal in early July.

After our initial meeting with the Evansville Landing people, it was our opinion that they offered us the best possibility for making the hotel the kind of property

1 and kind of management in which Mr. Green had envisioned.
2 We felt that they were honorable people, who were
3 intelligent and they knew that the Evansville market had a
4 potential for the hotel as much as we did.
5 However, Evansville Landing wanted the
6 agreement with them to be contingent upon they're being
7 awarded the gaming license. It was their feeling that the
8 license and the hotel and the renovation project, which it
9 needed, cannot be justified without the gambling license,
10 getting the license. We rejected that proposal in July.
11 We did this reluctantly, but with the belief that we cannot
12 enter into an agreement contingent on they're getting the
13 gaming license, that there was a possibility that anyone
14 else was out there that we could enter into, a purchaser.
15 So we went back to the other companies, and
16 by this time, the other one that appeared to be financially
17 solvent dropped out, so we were left with two companies,
18 whom we knew very limited. We asked both of them to
19 provide us an option with earnest money, they refused. We
20 ended up negotiating the Second Capital Corporation because
21 one of the potential investors in that company was strong
22 financially.
23 We entered into a 45 day option agreement
24 with them with no money down. At the end of the 45 days
25 they would pass a hundred thousand dollars to exercise the

1 option. After that 45 -- or just prior to the 45 days
2 elapsing they came back to us and they wanted to change the
3 terms. They wanted now to have the right, if they put the
4 hundred thousand up, to withdraw it at their sole
5 discretion if they felt the finance would not be
6 forthcoming.
7 We knew that by doing this we basically gave
8 them an absolute right to get out of the agreement. We
9 were reluctant to do it, but thought that was our only
10 opportunity. We accepted it, and by November 1, they
11 backed out. They did write us saying they could not get
12 financing for the project.
13 Even though they backed out, one of the
14 principals, Arnold Akoniac, indicated he was still
15 interested in the property. We indicated to him that we
16 would consider a new agreement if he could come up with
17 sufficient earnest money and he can show us proper finance.
18 Neither was forthcoming.
19 We went back to Evansville Landing. They
20 negotiated the option agreement that has been submitted to
21 you. Now we are no longer partners. Now we are out. We
22 are selling out completely to them if they receive the
23 gaming license. Again, the sale's only contingent on that
24 condition.
25 During the time we've been attempting to

1 market the hotel and the related properties, our bank and
2 land order, which owns a portion of the property on which
3 the Executive Inn is located, are cooperating with us, even
4 though we're delinquent in our payments. They've done this
5 I think because they know we're taking every step, we're
6 trying to follow every lead to see the property.
7 We think we have done everything we can do to
8 try to get a responsible purchaser to purchase the property
9 so we can honor our obligations to our creditors and try to
10 turn this property over to an entity who would make this
11 property into which Mr. Green invisioned many years ago.
12 We think the Evansville Landing people are just the ones to
13 do this. We think that the property can be used by them to
14 strengthen the downtown Evansville, and it will be able to
15 impact the riverboat gambling.
16 We think they could bring to Evansville by
17 their commitment as compared with a significant loss for
18 the downtown if this property is not utilized. Thank you.
19 I have written comments if you'd like them that can be
20 submitted to you as part of your reference.
21 MR. CHAIRMAN: Yes. Thank you.
22 MR. COHEN: I'd like to now
23 introduce our final speaker, Sid Taylor, president of the
24 Evansville Chapter of the NAACP.
25 MR. CHAIRMAN: You're sort of

1 running out of time, but we'll hear this gentleman.
2 Welcome.
3 MR. TAYLOR: How much time do I
4 have gentlemen, ladies and gentlemen.
5 MR. CHAIRMAN: Well, I'd say -- I'd
6 say you have two minutes.
7 MR. TAYLOR: Two minutes?
8 MR. CHAIRMAN: Yeah.
9 MR. TAYLOR: I'll try.
10 MR. CHAIRMAN: I don't think you
11 can say anything in that.
12 MR. TAYLOR: Okay.
13 MR. CHAIRMAN: We'd just like to
14 move along.
15 MR. TAYLOR: Okay. Good afternoon,
16 Commissioners. My name is Sidney Taylor, president of the
17 Evansville Chapter of the NAACP. I am a 25-year employee
18 of Alcoa Aluminum in Warrick County, Indiana, a member of
19 at least five non-profit boards of our community,
20 Evansville. The reason I am here today is to support
21 Evansville Landing, not to discredit Aztar or Players.
22 As an NAACP member that have attended most
23 national and regional conventions, I am aware of the fact
24 that Hyatt Hotels have an excellent record of hiring and
25 promoting African-Americans. This is one reason the NAACP

1 has used Hyatt Hotels as the headquarter hotel in such
2 cities as Dallas, Houston, Baltimore, Chicago and
3 Indianapolis. Within the next week or so, they will have a
4 regional NAACP work fare in Detroit at the Hyatt Regency.
5 During hard economic times in Flint, Michigan
6 in the late 1980s, soon after I saw the movie, "Roger And
7 Me," a movie about General Motors closing an auto plant and
8 employees moving everything they own, I attended a
9 conference in Flint at the Hyatt, and they were still
10 struggling to survive even though many of the business were
11 bankrupt, shut down and boarded up. That's when I gained
12 respect for Hyatt Hotels. They say to me that they were in
13 it for not only profit, but for the community.
14 I'm familiar with the Melvin Simon and
15 Associates due to the fact that I travel to Indianapolis
16 quite often to attend Indiana Pacers games in Market Square
17 Arena and to other activities. Last year I was in
18 attendance at Cloone's Hall at Buckman University to see
19 the Dance Theater of Harlem. The first time the Dance
20 Theater of Harlem has been in Indiana in it's 25-year
21 history. It was underwritten in part by Melvin Simon and
22 Associates. I am also aware that they helped Indiana Black
23 Expos pay off a $500,000 mortgage on their new offices in
24 two years on North Meridian Street.
25 With their building of Center City Mall in

1 downtown Indianapolis and a planned shopping mall on the
2 east side of Evansville that they've already got properties
3 on, it's evident when they go into a project they are there
4 to do what is right in the long term. It would be nice if
5 the Executive Inn could be saved, making convention and
6 business return to Evansville and have a casino boat as an
7 added prop.
8 For this reason, I support Evansville
9 Landing. Thank you.
10 MR. CHAIRMAN: Thank you.
11 MR. COHEN: Thank you for listening
12 to our endorsements.
13 MR. CHAIRMAN: And now we'll
14 recognize John Barnett on behalf of Players for their
15 public endorsements.
16 MR. BARNETT: Thank you, Mr.
17 Chairman and members of the Commission, Mr. Thar and
18 Commission staff, we are happy this afternoon to present to
19 you Tell City Mayor, Bill Bill Goffinet,
20 MAYOR GOFFINET: Thank you, John.
21 Members of the Commission, my remarks will be very brief.
22 I want to allow you plenty of time this evening to visit
23 the fine community of Tell City as you leave for your
24 respective homes because we'll be before this Commission in
25 the next few weeks presenting our story.

1 As John said, I'm Bill Goffinet. I'm the
2 mayor of Tell City. I've held that position since January
3 1, 1988. I want to thank you for the opportunity to appear
4 here this afternoon on behalf of Players International's
5 application to locate a riverboat in downtown Evansville,
6 Indiana.
7 One of the intents of the gaming of law, as I
8 understand the law, is to enhance long-term economic growth
9 and development in the city and the surrounding area in re
10 where the boat would be located. Players International has
11 taken this very seriously in their application and in
12 consideration of putting their entire package together.
13 Players has reached a contractual agreement with the
14 Kornallen Shipyard to build at a cost of in excess of $11
15 million a riverboat that would be located here in the city
16 of Evansville.
17 Kornallen Shipyard is located 11 miles down
18 river in Tell City, Indiana in Spencer County. Currently,
19 Kornallen employs over 50 people, many of which live and
20 reside in Tell City and the surrounding area. They are a
21 very desirable, high-paying quality jobs. Kornallen's
22 owners will be able to draw from a high-scaled work force
23 due to the high unemployment that currently exists in the
24 Perry County area.
25 We traditionally rank in the top five in

1 unemployment in this state, at a stat that we're not
2 entirely proud of, but one what we've inherited over the
3 years. The selection of Players International for the
4 Evansville site will afford the opportunity for Kornallen
5 to expand -- expand it's already growing facility.
6 Kornallen will need to hire new employees and will need to
7 utilize a broad base of skilled craftsmans in the fields of
8 electrical, plumbing, heating, air-conditioning and various
9 others -- other crafts from around the Southern Indiana
10 area.
11 It will also afford Kornallen the opportunity
12 to become a viable alternative for the building of
13 additional riverboats up and down the Ohio and Mississippi
14 rivers, thus adding a positive, long-term economic affect
15 on the Southern Indiana area.
16 I thank you for allowing me to speak, and I
17 told you it would be short. Thank you very much.
18 MR. CHAIRMAN: Thank you, Mayor.
19 MR. BARNETT: Thank you, Mayor
20 Goffinet. You'll all, at some point in time, have an
21 opportunity to accept his hospitality, as you know on down
22 the -- on down the river here. They pass this, and they'll
23 have a chance to be in Perry County some time soon, I'm
24 sure he hopes. In the meantime, we bring to this area an
25 opportunity for economic development.

1 Mr. Chairman, I would at this point in time
2 like to read what amounts to an endorsement, and in part a
3 clarification. This is from the Evansville Freedom
4 Festival, which is the group that operated the Thunder on
5 the Ohio. And it is a letter from their executive
6 director, Jane Theurbach, and I will read it in part and
7 then submit it for the record.
8 MR. CHAIRMAN: That's fine.
9 (Letter copied into the record
10 as presentation by the
11 Evansville Freedom
12 Festival Committee:)
13 "TO: Indiana Gaming Commission
14 "DATE: April 8, 1994
15 "RE: Players Riverboat Casino
16 "Dear Commission Members:
17 "The Evansville Freedom Festival stages the
18 largest event that's held on the Evansville riverfront --
19 the Thunder on the Ohio Unlimited hydroplane races. Over
20 100,000 people from over 30 states attend this four-day
21 even held annually the last week of June; 32 percent of our
22 attendees travel over 100 miles. In addition, we promote
23 and stage over 45 other events that draw an additional
24 250,000 attendees, and most of these are also in the
25 Downtown area or at the riverfront.

1 "We are writing to share with you our
2 feelings regarding the plan presented by Players Riverboat
3 Casino for a permanent riverboat facility, hotel and
4 skywalk in Evansville. We feel the plan is exciting and
5 very viable and, although some changes in our launching
6 procedures, temporary grandstands, and VIP viewing areas
7 will be required, we feel the new construction will, in
8 fact, provide enhanced facilities to accommodate our needs
9 and, more importantly, the interests of the Festival's
10 participants. We look forward to the opportunity to work
11 with them.
12 "If you have any questions, please feel free
13 to call and we would be pleased to respond.
14 "Sincerely,
15 "Jan Theurbach
16 "Executive Director
17 "JLT/jbp"
18 MR. BARNETT: And we believe local
19 endorsements and local involvement are very important, Mr.
20 Chairman, which is why we have dwelled upon this at great
21 length in our presentation yesterday, and we have no
22 further witnesses at this point in time, and we'll yield
23 our remaining time to the lunch hour, if that's okay.
24 MR. CHAIRMAN: Thank you. Well,
25 that brings us abruptly to lunch.

1 (Thereupon, a luncheon break
2 was taken at approximately
3 1:00 p.m.; after which, the
4 proceedings continued
5 as follows:)
6 Mr. Thar, would you want to read
7 into the record the material that we've received from
8 Evansville Landing. And this concerns the question of the
9 Ellis Park Corporation.
10 COMMISSIONER: Tendered to the
11 Commission staff -- we have tendered to the Commission
12 staff the following statement from Evansville Landing.
13 During the initial five year term of Evansville Landing's
14 owner's license and any subsequent early renewal for such
15 license for the initial five years, Evansville Landing
16 agrees that neither it nor its general partners nor the
17 affiliates or subsidiaries shall directly or indirectly or
18 lobbyist support any efforts to pass any gaming legislation
19 in the Commonwealth of Kentucky nor to engage in the
20 business of gaming, including the submission of any
21 application within 75 miles of the City of Evansville,
22 Indiana.
23 Is that a correct rendition of your statement?
24 Okay. And this is an agreement that -- go
25 ahead.

1 MR. HARRINGTON: This is an
2 agreement that casino gaming doesn't include thoroughbred
3 gaming. We don't -- it wouldn't preclude Ellis from
4 continuing operation.
5 MR. CHAIRMAN: You're talking about
6 the II?
7 MR. AZARK: In that paragraph, it
8 did say 'I', it does say casino. The word casino just
9 doesn't happen to be in the II.
10 MR. AZARK: Just so we have that
11 clarification, Mr. Chairman.
12 MR. CHAIRMAN: The casino goes in
13 II?
14 MR. AZARK: And II in casino
15 gaming.
16 MR. CHAIRMAN: Okay. And that
17 bothers me a little bit because then we have the question
18 would you get a riverboat at Ellis Park if that --
19 MR. PRITZKER: We'll stipulate for
20 the record that we're talking only about -- we're talking
21 only about casino gaming of any form, including only
22 thoroughbred racing, parimutuel.
23 COMMISSIONER: Is that -- I want to
24 be very clear about your position. Ellis Park is not going
25 to be shut down.

MR. PRITZKER: Ellis Park is not going to shut down, the operation. We're not going to open a riverboat or any other kind of casino gaming at Ellis Park.

MR. CHAIRMAN: Well, we'll accept it as what it purports to be and if you want to resubmit the correct language that would be fine too, but we understand, I think where we're going and where we are.

MR. CHAIRMAN: All right. We'll go forward then with questions to any of the applicants or the City and from any Commission members.

COMMISSIONER: I'll start, and the question is for Players and Evansville Landing.

QUESTIONS AND ANSWERS SESSION

COMMISSIONER: There was a statement this morning I think that -- from the ability to finance that you'd proposed to use cash, but perhaps you no longer have that cash. Could you clarify your position as to how you would finance this?

MR. PRITZKER: Commissioner, I'm Steven Pritzker from Players. That's one of the items on my list of things I want to try to say this afternoon, so thank you very much.

1 Our original proposal to the City was that we
2 would pay cash and that we had the cash on hand. Further
3 in evidence of that we offered to post $30 million of that
4 cash into an Evansville bank on the condition of the City's
5 endorsement in order simply to show that we were serious
6 and that we would make that sum of money available on
7 deposit against your obligation.
8 Then at sometime I believe late in the City's
9 evaluation process -- I believe it was in June or so, I'm
10 not certain of the date -- we got involved in another
11 project in Nevada in which we're presently building. And
12 in order not to allow any possible misinterpretation, we
13 wrote a letter that simply advised the City that we were
14 doing that, because we did not want them to read it in the
15 newspaper and consider that it in any way initiated the
16 obligation we had with them.
17 In fact, what we said then and what we say
18 now about that obligation and the one in Nevada, the
19 facility is being built out of cash. We have the same cash
20 balance today that we had when we made that. In fact, we
21 have more than we had made the commitment to the City. We
22 still have enough money in cash to build this entire
23 facility out of cash. We also have as you've seen in the
24 book or you will see in the book when you look at it in
25 addition to which we didn't have at the time in light of

1 that to make a commitment.

2 This project, assuming we get the license,

3 will be funded either out of present cash or out of

4 proceeds from the line of credit which are available. So,

5 in essence, we're only in a stronger position today with

6 respect to make that commitment than we were when we made

7 it.

8 Furthermore, we are still prepared -- we told

9 it to the City before, we'll tell the City now. If it's

10 important to the Commission to have some concrete steps

11 with respect to that, we'll make the same commitment to the

12 Commission that we made to the City. In fact, if the

13 Commission sees fit to issue the certificate, we will

14 within ten days transfer $30 million into an Evansville

15 financial institution against the start of our obligation

16 for the boat.

17 COMMISSIONER: Thank you.

18 MR. PRITZKER: As a partnership we

19 have letters, highly confident letters, from Solomon

20 Brothers and from the Bank of America. We would obviously

21 pursue other types of financing; however, the four

22 partners, each are capable and are prepared to fund the

23 entire cost of the operation out of available cash today if

24 you are unable to find financing with the satisfaction to

25 us. It was pointed out in earlier testimony, in fact, that

1 this is how the Elgin boat was built by Gold Strike and by
2 Hyatt Regency.
3 COMMISSIONER: Thank you.
4 To Aztar. There was a comment I think this
5 morning that all of your debt was at a fixed rate, but that
6 I believe the credit facility is a floating rate, is that
7 not correct, 2.5 or not more?
8 MR. HADDOCK: Yes. My name is
9 Robert Haddock, and yes the credit facility with the Bank
10 of America is a $280 million at a floater over current
11 rates and that is in the eight and a half percent range
12 but I suspect that yesterday and today. But that's the
13 range. The company also does have a fixed rate
14 indebtedness that was issued today on the public market and
15 are with very long maturities.
16 COMMISSIONER: The hundred and 80
17 million figure subordinating debt still is outstanding; is
18 that correct? It wasn't included in the 220 million
19 credit facility?
20 MR. HADDOCK: No, that's correct.
21 As I said, the company does have a promise of public
22 indebtedness at the fixed rates and obviously higher rates
23 than the floating bank indebtedness.
24 COMMISSIONER: As far as this last
25 credit facility is concerned, do you have restrictive

1 covenants in the loan agreement to prevent you from getting
2 additional or issuing additional debt or issuing additional
3 equity?
4 MR. HADDOCK: There's certainly no
5 restrictions on issuing additional equity. That commercial
6 credit agreement, as all commercial credit agreements, has
7 restrictions on additional credit, and the expenditures of
8 additional amounts for our future projects and so forth.
9 So in addition to our own discipline and financial
10 prudence, which I believe our company has, we have a
11 discipline of our banks behind us as well who are
12 participant credit facilities.
13 COMMISSIONER: Okay. Thank you.
14 MR. CHAIRMAN: Okay. Thank you.
15 Aztar a quick question. Yesterday we saw a computer crash
16 into your boat, which didn't look very pretty. Could you
17 tell me what provisions you will have for operating in a
18 manner that would -- well, just tell us how you propose to
19 operate in the Kentucky and also these would be the dangers
20 inherent to those operations.
21 MR. HADDOCK: I'd like to ask
22 Captain Holt that to address that question, please.
23 CAPTAIN HOLT: Thank you. The
24 thing that you saw yesterday that has been characterized as
25 a computer generation is a cartoon, frankly. It is not a

1 computerized model that replicates the reality of the
2 circumstances operating around Evansville bend.
3 The reality is that 6,000 tows a year pass
4 through Evansville bend without any damage to any facility
5 or any impairment of any operation on the Evansville side
6 of the river. The presentation I made yesterday alluded to
7 an analysis that we have conducted of casualties in this
8 area. I was under time constraints, so I wasn't able to go
9 into detail on that analysis. But our risk assessment
10 looked in great detail at all the issues associated with
11 operating a gaming vessel in Evansville.
12 In the past ten years, reported to the Coast
13 Guard have been two incidents in the Evansville area
14 between mile 791 and 793. Both those incidents involved
15 tows grounding on the inside of the bend; in other words,
16 they were either trying to cut inside the buoy line and
17 they got caught on the bar or they were just operating and
18 the buoys were off station and the barge extended into the
19 -- what appeared to be the visual channel.
20 So in ten years, you have to remember there
21 would have been 6,000 tows that have gone through without
22 incident. Now, as Scott Morani pointed out this morning,
23 does that mean that an accident won't happen? No. That
24 does not mean that, but again the cartoon that you saw
25 depicting a boat sitting there are incapable of getting

1 underway.

2 Again, the reality is that the time of
3 greatest concern obviously is when there are passengers
4 onboard. Twenty-five hundred passengers in the case of
5 this boat. When there are passengers onboard, Coast Guard
6 regulations require there to be a navigating crew onboard.
7 There will be a master and/or a licensed officer in the
8 wheelhouse of that boat at all times. It will be capable
9 of getting underway in less than five minutes any time
10 there are passengers onboard.

11 Additionally, when there are no passengers
12 onboard, since we did find out about the breakaway that
13 occurred last week, I've spoken with Aztar about adding
14 some additional safety precautions, if you will, and I will
15 introduce another gentleman a little latter on to talk
16 about the boat operation specifically. But we have talked
17 with Aztar about maintaining a wheelhouse man even when
18 there aren't passengers onboard. Now, that's to Aztar's
19 advantage, not for the protection of any passengers
20 obviously.

21 By having someone in the wheelhouse all the
22 time -- now we're talking about 24 hours a day -- with the
23 radar operating, means that there will be a set of eyes
24 down the river front that don't exist right now. There
25 will be a set of eyes watching the radar or barges drifting

down or a breakaway. And if you recall again, it was reported that only one occurred in the last ten years.

There will be a manned watch alert to tows coming and going. In fact, one of the advantages of that that doesn't exist right now is -- again, I'm asking you to accept on face value a lot of things that people who more technically oriented might understand if they have operated on the river, but if an upbound tow is coming into the Evansville bend area, if there is a breakaway -- that's a possibility -- Evansville has no idea right now that those barges are coming down, because there's nobody there to tell them.

With the plan that we have talked with Aztar about, they'll have a wheelhouse manned, there will be someone watching the radar he could alert -- he or she could alert an upbound tow to the fact that a damaged barge is drifting down. So in Aztar's plan, insofar as that's concerned, has two safety devices in Evansville and Evansville bend.

Additionally, on the site design, the one of these things that we could get into a spitting contest with each as to whose design is safest, and we really won't know until the technical review that was conducted by the Corps of Engineers. Safety is a very emotionally charged issue as you know, as evidenced by the amount of time that was

1 taken on that subject here.

2 It also tends to be a very technical issue
3 that requires an understanding of the operation and a lot
4 of understanding of the nuances of the variations of plans
5 and design and construction and operation. We feel that
6 the design that Aztar has put together, and I have not,
7 quite frankly, examined the other site plans and details
8 because that was not my assignment. My assignment was to
9 advise Aztar.

10 The design of their facility will ensure that
11 the boat can get underway as quickly as possible. There
12 are no impediments to it's getting underway. And I would
13 contend that that's the most important thing to you: A) if
14 a breakaway barge is drifting down into the area, you want
15 to get out of the way; B) if a tow is coming downbound and
16 it loses it's power steering, you also want to be able to
17 get underway quickly and out of the way, because the sight
18 designs that purports to provide outboard or lateral
19 protection needs to be very, very seriously designed.

20 We heard yesterday about some discussion
21 about momentum involved in some of these loaded tows coming
22 downriver. In order to provide protection in that we're
23 talking about it needs to be very, very well designed.
24 Most of ships, as you may be aware, that operate on the
25 coast, more tie to a pier so they can get underway quickly.

1 You try not to get in the stiff small boats of course.
2 We're talking about fairly large vessels here.
3 The last thing I want to talk about though in
4 response to the computerized cartoon is that trying to
5 compare the relative safety of two sites that are 1,500
6 feet apart, which is about five city blocks, to me is
7 folly. You just cannot say with that degree of accuracy.
8 A typical tow is about a thousand fifty feet long, 1,500
9 feet. We're talking about effectively one-half tow
10 lengths. You cannot predict to that degree of accuracy
11 where a tow might land in the Evansville of some sort of
12 casualty.
13 MR. CHAIRMAN: Thank you. There
14 was another comment supposedly?
15 CAPTAIN HOLT: Yes, sir, if I
16 might. Yes. If I might, I'd like to introduce John
17 Wagner, who is from -- he's vice-president of Hornblower
18 Marine Services. John is going to be operating the boat
19 for Aztar, and he'd like to comment on the safety of the
20 boat.
21 MR. WAGNER: Thank you,
22 Commissioners. My name is John Wagner, and I'm the
23 vice-president of Hornblower Marine Services. As far as
24 the operation, currently we have 22 excursion vessels
25 throughout the nation. We're the nation's second largest

1 operator of certain vessels. In addition to that, we
2 belong to the Passenger Vessel Association Safety and Loss
3 Control Committee. As a member of that committee, I help
4 fellow members design and implement safety programs, help
5 them with operational planning and help them with
6 contingency planning.
7 I'm also working with the National
8 Transportation Safety Board as a member of one of their go
9 teams to investigate major maritime accidents. I've been
10 the U. S. Coast Guard licensed master for over 17 years,
11 and command vessels any where from small vessels up to the
12 whole family of tankers, container ships, in the ports of
13 Los Angeles and Long Beach.
14 Basically, I was hired by Aztar to head up
15 their marine operations, to develop operational plans, to
16 screen and hire all the marine crew and to oversee their
17 marine plan.
18 I think Captain Holt has done an excellent
19 job of addressing the site issue. Now I think I need to
20 address the vessel that was docking the banks as we all
21 saw, how do we get out of that. Kind of felt like it was
22 in a pinball machine.
23 Basically, first of all, I have to tell you
24 that I agree with Captain Morani in seeing the draft
25 regulations and I believe it is very, very important that

1 the master has the ultimate say whether the vessel cruises
2 or not and I believe that's fairly important.
3 When I sat down to develop our operational
4 plan, we took two criteria into consideration. The first
5 criteria was for the utmost safety for our passengers, and
6 the second is that we would not impede commercial traffic.
7 I believe those two go hand-in-hand because I believe when
8 you impede commercial traffic on a vessel that has a high
9 passenger capacity, you're also putting your passengers at
10 risk. Because of that, we developed basically what we call
11 our long cruise route and our short cruise route.
12 As you folks know, there is some dispute
13 between the states of Indiana and Kentucky about the border
14 and whether you cross that border. If that dispute is
15 resolved, we go on what we call our long cruise route,
16 which basically allows us to go several miles up and down
17 the river. If that dispute is note resolved, we'll resort
18 to our short cruise route. That short cruise route
19 basically enables us to leave the dock to travel several
20 hundred yards and return back to the dock.
21 There are some advantages to that, and those
22 advantages are that you're very close to your dock and you
23 can pull back in should commercial traffic be there.
24 Now, as Captain Holt said yesterday, in our
25 operational plans, which he and I have discussed at length,

1 that it is our plan that if we did not get underway, if
2 there was a tug and tow basically within a mile either way,
3 that we call those vessels and we ask their speed.
4 I believe at Aztar we're also committed to
5 cruising -- I think there has been some discussion about
6 remaining docks, but I believe we were asked if we were
7 committed to cruising. And absolutely committed to
8 providing the utmost degree of safety for our passengers.
9 Did I answer those questions?
10 COMMISSIONER: So if you're just
11 going -- I'm trying to picture that's a two or three hour
12 cruise and you're just going a couple hundred yards. What,
13 do you just go out there and --
14 MR. WAGNER: Yes, ma'am. In fact,
15 it's funny you should bring that up because if you look at
16 -- you have the chart. If you would like to see where the
17 county line is, almost any vessel is restricted to a cruise
18 route of 1.2 miles and that's all.
19 COMMISSIONER: Oh, I see.
20 MR. WAGNER: You're absolutely
21 right. In a two or three hour cruise, even 1.2 miles you
22 just don't have very far. You're absolutely right. The
23 size of this vessel, again, if I stand up here and say
24 safety is our utmost consideration, I cannot tell you in
25 all honesty that when I take a vessel down and try to make

1 a maneuver, you have a 310 foot vessel, you've got
2 basically 290 feet, 300 foot, as a master I could do that.
3 So, yes, ma'am, I'm telling you that we leave
4 the dock, we pull out there, we probably go upriver a
5 little bit, and then we keep the vessel in position as we
6 come back, and we go back into our dock. Again, I believe
7 that's the safest thing for the vessel, for our passengers,
8 and so we don't do compete with commercial traffic.
9 CAPTAIN HOLT: May I add one thing?
10 I just wanted to correct a statement that Captain Morani
11 made this morning. I don't often do that, but in this
12 case, I feel I have to.
13 On the cartoon where it showed the state
14 line, I think Captain Morani referred to that as the buoy
15 line, which effectively in his mind marked the limit of the
16 navigational channel. That was not correct, and you may be
17 aware of that. The state line of Kentucky, as correctly
18 stated by Mr. Wagner, comes almost within 300 feet of the
19 shoreline of Indiana.
20 The channel through the Evansville bend is in
21 excess of 500 feet wide. So there is ample room, even at
22 normal pool and low water, for the boat to operate, if it
23 has to, into Kentucky waters in what they call in extremis
24 situations. And I am not a lawyer perhaps to review these
25 conflicts, but my plain understanding is that the Ohio

1 River is an area with concurrent jurisdiction between
2 federal and state jurisdiction.
3 There is a long-held standing that navigation
4 has primacy in an area of concurrent jurisdiction. If a
5 boater is in extremis, as Captain Morani correctly said
6 this morning, it doesn't matter where that state line is.
7 COMMISSIONER: Now, what about the
8 turnaround?
9 CAPTAIN HOLT: That was my next
10 point. I would like to add that we're building a
11 state-of-the-art vessel, and if there's any questions that
12 I can't answer, we certainly have Bob from Jebco to answer
13 those.
14 But the vessel has two main engines, plus a
15 valve thruster. Those main engines are rated 1,250 horses;
16 the valve thruster, that's a 350 horse power outthruster.
17 In ship language, this is called a vessel that's
18 self-containing. You don't need tugs or anything else.
19 The man was absolutely right this morning when he said you
20 can take the vessel and spin it within its own length. It
21 is that maneuverable.
22 In addition to that, it has flanking rutters,
23 which effectively all that it means is that the rutters are
24 not beginning to separate those rutters. It will make --
25 it will allow you to lock the vessel completely sideways.

1 If you have a 310 foot vessel, really all you need is 320
2 feet to fit that vessel in; although, in our analysis there
3 is much more room than that.
4 But it's very maneurverable. It has a top
5 speed, a designed speed, of 12 knots. I believe that was
6 one of your questions this morning which was very important
7 with tugs transporting up and down the river, especially
8 with tug and tow combinations, are achieving speeds up to
9 three or four knots. If they're running downriver, it
10 might be seven or eight knots. So this is a vessel that
11 can conceivably maneuver, and it's very powerful. It was a
12 vessel that was well designed to cruise.
13 In addition to that, I do have to make one
14 other important development that I'm not sure any of you
15 are aware of. To my knowledge, this is the first passenger
16 vessel that's ever been built with a double bottom. That
17 double bottom basically assures that it will not sing. In
18 addition to that, it also has seven water-tight bulkheads
19 with seven water-tight compartments.
20 You had a naval architect up here to talk
21 about subdivision, stability, and sleuth function of these
22 so it wouldn't sink. In addition to that, they also put
23 the latest and the greatest in fire monitoring detection
24 and extinguishing equipment. So it is a very, very safe
25 vessel and will be operated in a very, very safe way.

1 COMMISSIONER: I think that we --
2 in fairness we should give the other two companies to
3 comment about, an opportunity to talk about what design of
4 boats they have too. I think we're talking about safety
5 issues. We certainly should give the other two companies
6 an opportunity to address those issues.
7 MR. PRITZKER: A couple of points.
8 I guess the question is the maneuvering or the type of --
9 whether it's a double bottom?
10 COMMISSIONER: I think we talked
11 about safety, safety maneuverability and going into
12 Kentucky.
13 MR. CHAIRMAN: I'll make the
14 choice, okay, Mr. Pritzker.
15 MR. PRITZKER: A couple of points.
16 By and large most of the response I've just heard, these
17 are exactly the addressed points that we were trying to
18 make in making one. There a couple of issues.
19 First, the boat that is proposed by Aztar is
20 not the boat proposed by Gold Strike is the understanding.
21 It's 310 feet long. There is no spot in this bend or in
22 the area where the cruising would take place where the
23 Indiana shore and its boundary in the water is 310 feet.
24 Now, that's a boundary issue, not a safety issue. There is
25 no question that if they didn't have a boundary problem the

1 boat could logistically turn around. That's not the
2 problem.
3 The problem is that you cannot turn around at
4 their length, as opposed to ours.
5 MR. CHAIRMAN: Excuse me, Steve. I
6 don't mean to interrupt you, but I think the question is
7 whether it's more positive. Explain your boat and your
8 route rather than --
9 MR. PRITZKER: Sure. I'm just
10 trying to indicate -- but technically and essentially, Mr.
11 Chairman, it's being suggested that we made an argument
12 when in fact we didn't make the argument. If the boundary
13 problem goes away, we hope that it does, but as long as
14 it's there, then that issue about turning around goes away.
15 The channel is is unquestionably wider enough. So we never
16 suggested that it wasn't. The problem with the turning is
17 was the boundary.
18 The second point with respect to safety, we
19 have submitted that yesterday and it was for the material
20 that you had here in the executive summary and Mr. Thar has
21 the complete text, which is frankly rather heavy, of a risk
22 analysis for all three sides, Inland Marina, Aztar,
23 Riverfront Park. And that study was undertaken by
24 somebody, as I mentioned yesterday, who's had nearly 20
25 years experience in sailing, moving barges through the

1 boundary.

2 His conclusions and the reasons for them are
3 in front of you. His conclusions are that Inland Marina
4 poses no -- and we agree with Captain Morina who said this
5 morning that the whole process, the process of assessment
6 and management and risk. We agreed with that, some are
7 absolutely safe and absolutely unsafe. It's all a matter
8 of perspective. And the material that we have submitted to
9 you, we respectfully suggest that it shows Inland Marina
10 is, among the three, the least problematic from the risk
11 point of view for reasons that are in there. Dress Plaza
12 bears what the author considers acceptable risk, and
13 Riverfront Park bears what he considers unacceptable risks.

14 Our plan has us with the size boat we have,
15 with the cut into the bank that we have designed with the
16 assistance, as you heard today, of the Corps, we submit
17 that when you look at the current patterns as was described
18 to you yesterday, both the way it is docking and when it is
19 cruising, we have no problem negotiating. All the way up
20 the river to Inland Marina and back around down. We can
21 cruise any of that area without a boundary problem with
22 Kentucky if that doesn't get resolved and with safety.

23 MR. AZARK: I'll break it up in the
24 middle. We have -- our vessel is being docked in the same
25 area as Aztar and obviously the same risk in regarding to

1 operating in that is very similar to what was just
2 described. Our marina counsel has indicated that the risks
3 in this area can be mitigated. The vessel that we have
4 designed is a Rockney lay design. It's a third generation
5 design of a boat that already floats in the Mississippi and
6 was designed for the Mississippi River and it's a highly
7 maneuverable riverboat. It's 222 feet long.
8 MR. CHAIRMAN: Anything else about
9 boats?
10 COMMISSIONER: About boats? No.
11 Well, I forgot to ask this question associated with this.
12 Do you have nonsmoking decks on this boat?
13 (No response.)
14 That's not a hard question here now.
15 MR. BROTHERTON: It's funny you
16 should ask that question because I went over the boats and
17 we are in the process of converting the top deck of both
18 the Metropolis vessel and the Lake Charles vessel to
19 nonsmoking.
20 COMMISSIONER: And they'll have
21 facilities on both of those?
22 MR. BROTHERTON: Yes, sir.
23 MR. SCHAEFFER: In Elgin, Illinois
24 on the Grand Victoria, we have a nonsmoking deck. And we
25 propose to have a nonsmoking deck, yes.

1 COMMISSIONER: A comment was made
2 by the Coast Guard and it was talked about a little bit and
3 I'm really not as familiar, you know, with what I'm going
4 to talk about, so somebody's going to have to jump in and
5 help me. But anyway he made a comment and I think the
6 gentleman that is -- has just spoke, a Mr. Wagner, talked
7 about the master having the authority to take this boat out
8 and certainly the Coast Guard was concerned. And from
9 there I became concerned because I know little about this,
10 but I can see problems saying well because apparently it's
11 happened in Louisiana. It says when do you turn the boat?
12 And the master says we're going to turn to the right and
13 only to the right, we're not making any money.
14 Now, I don't know any if we need a policy or
15 your companies need a policy. So would somebody give me
16 your position on your company. And we'll start this way so
17 you can think about it.
18 MR. HADDOCK: The policy of our
19 company will be, is and will be, that this boat will cruise
20 at all times when the master says conditions will permit it
21 to cruise. Full stops under no conditions. No hedging.
22 This boat is a cruising vessel. It was designed as a
23 cruising vessel, as you can hear from the quality
24 photographs of vessels. This vessel will cruise as it is
25 our intention to have it cruise.

1 CAPTAIN HOLT: I would like to
2 comment on the proposed rule, because you may recall from
3 my presentation yesterday that we analyzed that rule -- the
4 proposed rule -- I'm sorry -- and we felt that that was an
5 important element to operating the gaming boat safely in
6 Evansville and, at the risk of sounding like I'm trying to
7 pat you to much on the back, I thought it was very forward
8 looking of you to do that, because we were aware of the
9 problem in other jurisdictions where the master was not
10 given that latitude, that authority. And there is
11 incredible pressure on masters of boats -- gaming boats,
12 fairy boats, cargo vessels -- to meet schedules, to ensure
13 that the operation is taking place.
14 I felt, and the people who helped me with the
15 analysis felt, that the ability to conduct the operation or
16 the business of the boat without adding to the risks of
17 forcing the master to make a decision as to whether or not
18 he was going to be able to conduct the business of the boat
19 or not was a vital element in improvement of the margin of
20 safety in those areas.
21 MR. RUBELI: I'm Paul Rubeli. I
22 want to complete Bob's statement. He says the master will
23 have the sole authority to decide when the boat to cruise.
24 We'll also have the sole authority to decide when that boat
25 doesn't cruise. End of story

1 MR. AZARK: Commissioner, we
2 operate in Illinois, as you know, and the Illinois Gaming
3 Board takes a very strict view of the cruising
4 requirements. They've made it very clear to us and to all
5 the operators that cruising -- may be cruising. Some
6 operators in Illinois have been subject to closer scrutiny,
7 some of them have not been willing to cruise and sometimes
8 look for reasons to.
9 If you look at our operation, you'll find us
10 a among the best, if not the best, with regard to cruising.
11 We operate on a very shallow river. We don't cruise when
12 it's iced in, and our river has been iced in for about four
13 weeks this -- this winter. But the Illinois Gaming Board
14 sets the tone and makes sure that people cruise when they
15 cruise, but the master of the boat has the ability if the
16 weather is bad, if there is a mechanical problem or if
17 there are traffic or safety concerns keep the boat at the
18 dock. And it's a very good policy, and it seems to be
19 working.
20 MR. PERSKIEE: I would respectfully
21 point out that some of the answers that you've just heard,
22 the exhibits, the point we were making yesterday, that is
23 Aztar, that we are the only company here with extensive
24 riverboat experience. It is simply not so that the
25 pressure is on the captains to cruise. The problem is that

1 the pressure comes on the captains to cruise, and there
2 comes the conflict because there are certain operators, who
3 understanding the economics of the situation, are looking
4 for any excuse not to cruise.
5 It happened in Illinois in one of the best
6 known casinos. It happens in Louisiana where it has
7 happened in a falling frequency. We operate in those
8 states, and in Illinois for over two years, just two years
9 this month, and better than one year in Louisiana. And not
10 in disrespect for our friends that have just opened a
11 facility in Illinois, we have in each state from the day we
12 opened the operation most faithful to the requirements to
13 cruise.
14 Each state has slightly different set of
15 criteria, but in all states the final decision is with the
16 captain, and that is what you heard this morning, that the
17 Coast Guard insists on the authority and responsibility of
18 the captain to make that decision as to whether the weather
19 is unsafe and what the unsafe -- the navigational
20 conditions are and the like.
21 The problem is not with the captain who gets
22 left alone, who do their job in a professional maritime
23 safety perspective and cruise with whatever the guidelines
24 are. The problem is that some of the operators want to cut
25 a little too close to that line. You heard a little bit

1 yesterday, we saw in the video, that we were editorially
2 commended in Louisiana as being the only boat that
3 maintained complete faith to the cruising requirements and
4 our record in Illinois is exactly the same.
5 None of the operations in either state has
6 had the record of compliance of that that we have.
7 MR. HADDOCK: I'd just like to
8 point out that our company's position as we just stated
9 it's clear from what we've said that the master of Aztar's
10 vessel will cruise when conditions permit. The company
11 policy is that the company vessels will cruise when the
12 master finds the conditions are safe. That's what we said.
13 COMMISSIONER: To Aztar, whoever
14 can answer this. Aside from the handout that you submitted
15 to the Gaming Commission, I see in this picture an
16 amphitheater, but I never heard anything about the
17 amphitheater. Is there going to be an amphitheater next to
18 the pavilion?
19 MR. HADDOCK: Our site plan does
20 include an amphitheater in the pavilion. We just did not
21 describe all the components associated with the project
22 development, but clearly in looking at the site plan, you
23 can see that is an ongoing facility is going up.
24 COMMISSIONER: So there will be an
25 amphitheater involved in this?

1 MR. HADDOCK: Yes.
2 COMMISSIONER: Also while I'm
3 talking to Aztar, there will be someone speaking in
4 reference to the Organization for a New Evansville ONE.
5 It's my understanding that your group would give that
6 Evansville ONE organization more than a quarter of a
7 million dollars over the previous five years for each year
8 for five years.
9 Are you familiar with how that group is -- is
10 set up, what charity would be -- what it's foundation is
11 going to be made up of, what type of people it would
12 include? Are you familiar with that?
13 MR. HADDOCK: Yes, we are familiar.
14 We had -- although I officially am not totally familiar
15 with the organization, we've had some detailed
16 conversations with the City of Evansville at the time we
17 had negotiations with them during this so-called signing
18 period about our desires in making a community contribution
19 of that nature and to which organization it would be best
20 to associate to make that kind of contribution to. We
21 mutually decided that Evansville ONE would be --
22 COMMISSIONER: What's the funding?
23 I know there's going to be somebody here that will address
24 it, and we are -- we aren't going to be -- but what is the
25 function of Evansville ONE? What is it they do?

1 MR. BAYT: Phil Bayt. If I might
2 answer that question. The City's request for the finalist
3 was to provide funding money for Evansville ONE on some
4 conditions. Those conditions were that Evansville ONE
5 would become a 501-C3 corporation, a tax exempt
6 organization, and that it would identify and create
7 programs, individual programs, help -- that would help
8 target neighborhoods.
9 On a program-by-program basis, the funding
10 will be requested of the endorsed gamer, and that funding
11 would be made available once the Board identifies the
12 worthy program. So it isn't going to come regularly, but
13 it's going to be on a working program-by-working program
14 basis.
15 COMMISSIONER: I'll let Mr.
16 Perskiee address the Commission in reference to ONE. Let
17 me just start with Aztar quickly here. Aztar, what
18 obligation does the licensee have to stay in Evansville for
19 the duration of this five year period? What if things go
20 bad -- the question I've heard people who have talked to me
21 have informed me is they don't believe that it's to the
22 advantage, that's it's not going to take care of the
23 problems and it may only last a couple of years and then --
24 then you'll be gone.
25 What answer do you have for those type of

1 questions?

2 MR. HADDOCK: I think there's

3 several answers: One being a project agreement with the

4 City which requires us to continue in operation here and a

5 significant penalty in the event that we do not.

6 Over and above that, obviously we have the

7 very significant commitment of capital investment to the

8 area. And our analysis would indicate that the levels at

9 which we would have to operate to be profitable are

10 substantially lower both in terms of commissions and in

11 terms of winnings, and our projections won't meet any of

12 those projections I have indicated.

13 So we cannot see a scenario where there would

14 be economic incentive for us to leave this market place for

15 those two reasons.

16 Paul, do you have anything further you'd like

17 to say about that?

18 MR. RUBELI: No, other than to say

19 that part of the agreement has very significant penalties

20 if we try to leave early.

21 COMMISSIONER: We'll address that

22 question to Evansville Landing. Why should we believe that

23 he would stay on for the five year period?

24 MR. PRITZKER: When you work for a

25 corporation like I did, you have to be everything including

1 a corporate lawyer, so I -- I apologize.
2 Our friends at Aztar just gave a very good
3 answer. I would only add to what they said that we are --
4 all of us, all of the partnership operates and many
5 different companies in many different cities and countries
6 around the world, and that's not to say that when things
7 are terrible sometimes you don't have to close up shop.
8 And there was testimony given before about the Hyatt's
9 presence in Flint, Michigan and the comment he made about
10 our presence in Flint was unfortunate that the hotel
11 closed.
12 Because of the economic duress, it was
13 impossible for the owners -- we were not the owners -- to
14 keep it open. However, we stayed with that project for
15 many months and many years suffering very difficult
16 economic times. We cannot lightly -- we cannot take
17 lightly our commitments to any community. So it would be
18 very low on the reputational basis, aside from the economic
19 reasons, to desert an area to which we were committed. And
20 if we can only take this project, it's with a great sense
21 of commitment.
22 We are not obligated to stay open forever
23 obviously. As our friends of Aztar pointed out, there are
24 certainly economic disincentives. There are also
25 reputation disincentives to do anything but our best

performance possible.

MR. FISHMAN: I just want to add to that. We also work in a lot of communities throughout the country, and we have never left the community. We have gone through some tough times, and we like to think that we can work out any situation with the same kind of consideration that we give to those projects. So we intend to stay.

COMMISSIONER: Are you speaking about the big cities?

MR. FISHMAN: Well, I don't want to talk about those cities, but we do work in towns the size of Enid, Oklahoma, Hutchinson, Kansas. Some of us I guess are accused of being big city slickers. I wasn't here. But we do work with small communities. We do get along with people in small communities. We understand how to work in Evansville.

MR. PERSKIEE: Commissioner, I would like to preface my answer to that question with two observations that I would tie into the answer if I may.

First is that one of the things that distinguishes our application didn't quite come through so far in things, what you've seen is that our commitments to the public private initiatives are not time limited. They are designed to continue in perpetuity as opposed for some

1 five, eight or ten year period.

2 And the second point by way of the preface

3 that I would make in answer to your question is it was

4 mentioned here earlier that we exist in Louisiana in Lake

5 Charles without competition. That's been mentioned a

6 number of times. That's not factually true. As of this

7 month, we are in direct competition with a land-based

8 Indian operated facility, Indiana owned and operated

9 facility, 35 miles which is a very serious competition to

10 which we have responded with a proposal to reinvest $88

11 million into expansion of our facility in Lake Charles.

12 Those comments are given by way of preface to

13 this answer to your question, and I -- I give you this

14 answer quite honestly with a little bit of trepidation

15 because, while it is the truth, it may not be the answer

16 you want to hear. I know that.

17 I've been at this for 21 years, this concept

18 of the relationship between the investment into a gaming

19 project and the redevelopment of a city. I can tell you in

20 modesty, immodesty, that I may be one of the nation's

21 leading experts in that area. I'm not very happy about it.

22 The fact of the matter is that no penalties that anybody

23 can dream of are going to provide you the kind of assurance

24 that you want. It doesn't matter, because the minute it

25 becomes more financially proficient to leave and take the

1 penalties, we, they and they will do just that.
2 So you're not going to be able to find any
3 assurance with penalties. So what's the answer to your
4 question? In answer to your question today is a
5 recognition today before you grant the license by whichever
6 one of us gets it and by the people at the other table,
7 that no operator and no riverboat are by themselves going
8 to rebuild Evansville. It's a cooperative partnership
9 venture.
10 Our obligation is not really to come in, make
11 the investments we commit to make, run the facility we're
12 supposed to run, and to make the payments on the
13 contribution and the commitments that we've undertaken to
14 do. And that gets the start. From there, it's up to the
15 people and the community and the political leadership and
16 the investment community and the hotel community. I heard
17 Mr. Dunn this morning. We agree with every word he said,
18 but if all those things don't happen, if the convention
19 bureau doesn't take its facilities in respect to the
20 payments and the contributions that it makes and use it
21 effectively as a marketing tool, it doesn't matter who owns
22 the Executive Inn.
23 Conversely, if they do, whoever owns the
24 Executive Inn is going to make money. The same thing is
25 true on Main Street. If you sit back and wait for the

1 riverboat, no matter whose it is or at which location it's
2 located, to rebuild Main Street all by itself, it isn't
3 going to happen.
4 The riverboat correctly operated, correctly
5 committed, intelligently marketed and aggressively
6 marketed, will give you the tools. The tools belong to the
7 people and the leadership and the institutions in the City
8 of Evansville.
9 COMMISSIONER: Another question
10 here, particularly to Aztar. There's been some concern
11 about your intended projections. I know there's no way
12 that you can guarantee your intended projections, but if
13 your intended projections are wrong, in other words too
14 high, what do you propose that this gaming commission
15 should do, penalize you some way, revoke your license or
16 require that you be somehow legally obligated?
17 MR. RUBELI: Obviously, this is an
18 issue that is recurring. I'm going to try to summarize as
19 best I can what I think the real issue is. I suggest the
20 real issue is look at your three -- our commitment to you,
21 which contains a projected 1.6 million visitors that will
22 generate $92 million of casino revenue with a -- by the
23 way, profit before taxes of $15 million.
24 At that point, we'll allow -- we're pretty
25 much in sync, all three of us, as well as with the visitors

1 at 1.4. So at that point forward, I don't think there is
2 any discrepancy between our numbers, their numbers or
3 anyone else's numbers that's been introduced to this forum.
4 So if you will, the issue then is it seems to
5 be narrowed to the first two years. So if we have a ten
6 year agreement with the City and three 5-year renewal
7 periods that we hope we'll exercise, we plan on being her
8 25 years. You should at this point recognize that for 23
9 of those 25 years I don't think we do have an issue.
10 So what we do have is an issue that arose
11 last spring and in hindsight perhaps it was then that it
12 was the source of a lot of competition among six companies
13 vying to be the selected a designated candidate by the
14 Selection Committee.
15 When the "new numbers" surfaced, they were
16 seized upon by certain applicants and were widely used as
17 tools to the media to disparage and discredit this company
18 and our credibility. Which is too bad because what we were
19 really trying to do is to distinguish between the
20 projections which we had provided in October, prior to the
21 referendum taking in Indiana, with the projections we then
22 believed we would devise as an operator in Indiana for the
23 benefit of being the only casino on the Ohio River for
24 sometime.
25 We'll recall it was about that point in time

1 when you'll recall it was November that you, the
2 Commissioners the Commission, established your best
3 estimate and priorities of the issues of the license and it
4 was then that the hooray came to Evansville. We were going
5 to be number two in line, and what translated from the rest
6 of that schedule a reasonable estimate as to when
7 Lawrenceburg could come online and potentially then you go
8 back north again, if I recall, to Michigan City, and then
9 we would come back again.
10 Of course, we know how quickly all these
11 proceedings are occurring in the last year and a half. And
12 reality, it was showed to us there was certainly a window
13 of opportunity for Evansville.
14 I don't know that that's one year, two years,
15 maybe three years. It turns out it was a function of the
16 Supreme Court that intervened on all of our behalfs and
17 perhaps over the long run to our mutual benefits because
18 that issue is resolved.
19 COMMISSIONER: My question would be
20 looking at the factors that are to be taken into
21 consideration in terms of who gets license, one of them in
22 particular is the Hyatt's perspective total revenue to be
23 collected by the State from riverboat gambling. And we
24 based that upon the attendance projected.
25 MR. RUBELI: Commissioner Vowels,

1 if I may. Those two years therefore are the issue. And I
2 won't comment here that, number one, the City clearly
3 indicated this morning they did not consider the different
4 projections in the first years. We were all normalized to
5 $70 million, APR at one end or a hundred million at the
6 other.
7 And in that test, our projections were
8 irrelevant and the evaluation of our investment, our
9 economic impact, our jobs recruiting were normalized and we
10 wound up by their evaluation to be the operator proposing
11 the highest economic impact.
12 COMMISSIONER: So you're telling me
13 that the local endorsement didn't take into consideration
14 of your project plans for the first year?
15 MR. RUBELI: I'm trying -- I'm just
16 saying that what we have to do is for the state, for the
17 benefit of the State, if you will. All I'm saying is if
18 this troubles you, the violate us a million and a half
19 visitors. And we will still come out the number one
20 operator with the number one manpower. And let this be all
21 the trouble projection. I don't blame you a bit.
22 We will spend the 12.7 million going for it.
23 Heck, if we miss, we miss. So my suggestion to the
24 resolve this would be to simply give us at a million and a
25 half over the first two years and then we're all equal from

1 year three on. I do not believe there was a reason we were
2 drafted, the endorsement from the City, and I frankly don't
3 suggest that you use it as the basis for evaluating our
4 economic impact on the state.
5 So starting with year three, now I'm trying
6 to resolve and I could sit here for hours, but I think
7 we're right.
8 COMMISSIONER: Mayor, did that come
9 into any consideration with the projected attendance is
10 much higher than what your people once said and what the
11 other applicants have said?
12 MAYOR MCDONALD: I'm not going to
13 sit here and say that we didn't look at that at all.
14 Certainly we looked at it from the standpoint that the
15 greater the number of passengers, the greater the
16 opportunity for economic benefits for the City of
17 Evansville and the State of Indiana. But we try to
18 neutralize that as what Mr. Rubeli is saying.
19 We used our projections as the base line of a
20 million four. It was strictly a base line. Everybody that
21 compared was basically $70 million just in gross benefit,
22 2.3 I'd rather optimistically like to think that maybe we
23 can get there with the right operator, but at 1.4 million
24 passengers a year, we'll do all right. And they're still
25 number one.

1 COMMISSIONER: All right. Let me
2 ask the other two. We've gone over the projected
3 attendance figures of Aztar, and it appears that based upon
4 what they're telling us some of the outside sources have
5 figured that they're closer than what the numbers are.
6 Well, let me just ask this question and see
7 how you might answer it, not obligating you to anything of
8 course.
9 If your projected attendance figures are
10 wrong and your numbers would be less, are you confident
11 enough in those numbers that you'd be willing to make up
12 the difference of the state and local taxes that would be
13 lost because of those projections in Evansville Landing?
14 MR. PRITZKER: Such a guarantee has
15 not been part of our proposal, and I won't propose it now.
16 We feel we've given projections which are conservative.
17 Frankly, we think that they are realistic. With all due to
18 Aztar, we believe that they are highly optimistic in
19 nature, and we're conservative in nature. I hope we can
20 meet our projections. We fell we certainly can develop and
21 produce at least the same numbers as the other applicants,
22 both in the top line and bottom line.
23 But I don't believe that we are prepared to
24 guarantee and I haven't heard anybody else that would
25 guarantee that.

1 COMMISSIONER: Let me ask Players
2 what they think about it.
3 MR. PERSKIEE: Mr. Vowels, the
4 question, to be very honest with you, I can sit here and
5 honestly say -- we're publically owned. I can't take that
6 kind of commitment, but I can only say that we agree with
7 everybody, Deloid and everybody else, that 1.4 is an
8 achievable number. There's no question in my mind that we
9 can reach it.
10 But to undertake that type of a contractual
11 commitment, I don't have that authority, and frankly, no
12 one sitting here does.
13 COMMISSIONER: I don't have any
14 other questions.
15 MR. CHAIRMAN: Anybody else?
16 MR. PRITZKER: I wouldn't like to
17 let Players speak for us and say that we don't have the
18 authority. We do have the authority to make that
19 representation that we would guarantee, and we're not
20 making that today.
21 Thank you.
22 COMMISSIONER: Aztar, would you
23 just like to answer that question? We'll give you the
24 opportunity. How confident are you in those projected
25 figures?

1 MR. RUBELI: I'm very confident in
2 those projected figures, but not willing to make
3 guarantees, and I don't think this is the forum for
4 answering that question.
5 COMMISSIONER: Okay. That's a good
6 answer.
7 MR. CHAIRMAN: Does anyone else
8 have any questions on anything? If not, I'm going to give
9 each of you, and I really mean it, five minutes, and we'll
10 start with the City of Evansville.
11 COMMISSIONER: I'd like if you'd
12 keep the answer brief. I'm going to cut you off if I think
13 you're running over. Aztar, have you got a break-even
14 scenario to show on what the minimum attendance that you
15 would need in order to facilitate your debt and to make
16 payments to the City in your general contributions?
17 MR. HADDOCK: Yes.
18 COMMISSIONER: What are the
19 attendance figures you need to get for the first two years?
20 MR. HADDOCK: The attendance
21 figures on a break-even, before service of those
22 indebtedness, would be 621,000 people.
23 COMMISSIONER: On an annual basis?
24 MR. HADDOCK: On an annual basis,
25 cash basis.

1 COMMISSIONER: Is that per cruise?
2 MR. HADDOCK: I'm sorry
3 COMMISSIONER: Is that per cruise?
4 MR. HADDOCK: That's 621,360
5 people, and one head is only $5 at $55 total.
6 COMMISSIONER: Your total revenue
7 then for this and operating basis?
8 MR. HADDOCK: Total revenue would
9 be this is -- total revenue, 33 million, total revenue of
10 44 million.
11 COMMISSIONER: Now, if you come in
12 at 1.4 million on the annual attendance record and the
13 annual attendance in the first two years, where does that
14 put you in terms of profit loss?
15 MR. HADDOCK: Well, the figure's
16 not accurate, but it's not completely accurate. We're
17 looking operating in the year three as submitted to you
18 where we had an admission of a million six, and I think it
19 was $57 for admission. The next income from the operation
20 included that would involve fully servicing the debt, would
21 be 9 million 160.
22 So it's close to what you're describing.
23 COMMISSIONER: You have discussed
24 quite a bit the safety factors you build into your cruising
25 schedule. For instance, such as if there is a tow within a

1 mile, you're not going to pull out. Based upon that, how
2 often can you cruise? Based upon a study of the amount of
3 traffic on the river, how much the boat will go out, all
4 other things being favorable, for the cruise?
5 CAPTAIN HOLT: On average, there is
6 about one tow in every one hour and 20 minutes through
7 Evansville. It takes approximately ten minutes to travel
8 that one mile period -- one mile range. Sorry.
9 COMMISSIONER: So how many times do
10 you think you'll cruise?
11 CAPTAIN HOLT: Well, the boat can
12 virtually -- I can't answer how many times it's going to
13 cruise. All I can answer to you is the fact that the boat
14 will not operate when there is a tow within that one mile
15 area.
16 COMMISSIONER: Heading towards the
17 docking, right?
18 CAPTAIN HOLT: Pardon?
19 COMMISSIONER: Heading towards the
20 docking facility?
21 CAPTAIN HOLT: That's correct.
22 COMMISSIONER: All right. Now, if
23 we've done a traffic study, the question again: What does
24 your study show the approximate amount of times the boat
25 will be able to go out for the cruise, all other things

1 being favorable for the cruise?
2 CAPTAIN HOLT: There is no
3 indication that there would be any limitation on the
4 ability of the boat to cruise because there is -- there's a
5 half hour docking and undocking period. It would depend on
6 where the tow is in relationship to the boat at the time it
7 was determined.
8 COMMISSIONER: So in other words,
9 you'd probably be able to get out sometime during the
10 cruise period no doubt, whether that was a complete the
11 cruise period or part of it will be able to get out?
12 CAPTAIN HOLT: And complete the
13 cruise. Yes, sir.
14 COMMISSIONER: Thank you. Finally
15 with regard to Aztar, you mentioned earlier the cost of
16 your facility was not in your application as I saw. You've
17 also indicated $99.8 million to your total amount projected
18 dollars, but I have not seen --
19 MR. HADDOCK: All the map locations
20 are nonspecific. In any case, the cost the temporary
21 facility as we know it, at this stage which is obviously
22 without review by the Coast Guard of our plans, full
23 developing plans, the estimated cost of that facility
24 including docking facility and attendance and so forth is
25 slightly over three and a half million dollars. The

1 financing that we have available --
2 COMMISSIONER: The three and a half
3 million dollars in addition to the $99.8 million --
4 MR. HADDOCK: In addition to the
5 $99.8 million, that's correct.
6 COMMISSIONER: Your company is
7 prepared to do that?
8 MR. HADDOCK: Yes, it is.
9 COMMISSIONER: That's what I wanted
10 to know. Thank you.
11 Players, you've indicated that one acre of
12 your project is going to be the land facility downtown to
13 the riverboat, the other acre is going to be the Victory
14 Theater. That answer is then no different than Aztar's; is
15 that right? Theirs could also say the Victory Theater
16 would be part of their anchorage to the extent they were
17 going to have downtown development?
18 MR. PERSKIEE: Well, the
19 significant difference in the context that we tried to
20 argue that yesterday. The anchorages doesn't make sense
21 unless the anchorages are close enough to each other to
22 simulate the destiny interaction.
23 COMMISSIONER: Thank you. I think
24 you've answered my next question, which was we have in fact
25 seen two locations, some of us again have walked the two

locations and fail to see the difference between them. The Aztar, Evansville Landing site and the Players site isn't really a significant issue at all.

MR. PERSKIEE: I would suggest again we have what we consider to be expert opinion that leadership was committed to you in the hope and I hope you will look at it and between now and then. We gave a brief summary of it yesterday, but the essence of the argument is one that is a result from the urban study goals and it does not make a difference to you or me to walk the three blocks.

But the question is not whether it's to you or me, but the question is how to do we design urban facilities where do people go and we have given you that information.

COMMISSIONER: Would you agree it's about a three block difference?

MR. PERSKIEE: We think it's closer to five blocks. Somebody said 1,500 feet, and that's about what we think it is.

COMMISSIONER: Okay. So 1,500 feet?

MR. PERSKIEE: Yes, sir.

COMMISSIONER: And in your opinion, that's major difference?

1 MR. PERSKIEE: Yes.
2 COMMISSIONER: All right.
3 Evansville Landing, you propose, I think you showed a slide
4 yesterday, is was part of your development, but your
5 specific contributions, I think in answer to Mr. Hensley,
6 went through and itemized certain items that have been
7 added since the time the presentation with the city. But
8 from my calculations, correct me if I'm wrong, this would
9 show an $80.2 million addition from when you submitted your
10 application to the Commission also.
11 MR. SCHAEFFER: That's correct.
12 COMMISSIONER: You've kind of upped
13 the numbers $8.2 million since they were confirmed to the
14 Commission for their analysis? We show $15 million for
15 civic contributions.
16 MR. SCHAEFFER: That would be
17 right, Commissioner.
18 COMMISSIONER: And you now show
19 23.3?
20 MR. SCHAEFFER: Correct.
21 COMMISSIONER: Okay. One other
22 thing that I did notice, and you can show me if it's in
23 here someplace else, was a $50,000 contribution to
24 Evansville ONE. I don't see that in rendition. Has that
25 been eliminated?

1 MR. AZARK: Evansville ONE was the
2 community foundation on that list, that three and a half
3 million dollars over five years.
4 COMMISSIONER: That has been upped
5 or it is a part of community foundation. I thought
6 community foundation was already in there.
7 MR. AZARK: The number for
8 Evansville ONE was $700,00 per year for five years, and if
9 the city had endorsed us, we have offered an additional
10 $50,000 based on the city.
11 COMMISSIONER: So it was the one
12 time 50 as opposed to 50 over five years? Okay. I missed
13 that point. Thanks. Finally, to the city -- oh, I'm
14 sorry. The agreement that was read into the record at the
15 beginning of this session as I read it, it indicates for a
16 period of ten years, as long as the license was renewed,
17 the cruising riverboat license was renewed for a period of
18 five years after the initial licensing period. Partners --
19 partnership as well as with individual partners would not
20 pursue land-based gaming at Ellis Park; is that correct, or
21 within 75 miles of Evansville?
22 MR. AZARK: I believe that's
23 correct.
24 COMMISSIONER: So it's a ten year
25 period rather than a five year period?

1 MR. AZARK: That's right.
2 COMMISSIONER: One last thing to
3 the city. As I understood the city's position this
4 morning, based upon the number of people that spoke, some
5 questions that were directed, the city would perceive that
6 any of the three developers here could do the job; is that
7 correct?
8 MAYOR MCDONALD: I'm not sure I
9 would interpret it that way, Mr. Thar.
10 COMMISSIONER: Mr. Simms?
11 MAYOR MCDONALD: I would say that,
12 you know, generally the city of Evansville certainly had an
13 obligation to work with whomever you decide and grant the
14 license to, and I'm going to endeavor to do that.
15 COMMISSIONER: That would be my
16 second -- now, you've answered my second question. Would
17 the city perceive that any of these three developers could
18 in fact do the job?
19 MAYOR MCDONALD: Any of these three
20 developers could probably do the job. The real question
21 is, will they do the job, and what is the comfort level
22 that the city has? And there is a tremendous amount of
23 difference.
24 COMMISSIONER: So taking that into
25 account, the city would work with anybody? That any of

1 them could do the job? It is the undistinct promise of the
2 city that Aztar would be the best to work with with
3 respect to the comfort levels, et cetera, et cetera, et
4 cetera.
5 MAYOR MCDONALD: Let us make no
6 mistake about that.
7 COMMISSIONER: Thank you.
8 MR. CHAIRMAN: Okay. Well, one
9 last chance. Does any of the Commission members have any
10 questions in which to ask? I'm not going to goof like I
11 did with Mr. Thar.
12 COMMISSIONER: No. I just have a
13 comment to make to the city of Evansville for their
14 hospitality and for the presentations from all the
15 respective licensees, and we certainly appreciate that time
16 that you put into these. Thanks.
17 MR. CHAIRMAN: Any of the
18 Commissioners here have anything? And would everybody feel
19 badly if we dispensed -- do you want to throw in five
20 minutes, or do you really want --
21 MR. PERSKIEE: Players wants to.
22 MR. CHAIRMAN: Okay. We'll give
23 everybody two minutes. Okay? We'll start -- we'll start
24 at this end and go that way.
25 MR. PERSKIEE: Mr. Chairman, I just

1 want to put a few of my points into the record as quickly
2 as I can. I'm just going to try to get to the important
3 parts. Let me do it this way. I made a commitment
4 yesterday, and I'm going to withdraw it with respect to the
5 question of our willingness to file by February 11 or the
6 14th or whatever day you were talking about yesterday of
7 the objection that we had to the park conversion. We did
8 it this morning. I guess we withdrew the objection this
9 morning.
10 I'm also just going to take one second to
11 comment on a remark they've made that anybody can run a
12 boat. Anybody can take a boat and get a captain and make
13 money. I would suggest to you that that isn't so. Our
14 experience in the industry tells us in watching what's
15 going on in Mississippi and other places suggests very
16 strongly that that isn't so. And lastly, I want to take
17 the opportunity to respond to Mr. Thar's last inquiry by
18 telling you the same thing that we have told the Mayor and
19 his Ms. Holt and Mr.Bayt.
20 We hopefully -- if we get this license we
21 look forward to that. We want, we are able, we are
22 willing, we are enthusiastic about having a very warm close
23 working relationship with the city and it's leadership as
24 you heard me say a minute ago. No matter what we do, this
25 isn't going to work for Evansville without that kind of

relationship. We understand that and we're prepared to do whatever we need in regard to that. Thank you.

MR. CHAIRMAN: Thank you. A point of clarification. You're saying you withdrew the objections that you were no longer going to do anything to prevent the transfer of the -- the trade --

MR. PERSKIEE: You give us too much credit. You give us too much credit. We -- what we did was -- well, today, we've already said we would do it next week. We filed with the DNR and the National Park Service withdrawing any objection on behalf of Players in Indiana.

MR. CHAIRMAN: Okay. And therefore, you're going to do anything further in that respect?

MR. PERSKIEE: That's correct.

MR. CHAIRMAN: Okay. Thank you very much.

COMMISSIONER: You gave two letters explaining it and you filed those. Are those still pending?

MR. PERSKIEE: We didn't -- we didn't initiate those, and we don't recall frankly -- I think with our action -- I don't know. I can tell you what we can do. We said we would do it next week. We changed our mind. We did it this morning, and I do want to thank the Commission for you attention and for the opportunity to

1 present, and I also need to thank the city, all of you
2 people of the city and the leadership and their
3 hospitality.
4 MR. PRITZKER: Thank you. This is
5 Nick Pritzker speaking for Evansville Landing. Ladies and
6 gentlemen, I'm listening to some of these from yesterday of
7 our friends from Players describe their partnership as
8 having the greatest financial debt, and our at Aztar saying
9 that they have the greatest operating department. And with
10 all respect to their fine organizations, I would like to
11 submit that our partnership with Mr. Tick Veal and with the
12 modesty of Hyatt have a very strong financial group, and I
13 do believe that our operating ability speaks for itself.
14 I've heard the city express their preference
15 for one of our competitors. And we would look forward to
16 working with the city of Evansville. I'm confident that
17 with a small amount of work that they would appreciate what
18 we have to offer. We would be a willing partner with the
19 city of Evansville. We would do our best to constantly
20 work with them, and that they'll end up being powerful what
21 we can bring to Evansville.
22 I would like to say -- it's part of our
23 application, just a few points. First of all we feel
24 strongly that in line with the Deloid and Toushe study of
25 the city, saying that 66,000 room nights would be developed

1 by a 250 room hotel. That if they're right and if we keep
2 them too high, and even if they're right, that will only
3 support a new 250 room hotel and not to any other business
4 in the community.
5 We've heard testimony saying that the
6 Executive Inn is in trouble. It will either close or in
7 any event, we'll find a period to renovate. We are
8 offering to not only buy that hotel, to renovate it $10
9 million, another $6 million of operations over five years
10 and turn it into a Hyatt Hotel and preserve the convention
11 business in Evansville. We think this brings tremendous
12 economic power to the city and the state of Indiana.
13 In terms of our operating abilities. We do
14 believe that our partner, Gold Strike, is the finest casino
15 operator in the country, and we would be very proud of the
16 job that they would do here as we are for the job they do
17 for us in Elgin. In terms of the civic initiatives, we
18 understand that there have been a number of changes to our
19 proposal, and we think it augments our proposal. Frankly,
20 our initiative now is as high as any, and some of those
21 initiatives developed over time and we wish they had been a
22 part of the city because maybe they would have picked us
23 instead of Aztar, and seen everything some months ago.
24 With the package I think you see before you
25 now is very competitive on the numbers, and we think it's

as high as any of them. And finally we think that the association of Ellis Park adds a dimension to our proposal. Mr. Thar, we thank you for the suggestion. We feel that we are able now to ramatize our commitment to Evansville. It's easy to do because our priority always has been Evansville, and in the numbers we gave you today, and I will emphasize that again now. As long as we are the licensee here, Ellis Park will not be competing with casino license, or as long as we have a license in Evansville for ten years.

I thank you very much for your time and listening to our presentation.

MR. RUBELI: And by the way, I thank you for the opportunity to have two minutes here and the end. I was the guy who began at 8:30 yesterday morning, about a thousand hours ago, and I'm going back to that presentation. Our goal then was to prepare for you and to present an affirmative presentation of this company, Aztar. Who we are, what our capabilities are, what the project is that we're proposing for Evansville, what our view is in the market, what our expectations were for the economic impact, and to provide to you a substitute presentation for one hours and one hour and 15 minutes touching upon as much substance as we could, trading it for the clarity that we hope to have presented, and all

1 throughout to do it with clear and convincing evidence, to
2 say to you speaking about this company and only about this
3 company why we think we are the best applicant for the
4 state of Indiana.
5 Our proudest achievement in the hindsight is
6 we managed to get through one hour and 15 minutes without
7 once mentioning one of our competitor's names. And I had
8 to suffer through the last day and a half wishing I were in
9 court subject to the opportunity to cross and
10 cross-examination and follow-up. But be that as it may,
11 perhaps the overwhelming evidence of the past two days has
12 resolved certain issues that I certainly would have wanted
13 to in time, and appear to have been resolved, and maybe
14 that's what the process in the end is all about.
15 And so in the end I want to go back to how I
16 ended my opening remarks. We are a company that has spent
17 a year and a half working very hard and fits with this
18 community very well and has prepared a proposal here, that
19 while it may not be perfect, is certainly ready to fall by
20 any means. And we are ready to go. We have a site under
21 control, we have a boat built by Indiana almost ready. We
22 have a project that's financed. We have all the necessary
23 approvals short of those that remain in the due course to
24 get this job done, such as the zoning, such as the
25 environmentalist, such as the traffic impact. And we do

1 have people ready to go.

2 We have an internal vote to share with the

3 Indiana. As it turns out we think we have a chance to beat

4 Gary in the water. And our goal is to have the first boat

5 with operations for the state of Indiana. If you select us

6 and give us that opportunity, we believe we will achieve

7 that goal. Thank you for that chance.

8 MR. CHAIRMAN: Mayor.

9 MAYOR MCDONALD: Well, thank you,

10 Mr. Chairman. Frank McDonald, Mayor of the City of

11 Evansville. Just first of all, I'd like to thank very much

12 for the opportunity for the City to participate and discuss

13 with it this morning its evaluation process.

14 And I told you this morning that we tried to

15 conduct a very open and thorough and fair process. It was

16 a process that all six of the original companies managed to

17 find no fault with except for after the vote was taken. We

18 believe that all of the companies that are remaining in

19 this contest so to speak can do the job, but one of them

20 can clearly do the job much better than the other two.

21 We are very proud of the endorsement that we

22 have given to Aztar, and we believe that their project and

23 their proposal speaks volumes about their commitment to

24 this community and attitude to that exist in their company.

25 Quite honestly, we are concerned still about

1 the park issue and Players. I just heard Mr. Perskiee say
2 that they have withdrawn under the name of Players of
3 Indiana. I heard nothing about Players International. I
4 know that they have employed Mr. Ridenauer, a former
5 Department of Natural Resources head and National Parks
6 Service head. They were burning up the phone yesterday to
7 Omaha, Nebraska, talking about this park conversion, and I
8 am concerned about if that company is not awarded the
9 license, if they will fully pack their bag, fold up their
10 tee pee and politely allow the community to progress with
11 its preferred gamer.
12 I believe that the Harp objection, I believe
13 that the Hammond objection, both reported in the newspaper,
14 are orchestrated by Players Organization, and I would
15 appreciate very much any assurance that this commission
16 could get from the Players International and Players
17 Indiana regarding their role in this to pursue the
18 withdrawal as aggressively as they pursued the filing of
19 the objections.
20 That aside, I certainly want to thank Players
21 and I want to thank the Evansville Landing people, as I
22 said this morning, for expressing interest in our
23 community. They have put forth effort and they should be
24 complimented for it.
25 Aztar offers this community, without

1 question, the very best opportunity for long-term success.
2 I said this morning that anybody given a license can be
3 successful for the short term, especially in a monopoly
4 situation, and I believe that with every fiber of my being.
5 But I also believe just as strongly that to be successful
6 long term, you have to have a proven track record and you
7 have to have been able to compete and demonstrate that
8 competitive ability in tough gaming markets.
9 And that is why the Aztar project in
10 Evansville will be successful long after some other
11 applicants that you perhaps may license in other areas of
12 the state of Indiana will have closed or been sold or gone
13 by the wayside. We want to do it right here, and you get
14 one chance to do it right the first time in Evansville; and
15 I firmly believe that with Aztar as the City's partner, we
16 can make this a shining example for the state of Indiana
17 successfully.
18 Thank you all.
19 MR. CHAIRMAN: I'm going to accept
20 the word from Players that they are out of that ball game
21 completely, and we won't ask them any further.
22 MR. PERSKIEE: I would appreciate
23 the opportunity to --
24 MR. CHAIRMAN: No, I think -- I
25 accept your word, I really do, that you're out of that ball

1 game, you're done with it, it's over. And on that basis,
2 we'll thank all of you again for the fine quality of the
3 presentations that you've made. That makes our job very,
4 very difficult, and thank the City again and in case you're
5 interested, on Friday, February 10, 1995, starting at 11:00
6 a.m., first with a business meeting, we will then hopefully
7 award a license down here.
8 In case you're interested. Thank you all.
9 MR. PERSKIEE: Thank you.
10 MR. CHAIRMAN: It's the public
11 commentary portion of our proceedings. Many of you, I'm
12 sure, know that sometime in early January we published
13 notice in the Evansville papers to the effect that we would
14 receive public comments at these hearings, but that those
15 people who wish to address the Commission should notify us
16 before January 20th as to their name, address and topic
17 upon which they wish to address the Commission.
18 We then also stated that those people who did
19 not wish to have time to present their views to the
20 Commission could, however, make their views known in
21 writing to the Commission so long as that was received by
22 this coming Wednesday. Is that the date, Mr. Thar?
23 COMMISSIONER: February 9. That's
24 Thursday.
25 MR. CHAIRMAN: February 8th I think

1 it is. So we indicated that those also -- anyone who
2 wished to make their views known to the Commission in
3 writing should do so by sending us information so long as
4 we receive it by the close of business on February 8th,
5 which is this coming Wednesday.
6 In addition, we also advised all those people
7 who did receive time, if they wish to explain their views,
8 that they're going to explain the views in person, likewise
9 they can submit materials in writing.
10 We received some 30-odd requests for time.
11 We reviewed them and we found that some of them were public
12 -- members of the public who wished to support one or more
13 of the applicants directly. We felt that under the
14 circumstances, we should try to consolidate those, and and
15 we had that session early this morning just before we went
16 to lunch. Actually it was probably early afternoon. We
17 gave each applicant 15 minutes to present their point of
18 views, including written material. And that was done.
19 We eliminated those people who were just
20 speaking direct support of a particular applicant. We
21 narrowed the list thereby, but eliminated no one else from
22 the list. And we now are in the portion where we have the
23 list of people who wish to address the Commission on
24 various and sundry matters, and we're going to proceed.
25 I made that statement to clarify where we are

1 in the public session. We've never intended to keep anyone
2 away from expressing their views to this Commission. But
3 in order to proceed in an orderly manner, we set up the
4 procedure I just outlined. So I hope everyone who does
5 want to make their views known to the Commission did follow
6 the simply procedure and let us know. And we will hear
7 from those people now, but we will not hear from anyone
8 else. We're only going to go down the list that we have
9 received and because of time.
10 So we will proceed now with the first, and
11 the first one on our list who was scheduled for 2:30, we're
12 exactly an hour late, Brenda Murry, a Organization for a
13 New Evansville, ONE. You may stand at the podium or sit,
14 as long as the mike works.
15 MS. MURRY: Mr. Chairman and
16 members of the Indiana Gaming Commission, on behalf of
17 Evansville ONE, I would like to thank you for allowing the
18 ONE organization the opportunity to come before you today.
19 The ONE organization would like to become a
20 partner in this new economic development for the City of
21 Evansville. We'll focus on revitalizing the neighborhoods
22 in the 4th and 6th wards. Since late 1993, a group of
23 concerned citizens have been working to ensure that the
24 benefits of riverboat gaming can be shared by all the
25 citizens of Indiana, both rich, middle class and poor.

1 Too often the benefits of investment and
2 public programs never reach the poor citizens or their
3 neighborhoods. Some of these citizens have joined together
4 to prosper and to promote community economic development
5 and the neighborhood revitalization in the 4th and 6th
6 wards, which contain the largest population of poor, low
7 income and public housing residents and minority.
8 Most of these wards have circled downtown
9 where the proposed facilities will be built and both of
10 these wards support the referendum which legalizes
11 riverboat gambling in Vanderburgh County by a larger
12 majority than any other wards. A 22 percent "yes" vote for
13 referendum from these citizens.
14 The one mission statement reads:
15 "The Organization for
16 a New Evansville will provide
17 for the formal discussion among
18 poor, low income, public housing
19 residents, organizations controlled
20 by low income persons,
21 organizations that assist the low
22 income, religious institutions that
23 operate in Evansville's low income
24 neighborhoods and advocates of
25 social and economic justice.

1 "ONE will encourage creation
2 of community development
3 corporations controlled by low
4 income residents and support the
5 existing ones.
6 "ONE will attempt assume
7 persons involving resources to
8 to plan antipoverty strategies
9 and initiate self-help community
10 economic development activities,
11 including creating affordable
12 housing, micro enterprises and
13 needed social services.
14 "ONE seeks to create a
15 foundation to steer
16 substantial lower riverboat
17 gaming tax revenues to worthy
18 inner city economic development
19 activities in the city.
20 "ONE seeks to break the
21 economical, educational, and
22 social level of the residents in
23 the 4th and 6th Wards of the
24 city of Evansville, including
25 members of the minority community

1 who are substantially
2 unemployed, underemployed or
3 whose income is below the
4 federal poverty level.
5 "To date the ONE
6 organization has received
7 commitments from persons to
8 serve on the board from within
9 those two boards, social
10 service providers, bankers,
11 real estate, accountants,
12 clergy and educational
13 professionals.
14 "The legal services
15 organization has provided
16 an attorney as legal counsel.
17 The board membership of up to
18 23 persons with 51 percent
19 from the low income
20 neighborhoods.
21 "The articles of
22 incorporation have been filed
23 and the organization has
24 submitted a grant request for
25 funding to the campaign for

1 Human Development in
2 Washington, DC.
3 "These funds will
4 provide office space and
5 staff to begin going covering
6 the poor, low income and public
7 housing residents to its
8 neighborhood leadership and
9 revitalization.
10 "ONE feels that the license
11 for riverboat gaming should
12 be granted to the licensee
13 which best serves the interest
14 of the citizens of Indiana and
15 this community.
16 "The Indiana code 4-33-4-1
17 supports this statement. Our
18 organization seeks to ensure
19 that some of the benefits of this
20 new state enactment creates
21 economic development not only in
22 the downtown but over a large
23 geographic area.
24 Under the Indiana Code 4-33-67, it
25 will assure this effort.

1 "The statutory codes are
2 promoting specific economic
3 development over a large geographic
4 area will not commit if all the
5 benefits are targeted to the to the
6 central business area while the
7 neighborhoods suffer and the
8 multitude of social problems which
9 accompany it.
10 "Also the potential additional
11 traffic endorsed throughout the
12 neighborhoods that cross through
13 the main streets to get to the
14 riverboat.
15 "ONE also seeks to advise the
16 Commissioners that during the
17 hearing held in the winter of 1994
18 by the Mayor's Riverboat Evaluation
19 Committee several of the competing
20 casinos publically stated that it
21 would be difficult to achieve the
22 MBE and WBE goals established in
23 the Indiana Code 4-43-14-5.
24 "Accordingly, strict
25 monitoring of eventual licensing

1 plan to comply with those will be
2 necessary. It is a simply matter
3 to state that compliance will be
4 achieved. Given the small number
5 of local minority ventures and
6 women ventures, it is hard to
7 imagine how those goals can be met
8 without active monitoring by the
9 Indiana Gaming Commission calling
10 for the Indiana Code 4-3346.
11 "We urgently call upon you as
12 members of the Gaming Commission
13 and our state and local
14 representatives to assure that the
15 following assurances are strongly
16 committed and abided by.
17 "They are: To assure that
18 local organization that work daily
19 with the low income are widely
20 improved, tested and interfering
21 applicants. To obtain a firm
22 commitment on hiring low income
23 person without GED or high school
24 degrees and offer them the
25 opportunity to obtain them during

1 their employment.
2 "To obtain a firm commitment
3 that low income Vanderburgh County
4 employees will be the first source
5 of hiring. To obtain a firm
6 commitment that child care and
7 transportation issues are
8 adequately dealt with for low
9 income employees.
10 "To obtain the firm commitment
11 that a fair, equitable number of
12 mid and high paying jobs go to
13 minority and poor, low income and
14 public housing residents,
15 particularly the 4th and 6th ward.
16 "To obtain a firm commitment
17 that WBE and MBE goals will receive
18 the statutory percentage of
19 business. To obtain a firm
20 commitment that any stream of
21 income will be created for
22 neighborhood revitalization.
23 "To provide assurance that the
24 stream of income will be utilized
25 for facilitating business

1 investment, grants and low interest
2 loans, creating first-time home
3 buyers programs which will
4 stimulate the creation of a
5 resident control community
6 development corporations which
7 will create child care, housing,
8 employment and other solutions and
9 opportunities appropriate for
10 Evansville neighborhoods.
11 "To provide assurances that
12 the economic environment of the
13 designated areas will be at hand by
14 fostering crime prevention,
15 education, illiteracy and public
16 job initiatives to be following by
17 the new stream of income.
18 "To obtain a firm commitment
19 that the stream of income will be
20 controlled by residents of low
21 income neighborhoods. To assure
22 that these commitments can be
23 evaluated and accountability is
24 maximized.
25 "Yes, the Evansville ONE

1 organization is committed. We want
2 to offer the Cream of Wheat that
3 sticks to you, the Respect of Ms.
4 Aretha Franklin singing the Rolaids
5 to give some relief in this
6 neighborhood, the Coast, eye-opener
7 to provide hope in these
8 neighborhoods, the American Express
9 safety net, don't leave home
10 without it, and Coca-Cola's the
11 real thing.
12 "Yes, casino gaming is the
13 real thing and one wants to be in
14 the forefront for those who are
15 often forgotten. We certainly hope
16 that the new casino industry in
17 Evansville would not fall to these
18 words of the actress Elizabeth
19 Taylor, to her lawyer by her third
20 husband, "I won't be lost."
21 "Once again I ask you, please
22 consider the requests that we have
23 asked of you as Commissioners, and
24 we would also like to take this
25 time to thank the Mayor and to the

1 casino licensees that believe in
2 Evansville ONE, and also to say
3 that, yes, we had the opportunity
4 to speak to many of you, but
5 commitments as you know have
6 already been state earlier. We'd
7 like to thank you for this
8 opportunity."
9 MR. CHAIRMAN: Thank you. Next on
10 our list is Sister Catherine Kelly, and before you start I
11 want to tell you Don has been a very good boy.
12 SISTER KELLY: I was impressed he
13 recognized me when I walked in.
14 COMMISSIONER: Twelve years of
15 Catholic schooling.
16 SISTER KELLY: I have to say Brenda
17 is a hard act to follow, but I'm willing to do my best. My
18 name is Sister Catherine Kelly. I the founder of Partners
19 of Caring which is a local coalition of health and human
20 service organizations who directly serve the poor here in
21 Evansville. At this current time there are some 34 health
22 and human service organizations that are part of this
23 coalition. We have been in operation for or together as a
24 network for the past five years.
25 During that five year period we have spent

1 most of our time educating our own community to the needs
2 of the poor, producing award-winning documentary called
3 "The Cry of the Poor," and a documentary that was aired
4 last week called, "Tri-State Families at Risk" which talked
5 about the decline in family not only one of the issues
6 about family life in Evansville right now, but who is here
7 to serve the needs of the family to create a healthier
8 family.
9 I also served as the vice president for
10 missionary services of St. Mary's Medical Center. St.
11 Mary's is one of the largest employers of Evansville, and
12 we are one of the largest providers of charity care for
13 community benefit, last fiscal year, provided $8.5 million
14 worth of charity care and community benefits for our city.
15 So if I speak to you I speak not only as a concerned
16 person, but also as a servant of the poor.
17 I'm interested in speaking to you today to
18 suggest that one of the considerations in the selection of
19 the company that is granted the gaming license should be
20 their level of commitment to this community. Given the
21 fact that gaming is coming to our community and you are
22 responsible for selecting that company that will work with
23 our community over the next several years, I believe that
24 it is your duty to reflect on how each company plans to
25 participate in benefiting the Evansville community, not

1 just taking from it.
2 As a daughter of charity, I have vowed to
3 serve the poor and I am currently working with many
4 organizations and individuals to meet many of their needs,
5 including health, education, job training, food, housing
6 and family services. We are doing this why right now
7 creating a care of the poor plan for the city of
8 Evansville, a continuity care plan which we hope that will
9 become a part of how we serve the poor in the future.
10 Your choice of the company that you grant the
11 license to will impact our community and have special
12 impact on the poor who live in the neighborhoods closest to
13 proposed developments. The State Gaming Commission has a
14 moral and legal duty to grant the license to the applicant
15 that commits themselves to, and this is in your own
16 statute, spreading out the economic developments over a
17 large geographic area that benefits all citizens, not just
18 the wealthy.
19 Evansville is not a wealth community. It
20 already has more needs than we can address. Many of these
21 needs have been documented already, and I -- I suggest that
22 you use this document, which is the community needs
23 assessment of 1993 sponsored by the United Way,
24 Southwestern Indiana, Vanderburgh Community Foundation, the
25 city of Evansville, American General Finance, Bristol-Myers

1 Squibb, Indiana Bell, PPG and Whirlpool and was head --
2 headed by Skip Simms as the chairman of this study. This
3 study points out many of the needs in our own Vanderburgh
4 community, many of the needs that I'm talking about, and I
5 hope that the selected applicant intends to be a partner in
6 reducing the problems, not just adding to them.
7 We are not looking for the successful
8 applicant to come in and solve all the problems that the
9 poor face, but I do expect them to work with the community
10 in improving their lives and doing their best to addressing
11 any negative impact on the community.
12 I understand the benefits of additional jobs
13 to our community. Many of you probably are aware that we
14 are losing some of our companies. Companies are closing
15 and moving out of town, so we have seen a number of job
16 losses. Additional jobs to our community will be a great
17 help. And I hope that the selected applicant will be a
18 quality employer as well as an active partner in helping
19 those in need in our community. A quality employer who
20 believes in the principals of social justice, whose wages
21 and benefits will help the people of Evansville, not just
22 add to the poverty that we already know.
23 Therefore, I ask the Gaming Commission to
24 include the community benefit representations from the
25 chosen guarantor as a part of the condition of licensing.

1 The public's confidence and trust will be maintained not
2 only through strict regulation and law enforcement, as
3 identified in the legislative intent of this whole process,
4 but to carry about the community and it's citizens
5 concerned with the reduction of negative effects from their
6 enterprise and being a quality employer.
7 Therefore, with my closing comment I would
8 ask that you chose the company who will be an active
9 partner in caring for the overall live of our community,
10 especially with regard to improving the lives of the poor
11 whose lives are those lives that are in the surrounding
12 area.
13 And I thank you for the opportunity to speak
14 this afternoon.
15 MR. CHAIRMAN: Thank you, Sister.
16 Next on our list is Cindy E. Collins. Is Cindy Collins
17 present? Beverly Kempf.
18 MS. KEMPF: I'd like to thank the
19 Commission for this part of this hearing process. I am a
20 -- this here is a hard act to follow of both of these, and
21 Cindy would have been another hard act to follow also. I
22 am a long life -- I've lived in Evansville all my life.
23 I'm very proud to be part of Evansville. I'm a mother, a
24 housewife, a full-time worker, and sometimes called a
25 full-time volunteer.

1 I do a lot of volunteer work in the city of
2 Evansville. I'm concerned of the neighborhoods when the
3 riverboat gambling comes. I'm not to say that I'm a part
4 of -- that I want riverboat gambling or that I don't, and
5 I'm not speaking for all the neighborhood associations, I'm
6 speaking for mine who are within a few blocks of the
7 riverboat gaming area.
8 One of our boundaries is Fulton and Lloyd
9 Express, which is right near the river. I think we're
10 concerned with the noise, the congestion and everything
11 that comes with riverboat gambling, not only crime or
12 whatever. You know, we are not here to say what will
13 follow whoever gets the license in the future of Evansville
14 in this part, but would you please, whoever you grant the
15 license to, look at the affect on the intercity
16 neighborhoods.
17 We will be affected, and also whichever
18 licensing comes to Evansville, look at how they will work,
19 not only for the city of Evansville, but with the
20 neighborhoods, the poor community. Just, you know, look at
21 this really strong, and I have all the confidence in the
22 world that you will make the right decision for the city of
23 Evansville.
24 MR. CHAIRMAN: Thank you. Charles
25 W. Branson.

1 MR. BRANSON: Mr. Chairman,
2 Commissioners, thank you for the opportunity this afternoon
3 to state my view. Let me assure you I'm not here this
4 afternoon to endorse any applicant or any site proposal,
5 but strictly as a local operator in the commercial feeding
6 industry about the safety aspects of this.
7 We've heard numerous experts, numerous
8 financial experts talk about the economic impact, what it
9 can do to a state, for the community, for the surrounding
10 areas. I'm 100 percent in favor for that, but you're
11 talking millions of dollars in investments, millions of
12 dollars generated over the next 10, 15, 20 years. There's
13 not any amount of dollars that can be put on a life.
14 Losing one because we don't do the job prior to this
15 license issuance and make sure that we can protect that
16 life anyway we can.
17 I've been an operator in the industry for 22
18 years. I also had the unfortunate position of being the
19 operator whose nine barges, as you've heard today and
20 referred to several times in the last two days. In 22
21 years that's the first incident. Those barges, we call in
22 the industry dumb barges because they weren't under power.
23 They strictly got away from the fleet and for two hours
24 nobody knew where they were.
25 There was a little chart in the paper the

1 next day of every anticipated route. We've heard comments
2 about they didn't touch the bank that's in question, the
3 site proposed. I wish somebody that knew that would called
4 me so that I could have got down there. If they knew that
5 they weren't on that thing and they was someplace else, I
6 could have got down there and caught them before they did
7 their final landing. I'm in a whole lot better position
8 today than I was -- than I was last week at this time.
9 You heard people talking about the captain's
10 responsibility. These -- these captains are are carrying
11 master's licenses. Their licenses are of better grades
12 than a whole lot of towboat operators because they are also
13 licensed to carry passengers. They are masters. We have
14 absolutely no problem with a master of a vessel of this
15 nature being underway. In fact, I would rather him be
16 underway, transversing this area where he can at least make
17 his own decision if needs to make evasive maneuvers, but if
18 you restrict his ability to make the judgement of when he
19 can or when he can't maneuver, or if you let an owner strap
20 him to the point where he has to choose between losing his
21 job or go before Captain Morani, you haven't done -- you
22 haven't done your job.
23 He -- he has to have some protection from you
24 because it is his livelihood and if he is -- if he's
25 hamstrung by state regulations that don't permit him those

1 times that he can make the decision. And -- and we're not
2 just talking about bad weather or river conditions
3 following. We heard a gentleman this morning say that one
4 of these boats can be made maneuverable in five minutes. I
5 don't see how that you can be in the process of boarding
6 and deboarding 1,500 to 2,500 people and be able to
7 disperse those people to a safe place, untie lines, get a
8 boat out of harbor, I guess or a docking facility in five
9 minutes.
10 They have talked about not running whenever
11 there is a tow within a mile one way or the other of the
12 facility. 6,000 barges -- 6,000 tows, excuse me, is a
13 number that they use. That 6,000 doesn't include in my
14 harbor, in the Evansville Harbor, and the Henderson Harbor
15 and the Mt. Vernon Harbor between these two lots there.
16 They're presently called somewhere in the neighborhood of
17 15 to 28 days. And we don't use those lots so I have no
18 idea where we are. What I'm saying is we are comfortable
19 with the master of that vessel. We'll know that we are.
20 That is his job and we're confident that if he actively be
21 carrying a license that he needs to have -- the vicinity is
22 not going to matter. He's going to be able to make a
23 decision and know where everybody is and know -- know how
24 to evade any kind of kind of catastrophic problem.
25 That's the major concern of the piloting, the

1 dockside and the fleeting or underway gaming. The only
2 other thing that I'd like to say today is that we don't
3 mind I don't think as an industry. I'm also an avid
4 pleasure boater myself. We don't have a problem with these
5 site locations as long as they are maintained behind the
6 existing bank now, not to narrow the channel anymore than
7 it already is, and that they be -- have some type of a
8 safety wall.
9 And they say, "Well, that's going to take
10 some pretty good engineering." Well, 1,500, 2,500 people
11 onboard a vessel need to have some pretty damn good
12 engineering to make sure that their safe whenever they're
13 on that bay.
14 And I appreciate your time. Thank you very
15 much.
16 MR. CHAIRMAN: Thank you. Next is
17 the representative of American Inland Mariners. I think
18 it's a substitute of one speaker for another one.
19 MR. STRADE: My name is Sam Strade.
20 I'm with the United States Coast Guard License Management,
21 22 years bound and experienced. I'm a resident of this
22 community and have been for 22 years. I'm here to speak to
23 the Commission both individually and as a professional
24 mariner of towboats, board member of American Inland
25 Mariners.

1 The aim of the association is a non-profit
2 association of Inland Mariners based from Memphis,
3 Tennessee. Inland Mariners are those employed on the
4 inland waterways of the United States and generally work
5 with towboats and tugs, push barges along our nation's
6 rivers and harbors. One primary goal is to seek to improve
7 the safety of our nation's inland waterways, to increase
8 communication, federal, state and local governments and to
9 also improve communications between mariners and the
10 industry in which they're employed.
11 I've come here today to express our opinions
12 on the proposed Evansville gaming sites and the safety
13 issues associated with having to get though those sites.
14 After learning of the city of Evansville's possible placing
15 of a gaming vessel in the city front, the idea of this
16 potential river hazard made the interest of this
17 association and it's fellow members, as a result of the
18 associations on the letter writing campaign and the vast
19 mailing, listing the help of over 1,000 individual
20 mariners. Targets of these letters were to the
21 Commissioner, the Commissioner of the Executive Director,
22 Jack Thar, the Mayor of the city of Evansville, United
23 States Coast Guard, Louisville and the United States Army
24 Corp of Engineers Rank, Fort Branch and Louisville.
25 Membership and association adamantly focused

1 any and all gaming facilities proposed to be located
2 between the miles of 791.8 and 793 of the Ohio river. This
3 area is located in the bend of the Ohio river, a dominant
4 navigatable channel that flows along the right sending
5 shoreline. The basis of our opposition is the fact that
6 the larger towing vessels and the thousands of tons of
7 barges they push pass this proposed gaming area in too
8 close of a proximity.
9 We, the members of this association, due to
10 placing the vessel in this area will needlessly endanger
11 the lives of thousands of unexpected patrons of this gaming
12 vessel. As been suggested that this association in
13 opposition to the Evansville proposed plan have been
14 motivated by reasons other than safety to the general
15 public. I will state for the record today that the safety
16 of all of our nation's waterways and the individuals that
17 share them is the primary concern that of the association
18 of the professional mariners.
19 In closing, the members of this association
20 are equally concerned about the hundreds of good jobs the
21 gaming industry will bring to this community, and about the
22 tens of millions of dollars that the floating casino will
23 bring to the city of Evansville with the increased tax
24 revenue dollars; however, we felt that it is extremely
25 important to this community and this Commission to insure

1 that this vessel is placed in an absolute safe location to
2 protect the interest of the general public. We do not want
3 it to become a tragic event. We do not want to return to
4 this community in sometime in the future and say, "We told
5 you so." We would rather leave this hearing today knowing
6 that the opinions and expertise of professional river
7 mariners have been recognized.
8 We respectfully ask the Commission to
9 consider the other proposed gaming locations that have been
10 turned down, the site safety alone with regards to the
11 traffic scheme of commercial vessels. One such example of
12 this is the first site selected for the vessel to be
13 located in St. Charles Parish, Louisiana. In this
14 community the site was condemned in solely on the basis of
15 traffic coming too close to the vessel while th people were
16 it it's dock.
17 It's said here that there will also be sequel
18 periods throughout the year where this vessel will not sail
19 because of the weather. The safety of the vessel must also
20 be considered while the vessel is moored in its docking
21 facility. The politics surrounding the selection of the
22 license in the city of Evansville is not of concern to the
23 coalition of professional mariners; however, considering
24 that there are currently alternative sites available in
25 this community. We do recommend that such an alternative

1 site -- that the Evansville city front be selected to
2 insure the safety of thousands of individual patrons to
3 such a vessel, the safety of all commercial waterway users
4 that share the stretch of the Ohio river.
5 We, the members of the AIM, want to thank the
6 Indiana State Commission for placing this coalition of
7 mariners on today's agenda. We would also like to thank
8 the Commission for the alloted time to express our view
9 publically before the members of this community. And we'll
10 be happy to take any questions from the Commissioners.
11 MR. CHAIRMAN: Thank you.
12 MR. DAVIS: We have one more. He
13 was going to split his time with me.
14 MR. CHAIRMAN: I'm sorry?
15 MR. DAVIS: I said he was going to
16 split his time with me. I'll try not to be too long.
17 MR. CHAIRMAN: Your name?
18 MR. DAVIS: My name is James Davis.
19 I'm a licensed master. I've traveled here from Martin,
20 Tennessee to try to prevent this disaster from taking
21 twice. As you all know, September 22, 1993 the Amtrak
22 Sunset Limited crashed because of the error of a towboat
23 pilot. Due to those 47 days the entire pilot community is
24 now going to radar school to obtain radar certification,
25 and some working for 20 to 30 years. It's a very small

1 cost, but it is what we a necessary.

2 By placing a casino boat in the Evansville
3 bend, we're looking at the possibility and we're looking at
4 maybe not the possibility, but the possibility is there
5 that if a collision occurs, we're going to lose a lot more
6 than 47 people. Have you ever been aboard a vessel and
7 have to abandon it? I have. In 1983 I had a vessel go out
8 from under me. Ten people on board got off the vessel
9 barely because it only took about 14 seconds for that
10 entire vessel to be engulfed in flames.

11 What's going to happen when you have to get
12 2,000 of them because of collisions. Have to search for
13 life jackets and have the possibility of drowning, even if
14 they get off the vessel. This should be taken into
15 consideration because if you don't, and it does happen, how
16 are you going to sleep? The placement of the vessel in
17 Evansville bend, if a barge does break out of a tow or a
18 tow, you know, a towboat pilot makes an error in judgment,
19 it can very detrimental upon this dock side. If it's got
20 to go in the bend, I suggest a lot of protection for it.

21 Always allow for the worst because if you
22 don't the worst will happen. Take it into consideration
23 because one accident will wipe out Evansville. Who's going
24 to want to ride on a boat that gets crashed? I don't.
25 Thank you.

1 MR. CHAIRMAN: Thank you.
2 MR. STRADE: Could I say one other
3 statement? The video that you all saw yesterday that was
4 presented by Captain Dan Morani, I heard by so many people
5 today it's a cartoon. That was not a cartoon. By any
6 stretch of imagination that was not a cartoon. That man
7 represents a lot of experience in this business, and he did
8 a very, very good job in explaining it to you all in your
9 terminology and your language, because if I had explained
10 it to you, you wouldn't understand. And he did and
11 excellent, excellent job of showing you that barges can hit
12 things.
13 The risk of collision is present when two
14 vessels are meeting one another or overtaking one another.
15 Presently, you have no boat in that bend. You're going to
16 put one there. The element of risk of a collision now
17 exists, and it's a passenger vessel.
18 MR. CHAIRMAN: Thank you.
19 MR. STRADE: There's danger. Thank you.
20 MR. CHAIRMAN: Next is Captain Jerry
21 Harrington.
22 CAPTAIN HARRINGTON: Good afternoon,
23 Commissioners. I'm Captain Jerry Harrington a master pilot
24 with 38 years of exposure as a pilot and as a master. The
25 11th day of this month, the 11th day February, I've been

1 involved in the river transportation industry for 40 years.
2 I'm not a new kid on the block. I am here with the
3 situation that they're dealing with, the exposures. I
4 represent the working pilots, captains and trainee pilots
5 that we have working today through this given area,
6 Evansville bend. I see Evansville bend every third day
7 during a common worksite. Every third day, north and south
8 bend and sometimes that varies.
9 I operate from Metropolis, Illinois to
10 Rockport, Indiana. I'm one of the many that sees that
11 Rockport power plant, so we're talking -- you know, talking
12 exposure. The thing that brings me here and bothers me the
13 most is the projections of the areas in the Evansville bend
14 today. It's a beautiful picture; however, that particular
15 region is a very restricted area. It's been one-way
16 traffic, very common, northbound and southbound, one way
17 traffic. One way traffic one vessel at a time, whatever
18 the total makeup might be.
19 Why? For safety's sake. To protect the
20 people, protect the equipment. We've talked about
21 tragedies, incidents and accidents. We do not recall it.
22 We do not hear once of the near misses, the near misses in
23 Evansville bend. Yes, I'm qualified, very much so, in this
24 industry as pilot, as a master as a well-rounded
25 supervisor. Operating vessels with 150 horsepower, 10,500

1 horsepower in all inland waterways.
2 And I say to you folks at this time, this is
3 the second time in my career that I've ever felt it
4 necessary to impose what's happening for the betterment of
5 the industry. I'm never comfortable talking about
6 aggravational hazards. Taking the high dollar and only for
7 the people involved, but the floating boats, floating
8 casinos, if I may, the facilities, whatever they may be,
9 that bothers me, my livelihood and many others. I really
10 don't want it to happen with reference to vengeance or
11 something of this nature in this region.
12 And I've looked at all the different, believe
13 me. From the shore, from the air. Yes, from the air. I'm
14 also a pilot, I fly, so I know what risk is. I really
15 wanted to know, I really wanted to feel if it was real, and
16 it is real. I'm here before you asking to for the sake of
17 the citizens, that lower into Evansville bend has many
18 different obstacles. We are moving in that area, two-way
19 traffic, a place called Mead Johnson. I won't bore you
20 with the mileage, with the exact longitude and latitude.
21 We would have a two-way traffic in that bridge, up and
22 downbound.
23 Mead Johnson above? It doesn't happen. It
24 doesn't happen. It hasn't happened for years. It hasn't
25 happened for years. I'm speaking of the same dock on the

1 city front which is well-kept, it's beautiful. We're
2 dealing with the small clan, the boaters, we're doing all
3 that. The risk is still there. A great deal of education
4 took place in that light. We're doing a lot as far as
5 personal injuries and that type I think.
6 There's probably 3, 4000 registered vessels,
7 small crafts from the area. The incident rate is very low.
8 We're pleased with that. Gentlemen, it's an established
9 restricted area. It's a high dollar floating facility, and
10 look at this. When I say high dollar lives and on it goes.
11 Equipment, sure. Equipment can be replaced. The question
12 rolling in my mind is the our facilities and what happens?
13 What's going to be the end results? There's no way we can
14 predict it, but in most cases it's not good. In most cases
15 it's not good.
16 The average individual here has driven a
17 vehicle. Most all of us have dropped off the pavement in
18 driving to or from work or whatever the case might be.
19 Most all of us have crossed the center line. What I'm
20 saying is there are variables. There's variables in the
21 whole operation of the inland system in our industrial
22 highway, which is usually the purpose of an industrial
23 highway.
24 Recreational vehicles, in this case a
25 gambling boat. I'd like for you folks to bear that in mind

with reference to this area. I'd like for you to take a long deep look at it because I have. Any questions at this time, gentlemen?

MR. CHAIRMAN: We thank you very much, Captain.

CAPTAIN HARRINGTON: You thank you very much, sir. And I thank you for having me. I would like to make one recommendation to the system of Evansville and to the Gaming Commission if I may, sir. With reference to the operation of the casino vessel, if it's got to be, if it's got to be, let it be, but keep it in the upper regions in some way. Yes, I'm talking restrictions. I'm talking from the waterworks as we call it, you all have heard that figure of speech, it's here, from the waterworks north. Possibly we can work that out.

I thank you all for having me, and I thank you all for taking the time to listening to me.

MR. CHAIRMAN: Thank you. Michael J. Weber.

MR. WEBER: Mr. Chairman, I've waived my right to speak in the letter to Mr. Thar Friday, and I understand they've revised the agenda as --

MR. CHAIRMAN: Okay. Thank you. We're dealing from a revised -- I thought this was a revised agenda, but it's not. It's the newest revised

1 agenda. Okay. Next, Dave Dewey of the Ice Committee and
2 Chris Brinktop.
3 MR. DEWEY: Good afternoon, ladies
4 and gentlemen. My name is David Dewey, and I am president
5 of Western Kentucky Navigation, Inc. WKN is located in
6 Paducah, Kentucky and operates commercial towboats on the
7 Ohio River. Our vessels transit the Evansville reach of
8 the Ohio River several times each week, day and night, 52
9 weeks a year. I, myself, am a licensed river pilot and
10 have been in the river transportation industry for over 25
11 years, serving both on vessels and in management positions.
12 I am also chairman of the Ohio River Ice
13 Committee. This is an ad-hoc committee of river industry
14 representatives. Its name comes from its formation during
15 a major ice event on the Ohio River in th elate 1970's.
16 The towing industry came together as a group to work with
17 the U. S. Coast Guard and the Army Corps of Engineers in
18 order to minimize damage and to help restore navigation
19 during and after this catastrophic ice blockage.
20 Since that time, the ice committee has worked
21 with the Coast Guard and Corps of Engineers on various
22 matters concerning navigation of the Ohio River. It
23 continues at present working in an advisory capacity not
24 only on the gaming vessel at Evansville but also on other
25 issues affecting navigation throughout the Ohio River

1 Valley.

2 On March 23, 1994, members of the Ice
3 Committee were invited to meet with the Mayor of Evansville
4 concerning potential sites for gaming vessels at
5 Evansville. Also present at the meeting was a
6 representative of the Army Corps of Engineers, the U. S.
7 Coast Guard, and the Indiana Gaming Commission. Operations
8 people representing major barge lines and towing companies
9 attended this meeting. Companies represented were:
10 American Commercial Barge Lines; The Ohio River Company;
11 American Electric Power; R & W Marine; Crounse Corporation;
12 Mid-South Towing Company; Western Kentucky Navigation,
13 Inc.; Ohio Valley Marine Service; and Evansville Barge
14 Company. these companies move the vast majority of tonnage
15 which moves past Evansville every day. Most of these
16 representatives were licensed towboat pilots. These
17 industry people were well-acquainted with the hazards of
18 navigating the horseshoe bend at Evansville.

19 In that meeting the Ice Committee stated that
20 industry preferred a location out of Evansville bend for a
21 gaming vessel on the basis of navigation safety. Millions
22 of tons of cargo pass Evansville annually -- safely, I
23 might add. However, the Mayor was adamant about that the
24 City was committed to a downtown location to further
25 economic development. This placed the vessel in the bend

where we did not want it. After some discussion, the Committee offered a compromise position. It would not oppose a site in Evansville bend if the following conditions were met:

One: The vessel must not extend riverward past the pool elevation shoreline when docked;

Two: The vessel must be adequately protected from collision on the upstream end of the site;

Three: The master of the vessel must have the absolute authority to make the decision whether to sail or not to sail based on prevailing conditions. These conditions include (but are not inclusive): weather conditions, river stage and velocity of the current, drift, visibility, and river traffic, commercial or otherwise.

The Ice Committee has met with representatives of several applicants for the gaming license at Evansville. All applicants have been told the same story concerning the Ice Committee's position on this subject. The Ice Committee is unbiased in its position toward individual applicants. Our only concern is safety. We are concerned with the safety of the passengers and crew of the gaming vessel as well as the safety of our crews, our equipment, and the integrity of the cargo we carry. I would like to stress that the Ice Committee does not favor the downtown site that has been proposed, nor does it favor

one applicant over another.

Risk is always present whenever two vessels are operating in the same waters. The Committee feels that navigation safety is primarily at risk at low water when the channel is restricted by the sand bar protruding from the inside of the bend. Tows must then pass within a buoyed channel which is significantly narrowed in the outer edge of the bend. Traffic would pass very close to the mooring site of the gaming vessel. In these periods of current velocity is less and control of a tow is less difficult than in high water when current velocities are far greater. We do feel, however, that the vessel can be operated safely from this site if the criteria previously stated are strictly enforced.

Thank you for the opportunity to comment on this important issue.

MR. CHAIRMAN: Could we have a written copy of your statement --

MR. DEWEY: Yes, sir.

MR. CHAIRMAN: -- that you could leave us with?

MR. DEWEY: Yes.

MR. CHAIRMAN: The next speaker is David S. Coker.

MR. COKER: I almost feel like I

1 ought to have a button on here that says "I'm not a good
2 old boy." It is an honor and privilege to appear before
3 you today and share my views on the ongoing debate
4 regarding the selection of the Evansville's riverboat
5 gaming licensee.
6 For the past year this community has
7 dedicated countless hours examining the proposals of
8 competing companies and debating the economic merits of
9 riverboat casino gaming. It all comes down to a decision
10 which this panel will make during the coming weeks that
11 will inextricably change the city of Evansville, perhaps
12 forever. It is incumbent upon you to make a decision which
13 is in the best interest of this entire community. Indeed,
14 your statutory charge is to make a wise and prudent
15 decision which is in the best interest of all of the
16 citizens of the state of Indiana.
17 In this regard, a number of residents in this
18 community have been asking some rather serious questions
19 about the nature of the local review process and the
20 individuals and companies involved with the proposal put
21 forward by Aztar Casinos, Inc., which was endorsed by Mayor
22 Frank McDonald's local selection committee.
23 Shortly after passage of the riverboat
24 referendum in November of 1993, city officials began
25 discussing a local review panel which would be comprised of

1 people holding various divergent viewpoints from numerous
2 civic groups and political persuasions. At the time many
3 of us were hopeful that for once we could get it right in
4 this community. We hoped that the panel would represent
5 the entire community, with members representing a wide
6 range of neighborhood organizations, churches, non-profit
7 groups and others who routinely deal with those least
8 fortunate in our community, those individuals who could
9 potentially benefit most from the employment opportunities
10 extending from the gaming boat and all of it's attendant
11 amenities.
12 We were therefore quite disappointed when we
13 learned that the Mayor had selected a group of individuals,
14 who, for the most part, share his own core beliefs on any
15 of a wide range of issues. Many owed their allegiances to
16 him personally, either directly through the electoral
17 process or as city employees or members of various
18 municipal or quaisi-governmental boards and commissions
19 which receive city money.
20 The outcome of the selection process was
21 therefore, to a certain extent, predictable. No matter
22 what outlandish, unrealistic claim was made by Aztar, the
23 most preferred contestant in the competition, an
24 endorsement by a panel of the Mayor's peers which insulated
25 him politically from the selection process was to be the

1 primary objective. The size of the boat, the number of
2 jobs, the amenities, the marketing acumen of the competing
3 companies, virtually nothing that any of the other five
4 contestants put forward seemed to matter in the least.
5 What did matter most was the involvement of
6 two very powerful men in our community, local architect Ed
7 Hafer, and and Alan Braun, president of Industrial
8 Contractors. Both of these indivduals are know to be large
9 financial supporters of the Mayor in past election cycles
10 and sit on numerous boards of directors of major banks,
11 corporations and civic groups in the area.
12 I needn't remind you that Mr. Braun owns the
13 land across the street from Riverside Drive from Riverfront
14 Park which Aztar proposes to purchase for as much as $9
15 million if all aspects of the landside development is
16 designed and built as promised. What does perhaps warrant
17 additional examination is the manner in which these two men
18 have dominated municipally contracted projects in this area
19 during the past several years.
20 An appendix attached at the end of these
21 prepared remarks highlights the number of city and county
22 projects that Mr. Hafer and Mr. Braun and their respective
23 firms have been involved with. These include the $17.2
24 million facelift for Roberts Municipal Stadium which
25 included some $6 million in cost overruns, and the $9

1 million Terminal Building project at Evansville Regional
2 Airport.
3 Other projects have included the Riverside
4 Esplanade, the Theater District Master Plan, the Sheriff's
5 Command Center at the Airport and the Metropolitan
6 Evansville Transit System Bus Transfer Station.
7 While a long string of successive municipal
8 projects are quite interesting, there is another little
9 known fact in this community of which the Gaming Commission
10 and the public should be made aware. It involves prime,
11 downtown commercial real property in the immediate vicinity
12 of Aztar's proposed landside development.
13 Last week an associate of mine gave me a copy
14 of a computer listing sheet which was obtained from the
15 Vanderburgh County Auditor's office last April. It
16 includes the names and addresses of most of the properties
17 and businesses in this community to which tax abatements
18 have been extended by the city and county government.
19 Included in the second appendix of these remarks, one can
20 find that Braun Realty Company and Braun Partnership,
21 attention, Alan Braun, in 1993 was extended som $891,980 in
22 property taxes exemptions on three buildings, two on
23 Riverside Drive and one on Sycamore Street in downtown
24 Evansville.
25 I would point out parenthetically that 1

1 Northwest Riverside is also 44 Main Street. A thorough
2 examination of the listing shows only one additional tax
3 abatement extended to a downtown business, one to
4 Credithrift Financial, Incorporated on Northwest Second
5 Street, which I believe is the now American General
6 Finance.
7 Keep in mind, at the same time various
8 municipal and county entities were weathering bond issues
9 through the tax bases to pay for public projects which Mr.
10 Braun and Mr. Hafer had personally profited handsomely.
11 For some reason, Mr. Braun has also extended one of the
12 largest property tax subsidies of any individual in the
13 county.
14 These examples, both matters of the public
15 record, demonstrate a pattern of behavior which is
16 irrefutable. This city administration can be accused
17 beyond the shadow of doubt on monumental political
18 favoritism regarding these two individuals. And now, they
19 would also have us believe that the Aztar proposal, which
20 the city has spent countless hours glowingly endorsing, is
21 in the best interest of the people of the city of
22 Evansville?
23 I believe I speak for many in this community
24 who are not so fortunate as to be among the twelve
25 individuals selected to appear before this committee, not

1 the least of which those 23,261 county residents who voted
2 against the 1993 riverboat gambling referendum and have not
3 been heard from since.
4 This Commission has repeatedly warned city
5 administrations across the state against endorsing
6 preferred contestants in the various riverboat sweepstakes.
7 If there ever was a time when the Gaming Commission should
8 demonstrate its independence from state and local political
9 influence, this, most assuredly, is the appropriate time.
10 To err on the side of expediency can only
11 work to further enhance the wealth and influence of those
12 who have been to the public wee many, many times before.
13 It will also work to the long-term, economic detriment of
14 my home town and the citizens of this city.
15 I hope and pray you will do the right thing.
16 A good portion of our city's economic destiny hinges upon
17 you decision.
18 Thank you very much.
19 MR. CHAIRMAN: Thank you. Russell
20 Proops.
21 MR. PROOPS: My name is Russell
22 Proops. I'm the president of the Wheeler/D.R.I.V.E
23 Organization and I'm also the author of a memo which I sent
24 to you office several months ago entitled "Preparing
25 Evansville for Riverboat Gambling." That letter was an

1 expression of that combined concerns of not only the
2 organizations I represent but of the associations and the
3 Riverside area.
4 I won't bother to repeat everything said in
5 that letter, as it was eight pages long, suffice it to say
6 that we had three primary concerns: Security, parking and
7 maintaining the residential family atmosphere of the
8 Riverside area. The letter that I sent to you I also sent
9 to the gaming companies. I invited them to share a
10 response and propose an action plan that would address our
11 concerns.
12 The response that I got was basically that
13 you concerns were unfound. As far as security goes, all of
14 the gaming companies have promised very tight security both
15 in and around gaming complexes. They don't often see any
16 need for additional policemen around the area or in the
17 neighborhoods that are proximate to the gaming site. They
18 do not foresee that there will be any spillout of guests
19 from the gaming facility into the neighborhoods.
20 Early on when you were discussing, as a city,
21 the merits of inviting gaming to our city, we had different
22 members of the community expressing concern that we would
23 have drunks wondering our streets at 2:00 and 3:00 and 4:00
24 in the morning when they get off the last riverboat. We
25 have been assured that this is a character of the average

1 gaming patron, who is a competent person who merely wants
2 to play the slot machines which and spend a few dollars at
3 the gaming table.
4 Also the Mayor's office has said that they do
5 not expect to see any increase in the crime rate in the
6 area. That was in contradiction to the earlier marks we
7 have receive from the members of the public -- the police
8 public relations office, but since that time we have gotten
9 assurances from the city police that the crime rates in the
10 area will be closely monitored and that if an increase in
11 crime is seen that additional policemen will be assigned to
12 our neighborhood.
13 As regards to parking, we already have a
14 parking problem downtown with people who work in the
15 downtown area parking next to our house and taking our
16 parking spaces. But the gaming companies have all included
17 large parking garages in all their plans. So the idea that
18 we will have gaming patrons searching for a place and
19 parking next to our homes and in our spots is again not
20 realistic concern.
21 Finally, as far as the residential and family
22 atmosphere goes all of the gamers have suggested that there
23 will be very little noise associated with riverboat
24 operations. That the boats are quiet running, that any
25 music or noise associated with the activities in the boat

is confined by very soundproof walls, and that the exception of the cruise is the run late into the night on the weekends. There should not be a problem with noise at all.

Regarding trash which is a problem downtown. A lot of pedestrians leaving their lunch and dinner in our yards and in our streets. They say this again is not a problems. And traffic, there isn't a traffic problem as well. Car traffic, however, is something that will be a problem. There is no way that you can have a riverboat in Evansville without additional traffic on Riverside Drive and possibly Second Street.

That is going to be a problem. How big of one? We won't know until the boat arrives and people start coming. But car traffic at 2:00 and 3:00 in the morning has to be a problem.

What we're asking of the Commission is that you follow through on our suggestion that we made in our letter, and that is that neighborhood assocations be a part of any plan for bringing riverboat gambling to Evansville. That we be included in meetings with you on a regular basis and with meetings with the gaming company.

More specifically, we'd like to you to have a review within a month of the riverboat coming to Evansville so that the members and citizens of Evansville can have a

1 chance to address and the gaming companies to make you
2 aware of whatever problems may have arisen and to resolve
3 any potential conflicts that might need to be.
4 After that initial meeting a month in it
5 would be a good idea to meet on a quarterly basis until we
6 can be assured that the promises of the gaming companies do
7 indeed come true. Right now we're acting on faith. We
8 believe the operators are acting in good faith, and we
9 don't think they stand anything to gain by lying to us.
10 However, there are things that we are going
11 to be taking, measures that we're taking as a group, to
12 preserve and protect the neighborhoods. Those actions,
13 however, will be addressed to the Mayor and not to the
14 Gaming Commission. For the record, however, they will
15 include reducing the speed limit in our neighborhoods,
16 erecting stop signs at most of the intersections in the
17 historic district, requiring parking stickers of all
18 residents in the area, and the enforcement fund -- funds
19 from the city to allow towing of vehicles who do not have
20 permission to park in the area.
21 We'll ask that police monitoring of noise
22 levels in our neighborhoods once the riverboat comes to
23 town. We'll ask for stricter enforcement of the curfew law
24 that's already on the state law books, but which are
25 apparently not well enforced. We'll have no littering

1 signs posted in our neighborhood, and ask that they'll
2 always be fined to the maximum extent allowed. And lastly
3 we would be petitioning for the erection of street lights
4 in our neighborhood, as the current street lights do not
5 provide adequate lighting to allow for safety and security
6 after dark. We have very little lighted trees, but we have
7 dark sidewalks and it's not a safe place.
8 Finally, we have to work beyond our concerns
9 as neighbors whereas people who are most likely to have
10 their neighborhood directed by riverboat gambling. And we
11 have a number of suggestions or recommendations we'd like
12 to bring to the Commission's attention about the selection
13 of the riverboat company.
14 But first is that the company that should be
15 chosen is not the company's promises of most revenues, but
16 the company that demonstrates the greatest commitment to
17 the economic revitalization of the downtown business
18 district. This was the initial objective of inviting the
19 riverboat to the city in the first place, and we'd like to
20 see that mission fulfilled.
21 One measure of that commitment is to see
22 which company has promised to invest the most money in the
23 development of the public infrastructure in the early years
24 of operation. We'd like to make sure that if riverboat
25 gaming does not prove to be the economic boom that the

1 gaming companies say it will be, there is some visible
2 permanent improvement to the downtown area.
3 We'd like you to select the company that has
4 a track record successful of riverboat operations and
5 operations which have benefitted the local economy, and
6 most specifically local merchants. We'd like you to choose
7 a gaming company that has the financial strength and the
8 flexibility to withstand fluctuations in gaming revenues
9 that are produces by changes in market conditions.
10 Gaming is a relative new industry. And
11 anyone who tells you that the future of the industry is
12 certain is wrong. The last point is that what everyone
13 wants is to bring the gaming company that has the greatest
14 economic benefits in the long run for the people who live
15 and work in Evansville, not the company that promises the
16 greatest state tax revenues or the greatest city revenues,
17 but he company that will bring an operation that produces
18 the greatest number of jobs, the greatest number of new
19 businesses for Evansville, not now, not five years from
20 now, but well into the next century.
21 Lastly, I'd like to make a few remarks from
22 myself. I am a marketing and research analyst by trade,
23 and I'd like to remember a few rules of the market you
24 probably already know that are worth repeating. First of
25 all when it comes to predicting retail success there are

1 three keys: Success, location and location. If you want
2 to help the downtown business district, please select the
3 gaming company that will locate their operations closest to
4 the downtown area, closest to the Main Street business
5 district.
6 Second, sales projections are only as good as
7 the assumptions or the imputs upon which they are based. A
8 riverboat is a riverboat is a riverboat, and in making your
9 selection, I'd like for you to forget completely about the
10 projected number of patrons, the projected number of
11 dollars, the projected tax revenues that each company is
12 projecting to bring because in reality, it's the same draw,
13 and riverboat gambling in Evansville and it's popular who
14 will determine the actual dollars that are generated from
15 gaming in Evansville, not the size of the boat, not the
16 size of the hotel.
17 And lastly, incremental growths, not growths
18 of one business at the expense of another, is the only
19 source of profitable growth for any company or any
20 community. So I'd like you to consider when you look at
21 projections for revenues beyond gaming to ask yourself are
22 these additional revenues? Are these additional jobs?
23 incremental revenues? Are they incremental jobs or are
24 they merely the transfer of revenues and jobs from one area
25 of the city to another?

1 Thank you for your time. I apologize for my
2 nervousness. I'm used to presenting to upper executives
3 but not to gaming commissions. If you have any questions,
4 I'll be happy to answer them.
5 MR. CHAIRMAN: Thank you very much.
6 Janet Watkins.
7 MS. WATKINS: My name is Janet
8 Watkins. I am chairman of the Vanderburgh County Chapter
9 of United We Stand America - Indiana. I would like to take
10 this opportunity to thank the Indiana Gaming Commission for
11 permitting me to address you in this forum.
12 The members of United We Stand American
13 recognizing that our republic was founded as a government
14 of the people and for the people have united to restore the
15 integrity of our economic and political systems. We are
16 committed to educate ourselves and the public, to
17 participate in the political process and to hold our public
18 servants accountable.
19 Our members attended the Mayor's Riverboat
20 Evaluation Committee hearings last February and March. On
21 the surface, the hearing seemed thorough and fair; however,
22 our concerns are in regard to the selection of the members
23 that served on that 20 member citizens committee.
24 With very few exceptions, members of the
25 Mayor's committee were already appointed members of the

1 city/county administration. Seven elected officials of the
2 city and county councils, five democrats and two
3 republicans were selected. These seven people are directly
4 accountable to the people, the citizens, of Evansville and
5 Vanderburgh County.
6 One member, the director of Vision 2000 has
7 his salary paid by the city/county councils and two of
8 Vision 2000s board of directors are associated with the
9 Aztar gaming proposal. The committee representing the
10 lower Ohio Valley Building Trades Council also serves as
11 president of the works board appointed by the Mayor of
12 Evansville. Of the 20 member committee, seven members were
13 members of Center City Corporation, both past and present.
14 Central City Corporation's main objective is the downtown
15 area revitalization.
16 The riverboat gaming referendum was a county
17 wide referendum and as such it seemed imperative that more
18 representatives from the county be involved. Where were
19 the members from the neighborhood associations who will be
20 greatly affected by this project?
21 At the time of the committee's appointment, I
22 was personally troubled that the only person on this
23 committee who was not tied to the city/county
24 administration or Center City Corporation in some manner
25 was Mr. Murdock. The Mayor asked for one representative

1 from Citizens Against Riverboat Gaming and Mr. Murdock was
2 their choice. He presented more pertinent questions of the
3 riverboat contenders than anyone else on the evaluation
4 committee.
5 As I sat in the audience and listened to each
6 casino operator's pitch as to why they should be chosen to
7 receive the committee's evaluation approval. I could hear
8 rumbling from other casino companies that this was a waste
9 of time and money as the decision had already been made.
10 Aztar was going to get the committees' nod of approval.
11 This was early on in the process.
12 Were the citizens of Vanderburgh County
13 served? I think not. I think that a very minute minority
14 of people were served by the Mayor's Evaluation Committee.
15 The members of the committee were chosen to achieve one
16 particular outcome, and as stated before the Commissioners
17 this morning, "We're the good old boys club." This is
18 considered politics as usual, and that is what the November
19 8, 1994 election was intended to change. The American
20 people, the citizens of Evansville want real reform. We
21 want honesty and integrity in our government. This reform
22 goes for federal, state and local government entities.
23 Now, I would like to address each of you, the
24 eight members chosen to serve on the Indiana Gaming
25 Commission by our Governor. Last spring when the

1 Commission came to Evansville to inspect the riverfront
2 site, we heard for the first time inklings that a moored
3 boat was a possibility for Evansville. That thought
4 rumbled through this city with a great deal of shock as the
5 citizens of Vanderburgh County voted in November 1993 on a
6 cruising casino referendum. The key word here is
7 "cruising." The referendum passed by a slim margin of 100
8 -- 1,689 votes, 24,950 votes cast for riverboat gaming,
9 23,261 against.
10 The law passed by the Indiana legislature in
11 the summer of 1993, Section 14 states: "The Commission may
12 adopt emergency orders, Section IC 4-21.5-4 concerning
13 navigability of waterways for extreme weather conditions or
14 other extreme circumstances. My personal hope is that the
15 Gaming Commission dies not see the dispute between Kentucky
16 and Indiana river rights as extreme circumstances,
17 especially since this dispute goes back to the 1700s. I
18 hope in you wisdom that a workable solution can be worked
19 out with Kentucky and that Evansville does not have
20 dockside gaming.
21 In October 1993, a televised town hall was
22 hosted by the Vanderburgh County Chapter of United We Stand
23 America with two members each from the YES Committee and
24 two from the Citizens Against Riverboat Gaming. This was a
25 call-in show where the citizens of Evansville had the

1 opportunity to ask questions of the people who were
2 directly involved on both sides of the issue of riverboat
3 gaming. Two questions were asked of the YES Committee
4 during the electronic town hall. They were one: "Is there
5 any chance that the cruising casinos would stay at
6 dockside," and two, "If the boats are allowed to stay
7 dockside, should not the voters be informed before they
8 vote on referendum on November 1993?"
9 The answer to those questions was no. The
10 '93 Gaming Law states they would not be allowed to stay
11 docked. This is what the citizens of Evansville and
12 Vanderburgh County were voting on, a cruising casino.
13 In an article dated January 30, 1995 in the
14 Evansville Courier, State Senator Greg Server of Evansville
15 will seek to introduce a bill this week that would prevent
16 the Indiana Gaming Commission from enacting cruise in dock
17 regulation proposed in May. Senator Server was quoted in
18 the article, "We would have never passed the legislation if
19 the boat didn't have to cruise." In a January 31, 1995
20 article in the Evansville Press, Server said his proposed
21 bill would simply force the Indiana Gaming Commission to
22 follow the intent of the '93 law that. Evansville
23 Representative Avery, who opposed the legalization of
24 gaming in the first place, said he agreed with Server that
25 the stationary casino violates the spirit of the 1993 law.

1 With this in mind, I request of the Indiana
2 Gaming Commission members to do their best to uphold the
3 intent of the law as passed in 1993 and make the people of
4 Indiana proud that we have a committee responsive to the
5 people of their state.
6 I thank you for hearing my thoughts on this
7 long process, and I wish you well the decision you must
8 make. God bless you and God bless America. Thank you.
9 MR. CHAIRMAN: Anything else, Mr.
10 Thar or Commissioners? Or if anyone hasn't anything else,
11 I'm about to make a motion to adjourn, and is there second?
12 Is there a motion to recess this until February 10, 1995 at
13 11:00 a.m. in Indianapolis at the Auditorium and Convention
14 Center at the State Office Building.
15 COMMISSIONER: I'll second it.
16 MR. CHAIRMAN: All those in favor,
17 say "aye."
18 (Thereupon, the hearing was
19 adjourned at 5:30 p.m.)
20 o8o
21
22 NOTE: ALL RECORDS OF THESE PROCEEDINGS WILL BE DESTROYED
TWELVE (12) MONTHS FROM THIS DATE UNLESS OTHERWISE
23 NOTIFIED IN WRITING.
24
25

STATE OF KENTUCKY)
) SS:
COUNTY OF HENDERSON)

CERTIFICATE OF REPORTER

I, Cynthia D. Ambrous, a stenographic reporter and Notary Public within and for Henderson County, State of Kentucky, do hereby certify that the foregoing pages, 1 through 250, both inclusive, constitute a true and correct transcript of the proceedings had in the above-captioned matter commencing at 8:30 a.m., in the Vanderburgh Auditorium, Gold Room, Evansville, Indiana, before the Indiana Gaming Commission, and concluding at 5:30 p.m., as reported by me acting as official reporter for said public hearing, and carefully transcribed from my original and official stenographic notes taken at said proceedings.

Cynthia D. Ambrous
Cynthia D. Ambrous, Notary Public
Henderson County, State of KY
My commission expires: 9/14/94

FORM LASER BOND A PENGAD/INDY 1-800-631-6989

1 (Copied into the record from
2 presentation document as
3 follows:)
4 "U. S. Coast Guard Presentation before the
5 Indiana Gaming Commission Evansville, Indiana, February 2,
6 1995.
7 "Good morning, ladies and gentlemen. I am
8 Captain Bill Morani, Commanding Officer, U. S. Coast Guard
9 Marine Safety Office, Louisville, Kentucky. With me is
10 Commander Mark Kerski, Commanding Officer, U. S. Coast
11 Guard Group Ohio Valley. We want to thank you for giving
12 us another opportunity to address this Commission on
13 matters pertaining to gaming vessel operations,
14 particularly as they relate to the Evansville area.
15 "On April 8, 1994, I gave you a summary of
16 our varied roles, missions, and responsibilities, and
17 stressed the need to include contingency planning in your
18 licensing process. I'd like to complement you on your
19 work in creating the"Criteria for Riverboat Casino
20 Emergency/Diaster Plans". It's implementation will be a
21 major step in addressing safety issues on gaming vessels.
22 The State of Indiana has taken the lead in this area. It's
23 clear to me that safety is one of your priorities. The
24 contingency planning requirement is a critical element in
25 an overall systematic approach to help ensure the safety of

1 Indiana's riverboat casinos. It will provide for a well
2 planned out response in the event of an emergency.
3 "Another equally important element in this
4 safety approach is the reduction of risks or hazards
5 associated with the operation of these high capacity
6 passenger vessels. These risks should be identified and
7 evaluated through a Site Risk Analysis. This type of study
8 will close the loop -- it will address the preventative
9 side of the safety formula. It will also make the
10 contingency plan more effective since it will better
11 identify the types of emergencies that may arise during
12 operations. We are working with the Army Corps of
13 Engineers to ensure such a risk analysis is conducted as a
14 part of their permitting process. To understand how that
15 might occur, I'll start with a brief review of our role in
16 the Army Corps of Engineers permitting process and then
17 outline the maritime elements of the risk or hazard
18 analysis.
19 "We routinely provide input into the Army
20 Corps of Engineers permitting process. Our involvement
21 actually starts when the Corps puts out a notice for public
22 comment on a particular permit application. We evaluate it
23 and, if appropriate, send the Corps written comments
24 concerning navigation safety. Our review and
25 recommendations are based on such factors as marine

1 casualty history, river flood stages vessel
2 maneuverability, weather, other river operations (including
3 both commercial vessel traffic and recreational boating),
4 and the extension of mooring structures into the waterway.
5 River gaming vessel site locations and operating areas are
6 important factors when looking at the overall waterway
7 safety issue. There are several factors we look at --
8 safety of the vessel while moored, docking, undocking, and
9 underway, as well as the site location itself and the
10 hazards it may pose to normal river operations. In
11 formulating our recommendations, we solicit comments from
12 waterway users. We do not provide comments on preliminary
13 site proposals. When contacted by prospective applicants,
14 we inform them of our role in the permitting process and
15 that our comments will be limited to those general areas
16 affecting navigation safety described above.
17 "As you know, several tow boat pilots have
18 expressed concern about locating a gaming vessel in the
19 Evansville area. Evansville is located on a 'U' shaped
20 bend in the Ohio River. Anytime you add a structure,
21 mooring facility, fleeting area, or marina to the river's
22 edge, the risk of something going wrong increases -- how
23 much more risks is introduced, and whether it's acceptable
24 depends on the several factors I mentioned earlier. A risk
25 or hazard analysis should be undertaken to identify the

1 risk added by introducing a gaming vessel in the Evansville
2 area. Such an analysis will help this Commission,
3 community officials, and government agencies evaluate the
4 risks created by gaming vessel operations and take
5 corrective action to reduce risk to an acceptable level.
6 "Accordingly, I've requested of the Army
7 Corps of Engineers that they consider having the applicant
8 for the Corps permit conduct a risk or hazard analysis of
9 the sitting and navigational safety of the proposed gaming
10 vessel operation in the Evansville area. We all want to
11 ensure an appropriate level of safety is established before
12 a gaming vessel is operated in this area. I'm sure you'll
13 agree we must all be better informed of the risks and
14 consequences in advance of any final acceptance of mooring
15 and operational arrangements. Among other things, such a
16 study could reasonably include:
17 "- regular and seasonal local river traffic
18 patterns including, but not limited to:
19 - traffic volume and areas of high
20 activity, such as barge fleeting
21 areas;
22 - the size and type of vessels
23 transiting the area;
24 - the presence of dangerous or
25 unusual cargos; and,

1 - potential interference with
2 the flow of vessel traffic this
3 new operation may cause;
4 "- port and waterway configurations and
5 variations, such as fixed obstacles to
6 navigation, seasonal flooding, river
7 stages, ice, fog, snow, high winds and
8 storms;
9 "- the numbers of passengers and shoreside
10 persons at risk;
11 "- the routes and operating characteristics
12 of the proposed gaming vessels;
13 "- redundancy of propulsion, steering, and
14 other vital equipment (or lack thereof)
15 on board the vessel that may serve as a
16 safety backup;
17 "- the varying river stages and their
18 effect on vessel operation and safety;
19 "- the proportion of time the vessels are
20 underway versus moored; and,
21 "- the restricted ability of these vessels
22 to maneuver while mooring, getting
23 underway, and cruising.
24 "In the case of Evansville, we all would
25 benefit by having the interim license holder conduct such

1 an analysis. It would also aid you in making the
2 determination under IC Rule 4-33-4-13(a)(2), which states:
3 'After consulting with the
4 United States Army Corps of
5 Engineers, the commission
6 may do the following: . . .
7 Determine the navigable
8 waterways that are suitable
9 for the operation of
10 riverboats under this article.'
11 "The results of this analysis could also be
12 used by the vessel master as a tool in deciding whether to
13 get underway or not as allowed under you (sic) excursion
14 rules.
15 "Our partnership has been productive. We
16 look forward with you to ensure the safety of Indiana's
17 riverboat casinos.
18 "Commander Kerski and I will now answer any
19 questions you have.
20 "Thank you."
21
22
23
24
25

1 MR. CHAIRMAN: I'd like to welcome
2 the Coast Guard to these proceedings. They've been kind
3 enough to come before us previously, and we're always
4 interested in your positions because we're all working
5 towards the same goal, which is the safety of whatever
6 patrons happen to make riverboat cruising something that
7 they want to do. So, Captain, you can proceed.
8 (Copied into the record from
9 presentation document as
10 follows:)
11 "U. S. Coast Guard Presentation before the
12 Indiana Gaming Commission Evansville, Indiana, February 2,
13 1995.
14 "Good morning, ladies and gentlemen. I am
15 Captain Bill Morani, Commanding Officer, U. S. Coast Guard
16 Marine Safety Office, Louisville, Kentucky. With me is
17 Commander Mark Kerski, Commanding Officer, U. S. Coast
18 Guard Group Ohio Valley. We want to thank you for giving
19 us another opportunity to address this Commission on
20 matters pertaining to gaming vessel operations,
21 particularly as they relate to the Evansville area.
22 "On April 8, 1994, I gave you a summary of
23 our varied roles, missions, and responsibilities, and
24 stressed the need to include contingency planning in your
25 licensing process. I'd like to complement you on your

1 work in creating the"Criteria for Riverboat Casino
2 Emergency/Diaster Plans". It's implementation will be a
3 major step in addressing safety issues on gaming vessels.
4 The State of Indiana has taken the lead in this area. It's
5 clear to me that safety is one of your priorities. The
6 contingency planning requirement is a critical element in
7 an overall systematic approach to help ensure the safety of
8 Indiana's riverboat casinos. It will provide for a well
9 planned out response in the event of an emergency.
10 "Another equally important element in this
11 safety approach is the reduction of risks or hazards
12 associated with the operation of these high capacity
13 passenger vessels. These risks should be identified and
14 evaluated through a Site Risk Analysis. This type of study
15 will close the loop -- it will address the preventative
16 side of the safety formula. It will also make the
17 contingency plan more effective since it will better
18 identify the types of emergencies that may arise during
19 operations. We are working with the Army Corps of
20 Engineers to ensure such a risk analysis is conducted as a
21 part of their permitting process. To understand how that
22 might occur, I'll start with a brief review of our role in
23 the Army Corps of Engineers permitting process and then
24 outline the maritime elements of the risk or hazard
25 analysis.

1 "We routinely provide input into the Army
2 Corps of Engineers permitting process. Our involvement
3 actually starts when the Corps puts out a notice for public
4 comment on a particular permit application. We evaluate it
5 and, if appropriate, send the Corps written comments
6 concerning navigation safety. Our review and
7 recommendations are based on such factors as marine
8 casualty history, river flood stages vessel
9 maneuverability, weather, other river operations (including
10 both commercial vessel traffic and recreational boating),
11 and the extension of mooring structures into the waterway.
12 River gaming vessel site locations and operating areas are
13 important factors when looking at the overall waterway
14 safety issue. There are several factors we look at --
15 safety of the vessel while moored, docking, undocking, and
16 underway, as well as the site location itself and the
17 hazards it may pose to normal river operations. In
18 formulating our recommendations, we solicit comments from
19 waterway users. We do not provide comments on preliminary
20 site proposals. When contacted by prospective applicants,
21 we inform them of our role in the permitting process and
22 that our comments will be limited to those general areas
23 affecting navigation safety described above.
24 "As you know, several tow boat pilots have
25 expressed concern about locating a gaming vessel in the

1 Evansville area. Evansville is located on a 'U' shaped
2 bend in the Ohio River. Anytime you add a structure,
3 mooring facility, fleeting area, or marina to the river's
4 edge, the risk of something going wrong increases -- how
5 much more risks is introduced, and whether it's acceptable
6 depends on the several factors I mentioned earlier. A risk
7 or hazard analysis should be undertaken to identify the
8 risk added by introducing a gaming vessel in the Evansville
9 area. Such an analysis will help this Commission,
10 community officials, and government agencies evaluate the
11 risks created by gaming vessel operations and take
12 corrective action to reduce risk to an acceptable level.
13 "Accordingly, I've requested of the Army
14 Corps of Engineers that they consider having the applicant
15 for the Corps permit conduct a risk or hazard analysis of
16 the sitting and navigational safety of the proposed gaming
17 vessel operation in the Evansville area. We all want to
18 ensure an appropriate level of safety is established before
19 a gaming vessel is operated in this area. I'm sure you'll
20 agree we must all be better informed of the risks and
21 consequences in advance of any final acceptance of mooring
22 and operational arrangements. Among other things, such a
23 study could reasonably include:
24 "- regular and seasonal local river traffic
25 patterns including, but not limited to:

1 - traffic volume and areas of high
2 activity, such as barge fleeting
3 areas;
4 - the size and type of vessels
5 transiting the area;
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7 unusual cargos; and,
8 - potential interference with
9 the flow of vessel traffic this
10 new operation may cause;
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12 variations, such as fixed obstacles to
13 navigation, seasonal flooding, river
14 stages, ice, fog, snow, high winds and
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17 persons at risk;
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21 other vital equipment (or lack thereof)
22 on board the vessel that may serve as a
23 safety backup;
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25 effect on vessel operation and safety;

"- the proportion of time the vessels are underway versus moored; and,

"- the restricted ability of these vessels to maneuver while mooring, getting underway, and cruising.

"In the case of Evansville, we all would benefit by having the interim license holder conduct such an analysis. It would also aid you in making the determination under IC Rule 4-33-4-13(a)(2), which states:

> 'After consulting with the United States Army Corps of Engineers, the commission may do the following: . . . Determine the navigable waterways that are suitable for the operation of riverboats under this article.'

"The results of this analysis could also be used by the vessel master as a tool in deciding whether to get underway or not as allowed under you (sic) excursion rules.

"Our partnership has been productive. We look forward with you to ensure the safety of Indiana's riverboat casinos.

"Commander Kerski and I will now answer any

1 questions you have.
2 "Thank you."
3 (MORANI OR COMMISSIONER): I want
4 to compliment you for having come down to Evansville to
5 hear the presentations of the applicants. I think it will
6 put you a better position to understand where they are and
7 maybe -- and I'm sure help in the process. So I appreciate
8 you and your associates coming. I think they're
9 worthwhile.
10 MR. CHAIRMAN: Does anyone have any
11 questions for the Coast Guard?
12 COMMISSIONER: Mr. X, you were
13 watching the presentation yesterday they computerized the
14 boats turning around. I think I was fascinated by the
15 boats turning around and it was proposed that a large boat
16 couldn't turn around in the channel provided in Indiana
17 water. You probably have an opinion about that.
18 CAPTAIN MORANI: This is Captain
19 Morani. I'll just make a brief statement, and then I'll
20 turn it over to Commander Kerski or Chief Warrant Officer
21 Cunningham. But first of all, there's somewhat artificial
22 constraints. I think when you -- when I saw the
23 presentation, it kind of looked like it was bouncing back
24 and forth kind of like a pinball machine, but those are
25 because of the buoys. Okay. From a -- let's say from a

1 marine safety standpoint, a vessel traveling upriver or
2 downriver and he -- you know, there's usually good water to
3 a certain extent that these gentlemen here addressed. If
4 it was necessary for the safety of the people onboard, the
5 master would take it a little bit farther to start with and
6 go beyond the buoys to avoid the disaster. I think he can
7 do that.
8 But from a channel standpoint, I'll let
9 Commander Kerski or Chief Warrant Officer Cunningham
10 address that.
11 COMMANDER KERSKI: I'd just like to
12 reiterate -- Commander Kerski. I'd just like to reiterate
13 what Captain Morani has indicated. We keep the safety of
14 the vessel and passengers onboard and the crew of primary
15 importance. And we would hope that the Commission would
16 recognize that the state line between Kentucky and Indiana
17 wouldn't be used by the master nor would we expect the
18 master to use it to keep from getting himself or herself
19 into a position where there would be in extremis with
20 another vessel, a tow vessel or even another private craft.
21 And we believe that the commissioners all recognize that
22 the safety of vessels is paramount.
23 With respect to the presentation made
24 yesterday, the length of the vessel, the width of the
25 vessel certainly impacts your decision on how to operate

1 that vessel within the state of Indiana. We don't think
2 that we have the expertise to tell you whether a particular
3 state line is. We don't have the expertise to tell you
4 which boats can turn around on that state line without
5 actually knowing where what the barriers are. And as you
6 know, we haven't officially received the notification from
7 any of the applicants that indicate that, other than the
8 presentations we viewed yesterday.
9 So to give you some actual professional
10 opinion as to whether they can turn around or not will be
11 forthcoming in who they select. With respect to that,
12 there certainly are more the various applicants to stay
13 within the state boundaries because alternatives would
14 depend on water levels, the current condition, the rainfall
15 in the area recently, and it certainly also depends on the
16 master's ability to navigate that vessel and the vessel's
17 ability and its propulsion systems, whether it's valve
18 thrusters or different types of propulsion systems. And
19 certainly the man who indicated that some of them can turn
20 on a dime and there are other alternatives such as digging
21 out the channel on the Indiana side so that there is a
22 turning basin. Again, we haven't seen any of those things
23 officially from the applicants, but alternatives that allow
24 these companies to meet your rules but at the same time
25 we're going to look at holding the master accountable for

1 the safety of the vessel whether they meet your rules or
2 not would be your decision.
3 COMMISSIONER: Are you going to be
4 here all afternoon, later this afternoon?
5 COMMANDER MORANI: Yes, sir.
6 COMMISSIONER: I might ask you
7 again, because I'm going to ask this question again. I'm
8 sure the people are interested in the answer. People have
9 investments in some good size crafts, and as they've shown
10 yesterday, and they're going to ask us to grant a license.
11 And the first thing that they're not capable of doing is
12 staying within the law of the state of Indiana and
13 Kentucky. And that doesn't make a lot of sense. The way
14 they have to maneuver those boats, backing out as one of
15 them said yesterday and moving starts conservative, but all
16 of a sudden they're going to start to say, well, this boat
17 can't do this but we can do this and that's kind of what
18 he's saying.
19 So now we come to the problem safety versus
20 the law, and this concerns me. I mean I hope you're around
21 this afternoon. Maybe you'll feel better about it because
22 I'd like to ask you again.
23 When you're hearing these people, that maybe
24 you could give us a comment on what they say.
25 COMMANDER KERSKI: This is

1 Commander Kerski again. Keep in mind that the rules we set
2 up with the Commission are that the you put us in a
3 precarious position to make an opinion on something that we
4 haven't seen and we'd like to help you interpret your state
5 law, but, you know, we're going to precluded by statute
6 from doing that.
7 COMMISSIONER: So then I would
8 assume though that once we grant a license or grant a
9 certificate of suitability and these plans are submitted to
10 you officially, then you would at that time have specific
11 comments or opinions on those plans? Would that -- am I
12 thinking of the timing correctly here?
13 CAPTAIN MORANI: Yes. What'll
14 happen as I explained it a little bit, it'll follow the
15 normal Army the Corps of Engineers' permitting process.
16 They'll submit a site proposal plan on some item.
17 Hopefully they would have done the risk analysis and an
18 assessment. And well, we do that. And if we -- and if we
19 feel that will addressed to certain things and they've been
20 able to manage the risks. Now, from a risk management
21 standpoint, and one of the -- I think I would say the
22 advantages of the -- a limited excursion of the rules that
23 you have in place may very well be that you've identified
24 the risks, that the channel is so narrow that if we have
25 any vessels coming upbound or downbound, that's going to

1 put us in a position where we're going to be either meeting
2 them or overtaking them.
3 Then the management of that risk will be that we will
4 not get in the way, and the rules will allow for that. So
5 there's a response. And that's to me, from a safety
6 standpoint, I think that's an acceptable response. From a
7 political standpoint, whether that's acceptable under your
8 rules or under the Indiana rules is a separate matter, but
9 where the problem comes into play is where you take that
10 decision making clarity out of the hands of the master.
11 And in order for them to conduct business, and that's what
12 they're there for, they have to get underway.
13 Then you're going -- then you're going to start --
14 decisions are going to be reduced to a economics, and it's
15 going to be well, we're going to have to get underway. We
16 know we shouldn't from a safety standpoint, but I have to
17 get underway, and then the situations that we've talked may
18 come up. And then they're going to say, well, we have to
19 do it. So, you know, when I looked at your rules and I
20 looked at the different risks and so on, I felt pretty
21 comfortable that most of the risks could be managed,
22 either through some structural alteration barriers for
23 someone or operational decision such as you need to get
24 underway or not get underway.
25 COMMISSIONER: In reference to the

1 applications, are there separate applications that go to
2 the Coast Guard and to the Corp of Engineers, or is there
3 one application?
4 CAPTAIN MORANI: No, no. We don't
5 have a separate application, and the deal with the Army
6 Corp of Engineers is handled through them, and we receive
7 copies just like any other public party gets a copy of the
8 permit, and we get to comment on it and so on and so forth.
9 We work through the Corp and provide our comments directly
10 to the Corp. This other license and issue that we're
11 talking about is just a marine license for the pilot who
12 operates the vessel.
13 COMMISSIONER: Do we have --
14 CAPTAIN MORANI: The certificate of
15 inspection is a separate process that's ongoing.
16 COMMISSIONER: And when you make the
17 -- these comments that you submit to the Army Corp of
18 Engineers, would we have access to you opinion?
19 CAPTAIN MORANI: Well, you would be
20 -- sure, it's a public record. We can send you a copy just
21 as I've done with many other of those that I've sent to the
22 Corp and elsewhere, whatever we send to the Corp of
23 Engineers. In fact, I would -- I would want to include
24 you in there so that you know what's going on so you'll
25 catch up to speed.

1 COMMISSIONER: This is -- this is
2 really primary --
3 CAPTAIN MORANI: Certainly.
4 COMMISSIONER: -- the safety of the
5 people who are going on our boat.
6 COMMISSIONER: The statute you
7 talked earlier about, the master having the call on whether
8 to go out or not. I was just reviewing the statute after
9 you talked about that. It specifically deals with the
10 master of the riverboat being able to determine that
11 there's a danger to the riverboat, specifically in
12 reference weather conditions or water conditions. It
13 doesn't appear that if there's other traffic coming down.
14 CAPTAIN MORANI: Well, I don't know
15 if you're reading -- you're looking at this as -- Captain
16 Morani, again. Are you looking at the -- is there a new
17 one that you're looking at or something else --
18 COMMISSIONER: They -- they were
19 all --
20 CAPTAIN MORANI: I thought I gave you
21 several. There was several.
22 THE CHAIRMAN: We have two things.
23 He's reading the existing state statute, but you're
24 referring to the -- a proposed excursion.
25 CAPTAIN MORANI: Right. I misled

1 you, and I apologize. I'm referring to the proposed
2 excursion rule.
3 COMMISSIONER: Well, what I'm
4 referring to is what exists now, which is specific weather
5 conditions and water conditions. I know you can't give an
6 opinion, but the water conditions seem to me not to give
7 the master an option and a reference to barge traffic or
8 other tow traffic. It would seem whether the river is high
9 or low. But in your opinion it would be necessary to give
10 the master that opinion?
11 CAPTAIN MORANI: Well, what I'm
12 saying is he -- he, the master has the authority anyway.
13 It he doesn't want to get underway, he doesn't have to.
14 It's a matter of whether he wants to keep his job, or
15 whether the company wants to conduct business. I mean,
16 they're two different decisions.
17 COMMISSIONER: Okay. And then that's
18 your call then, regardless of what the statute say, the
19 master --
20 CAPTAIN MORANI: Well, --
21 COMMISSIONER: I'm just looking the
22 authority for the master to be able to do that.
23 CAPTAIN MORANI: Well, if his license
24 is on the line, if he -- if he makes a decision -- you
25 know, but typically, if you're in an accident, we all look

1 back to see what happened. And if it comes down to the
2 master making a decision of getting underway when the
3 conditions are such that by golly, you should not have
4 gotten underway. Well, guess what? He's in trouble. His
5 license is on the line.
6 COMMISSIONER: That's fair.
7 THE CHAIRMAN: Anything further?
8 COMMISSIONER: This is just a quick
9 question, because maybe I'm a little confused. If -- if
10 one of these boats are in the water and there's traffic
11 coming towards it and it was a problem, he -- he has the
12 authority then to move into Kentucky water, if you will, to
13 avoid the problem.
14 CAPTAIN MORANI: Well, -- well, let
15 me put it this way. If he's got enough water under his
16 keel to do that, from the Coast Guard's standpoint, from a
17 safety standpoint, I mean, he -- he -- hopefully, he will.
18 I mean, just -- if he doesn't because he's likely to cross
19 the state line, then --
20 COMMISSIONER: Well, that's what I'm
21 saying, the guys goes all of a sudden, you know, to
22 Kentucky instead of having -- move along to Kentucky
23 because you've moved into Kentucky water with a gaming
24 boat, and so, you know, you're damned if you do, damned if
25 you don't kind of scenario.

1 CAPTAIN MORANI: Right. From a
2 safety standpoint, that line, as far as I'm concerned, does
3 not exist.
4 COMMISSIONER: Okay. That's fair.
5 Thank you.
6 MR. CHAIRMAN: Anything further?
7 Anything further? I need to thank you for coming and --
8 oh, Mr. Thar.
9 COMMISSIONER: Captain Morani, the
10 Commission has received or been the subject of an extensive
11 letter writing campaign by the American Land Mariners, a
12 non-profit association for professional mariners. Are you
13 aware of that organization?
14 CAPTAIN MORANI: I wasn't until I
15 also got the hundred and fifty-seven copies of whatever
16 they sent. I have since become aware of the organization.
17 COMMISSIONER: If you got the same
18 letter this Commission has received, they basically have
19 taken the position that they do not want to see any
20 riverboat gaming develop between mile marker 781.8 and 793
21 along the Indiana side of the Ohio river.
22 CAPTAIN MORANI: I'm sorry. Can you
23 repeat those two mile markers?
24 COMMISSIONER: I want to know if
25 you're receiving the same letter.

1 CAPTAIN MORANI: Yes, sir. Yes,
2 sir.
3 COMMISSIONER: 791.8 through 793.0.
4 It's the same letter that you received a hundred and
5 fifty-seven copies of.
6 CAPTAIN MORANI: Yes, sir.
7 COMMISSIONER: Is the Coast Guard's
8 position as strong as that express by the American Mariners
9 Association?
10 CAPTAIN MORANI: Well, our position
11 is -- first of all, let me tell you there's -- there's --
12 there's two extremes. And it depends on who you talk to.
13 If you talk to recreational boat owners, they'll tell you
14 that there shouldn't be barges along the Ohio river.
15 They're just like big trucks and they'll run you over. So
16 they don't want to see tow boats operating on the river.
17 If you talk to tow boat operators, they'll tell you that
18 there shouldn't be anything in their way whatsoever. We
19 shouldn't have anything on the -- on the -- on the -- there
20 shouldn't be recreational boats. There shouldn't be any
21 facilities. So anything that -- that's on the river,
22 there's a chance that they could run into it.
23 So, you have two extremes. And we all know that
24 they're dealing with waterway usage issues, and we should
25 have -- we have just as much right to use the waterway as

1 somebody else. And certainly, like I said, any time you
2 have anything on the river, you're going to increase the
3 risk, and I think what some -- some boats are trying to do
4 is to reduce the risk. And -- and perhaps they are --
5 they're suggesting that their approach to risk management
6 to don't put them, but what I'm saying is that maybe other
7 -- other solutions to brace and manage the risks.
8 And I think today, later on this afternoon, somebody
9 will be testifying that -- I'm trying to remember -- on the
10 part of the organization or has some knowledge of that
11 organization as well. But my -- my position is not that
12 there shouldn't be anything down upon the water's edge. I
13 think our position is that we need to take a look at some
14 of these plans a little closer, and that there's -- there's
15 a way to address that through risk management, through
16 either dredging, not dredging in protective areas. I mean,
17 the technology today is just fantastic, and there's
18 different ways you can address the problem.
19 COMMISSIONER: But to the extent of
20 this letter and writing campaign, it can be read on the one
21 hand, saying there should be an absolute prohibition of
22 that type of vessel there. The Coast Guard would not go
23 that far. We'd rather see the plans, assess the risks, and
24 then make a determination.
25 CAPTAIN MORANI: Well, what tells me

1 is -- you know, let me tell you, first of all, I just
2 didn't trash numbers, I looked at them. I mean, that's
3 part of the input that I consider when I'm formulating my
4 -- my response to the Corp of Engineers just as much as I
5 do when I hear from the Ice Committee. Now, what it says
6 to me is that there's more of a need, more of a
7 justification on we should go through this process that I
8 call risk management. That perhaps to addressing and
9 undertaking the risk management program that some of the
10 concerns that they've raised, hopefully will identified,
11 and there will be a response to it. There will be
12 management.
13 Now, I don't know. You can ask that -- that group
14 today or after reviewing risk management plans for risk
15 assessment, and I ask that that be submitted, whether they
16 are all of the opinion. You may get a different answer.
17 Whatever they're saying, hey, listen, don't just
18 commentarily issue a license. Think about certain things.
19 We've got a concern. Here's our concerns. Thank you very
20 much. And I hear them. I've read them. I'm listening to
21 them, and that's just another reason why I recommended to
22 the Corp of Engineers that some type of a risk assessment
23 be initiated.
24 COMMISSIONER: I believe in response
25 to some of the questions posed to you by Mr. Vowels and Mr.

1 Sundwick, the Coast evaluates not only your position with
2 the Ohio river with regard to the issues of traffic safety
3 and water safety?
4 CAPTAIN MORANI: Well, I there's
5 some jurisdiction also with the various state. We -- we
6 deal with waterways management issues. Let's put it this
7 way. That incident that we had last week, fortunately,
8 they removed the barges from that particular site, having
9 not done so then I would have ordered them to be removed.
10 So I can do that.
11 COMMISSIONER: What if there are
12 some state laws that conflict with the laws of the Coast
13 Guard, who should prevail?
14 CAPTAIN MORANI: I don't know. I'm
15 not aware, but -- sorry I can't answer that, but I'm going
16 to go out on a limb and make a wild guess and say probably
17 the Coast Guard. Is that the right answer? Are there any
18 lawyers here?
19 COMMISSIONER: To the extent that
20 any boundary problems can be eliminated between the states
21 of Kentucky and Indiana, that will alleviate a major
22 portion of the safety concerns of the Coast Guard in the
23 Evansville bend area? If the master didn't have to worry
24 about which state he was in, much like you say, the Coast
25 Guard is not concerned with the borders. Does that

1 alleviate certain safety concerns of cruising a riverboat?
2 CAPTAIN MORANI: Oh, I think it will
3 give the master more flexibility as to wherever he can go,
4 where she can go. You know, like I said before, that
5 boundary, as far as I'm concerned from a safety standpoint,
6 is it really doesn't exist. I mean, if the master needs to
7 go over into the Kentucky borders, from a safety
8 standpoint, and there's sufficient water for him to do
9 that, then I would hope that he would do it.
10 COMMISSIONER: Are you the primary
11 authority over the master's license?
12 CAPTAIN MORANI: Well, the owner has
13 probably more authority over his license than I do, but the
14 Coast Guard, right, we can. If we have problems with the
15 masters and we investigate and we've got problems from
16 either negligence or misconduct or violations of any laws
17 or regulations and so on and so forth, we can charge him or
18 we can take him before an administrative law judge to take
19 his license away. And the state can't do that.
20 COMMISSIONER: So at least from the
21 Coast Guard's point of view, you're going to be looking for
22 the master to operate his craft safely regardless of any
23 states lines?
24 CAPTAIN MORANI: Yes, but that's not
25 to say that we're also not concerned about management

1 practices. For example, in my opening -- my opening
2 remarks, I talked about the investigation that I was
3 involved in, and it doubled the fishing vessel in Alaska.
4 Well, during our investigation, we also look at company
5 practices, their procedures, their policies, because there
6 are a bunch of things that impact the masters decision
7 making process. The training programs, maintenance
8 programs. So I don't want you to think that we're just
9 interested in the master. If we've got some problems, you
10 know, I'll pick up the phone and I'll call management and
11 and we'll get an answer.
12 COMMISSIONER: But you're looking at
13 the vessel on the river and how it operates, in terms of
14 the company and the master?
15 CAPTAIN MORANI: Yes, sir.
16 COMMISSIONER: What about -- you've
17 participated, in fact, in the review of the proposed
18 excursion rule by this Commission?
19 CAPTAIN MORANI: I believe I have,
20 yes, sir.
21 COMMISSIONER: And you in fact gave
22 some input to the Commission Staff?
23 CAPTAIN MORANI: Yes.
24 COMMISSIONER: And did you find the
25 portion of the rule with regard to the intermediate or --

1 excuse me, limited excursion to increase the safety of
2 operations on the Ohio river?
3 CAPTAIN MORANI: I felt that it gave
4 a master much more flexibility. I think it gave him the
5 opportunity to manage risks, and if you can manage risks
6 then you can -- for example, that example I gave you
7 earlier about not being -- not getting underway because
8 perhaps they'll -- they'll be at a passing situation in a
9 narrow part of the channel. Well, to me, if the master can
10 say, I'm not getting underway, then he can still conduct
11 dismissal, and then I'd think he'd made the river safer.
12 COMMISSIONER: And you find that
13 such flexibility of a master generally makes the river
14 safer than what the state attempts to legislate to that
15 area?
16 CAPTAIN MORANI: Well, you know -- I
17 -- you know, when you say taking the discretions away from
18 the master, I think that you're taking -- and you want to
19 combine it with being able conduct business in taking the
20 discretion away. I mean, the master still can not get
21 underway if he doesn't want to. So if I answer yes, then
22 I'm -- and I'm probably getting involved in the master's
23 decision and whether he can still conduct business or not.
24 Certainly, if -- oh, I don't know. What would happen if he
25 didn't have that rule? I guess, you know, if he didn't

1 have that rule --

2 COMMISSIONER: From the Coast

3 Guard's point of view, if you give flexibility to the

4 master, assuming the company agrees with it as to whether

5 or not to get out of the way, as far as any type of

6 situation that you're willing to eliminate discretion.

7 CAPTAIN MORANI: I think it gives --

8 it gives him more flexibility, and it has to make things

9 safer.

10 COMMISSIONER: All right. Thank

11 you.

12 COMMISSIONER: I just have one other

13 question. Based on the answers you were giving to Mr.

14 Thar, we've been told that it's relatively easy to put a

15 boat in the water and run an operation successfully, but

16 you're talking about you look at the company and its

17 operations and the policies. Is it your -- I mean, what do

18 you think about that statement that anybody can put a boat

19 in the water?

20 CAPTAIN MORANI: We don't -- we

21 don't look at it ahead of time. You know, --

22 COMMISSIONER: But just -- just your

23 opinion that the case or the experience is important.

24 CAPTAIN MORANI: Well, we have

25 minimum -- we have minimum standards. We go down and we'll

1 inspect the vessel, and if it meets those standards, it
2 gets a certificate of inspection. We require that the
3 vessel be operated by a licensed master or has certain
4 qualifications, and then produce that particular person
5 with those qualifications and they meet our standards. And
6 another company can do the same thing, that's not to say
7 that one company is better than the other. Now, that's not
8 to say that over the lifetime of the operation of that
9 vessel there may not be some problems. For example, there
10 may be repairs to the vessel not being taken care of as
11 quickly as we would like, or certain things are occurring
12 that we kind of don't like.
13 Well, I'd probably spend a little more time on the
14 vessel. We'd -- we -- you know, from a risk standpoint,
15 we would say, well, we need to spend a little more time on
16 that vessel. And the Coast Guard overall is looking at the
17 concept of a model company where -- certain programs that
18 the company may have. They may have self-inspections,
19 self-safety programs, exercising the crew, getting involved
20 in disaster response drills. One that would probably spend
21 less time on that vessel than he would somebody who's had
22 some problems.
23 So, I mean, I'm not going to tell you that based upon
24 the presentations that I've seen would company do I feel
25 better with.

1 COMMISSIONER: I'm not asking you to
2 do that.
3 CAPTAIN MORANI: I know that they
4 can produce a vessel that gets its certificate.
5 COMMISSIONER: So then it would be
6 more like experience during the lifetime of that vessel --
7 CAPTAIN MORANI: Yes.
8 COMMISSIONER: -- that you would be
9 looking at.
10 CAPTAIN MORANI: Yes.
11 THE CHAIRMAN: Okay. That's all. I
12 want to thank you again for coming.
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Alan Klineman

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FROM: Patty Vertrees FAX # 812-853-9477

IN RE: ICE Committee
Presentation by David Dewey
Evansville Hearing
2-1-95 through 2-2-95

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DAVID E. DEWEY

CHAIRMAN, OHIO RIVER ICE COMMITTEE

PRESENTED TO THE INDIANA GAMING COMMISSION

FEBRUARY 2, 1995

GOOD AFTERNOON LADIES AND GENTLEMEN. MY NAME IS DAVID DEWEY AND I AM PRESIDENT OF WESTERN KENTUCKY NAVIGATION, INC. WKN IS LOCATED IN PADUCAH, KENTUCKY AND OPERATES COMMERCIAL TOWBOATS ON THE OHIO RIVER. OUR VESSELS TRANSIT THE EVANSVILLE REACH OF THE OHIO RIVER SEVERAL TIMES EACH WEEK, DAY AND NIGHT, 52 WEEKS A YEAR. I, MYSELF AM A LICENSED RIVER PILOT AND HAVE BEEN IN THE RIVER TRANSPORTATION INDUSTRY FOR OVER 25 YEARS, SERVING BOTH ON VESSELS AND IN MANAGEMENT POSITIONS.

I AM ALSO CHAIRMAN OF THE OHIO RIVER ICE COMMITTEE. THIS IS AN AD-HOC COMMITTEE OF RIVER INDUSTRY REPRESENTATIVES. IT'S NAME COMES FROM IT'S FORMATION DURING A MAJOR ICE EVENT ON THE OHIO RIVER IN THE LATE 1970'S. THE TOWING INDUSTRY CAME TOGETHER AS A GROUP TO WORK WITH THE U. S. COAST GUARD AND THE ARMY CORPS OF ENGINEERS IN ORDER TO MINIMIZE DAMAGE AND TO HELP RESTORE NAVIGATION DURING AND AFTER THIS CATASTROPHIC ICE BLOCKAGE.

SINCE THAT TIME THE ICE COMMITTEE HAS WORKED WITH THE COAST GUARD AND CORPS OF ENGINEERS ON VARIOUS MATTERS CONCERNING NAVIGATION OF THE OHIO RIVER. IT CONTINUES AT PRESENT WORKING IN AN ADVISORY CAPACITY NOT ONLY ON THE GAMING VESSEL AT EVANSVILLE BUT ALSO ON OTHER ISSUES AFFECTING NAVIGATION THROUGHOUT THE OHIO RIVER VALLEY.

ON MARCH 23, 1994 MEMBERS OF THE ICE COMMITTEE WERE INVITED TO MEET WITH THE MAYOR OF EVANSVILLE CONCERNING POTENTIAL SITES FOR GAMING VESSELS AT EVANSVILLE. ALSO PRESENT AT THE MEETING WAS A REPRESENTATIVE OF THE ARMY CORPS OF ENGINEERS, THE U. S. COAST GUARD, AND THE INDIANA GAMING COMMISSION. OPERATIONS PEOPLE REPRESENTING MAJOR BARGE LINES AND TOWING COMPANIES ATTENDED THIS MEETING. COMPANIES REPRESENTED WERE: AMERICAN COMMERCIAL BARGE LINES; THE OHIO RIVER COMPANY; AMERICAN ELECTRIC POWER; R & W MARINE; CROUNSE CORPORATION; MID-SOUTH TOWING COMPANY; WESTERN KENTUCKY NAVIGATION, INC.; OHIO VALLEY MARINE SERVICE; AND EVANSVILLE BARGE COMPANY. THESE COMPANIES MOVE THE VAST MAJORITY OF TONNAGE WHICH MOVES PAST EVANSVILLE EVERY DAY. MOST OF THESE REPRESENTATIVES WERE LICENSED TOWBOAT PILOTS. THESE INDUSTRY PEOPLE WERE WELL-ACQUAINTED WITH THE HAZARDS OF NAVIGATING THE HORSESHOE BEND AT EVANSVILLE.

IN THAT MEETING THE ICE COMMITTEE STATED THAT INDUSTRY PREFERRED A LOCATION OUT OF EVANSVILLE BEND FOR A GAMING VESSEL ON THE BASIS OF NAVIGATION SAFETY. MILLIONS OF TONS OF CARGO PASS EVANSVILLE ANNUALLY - SAFELY I MIGHT ADD. HOWEVER, THE MAYOR WAS ADAMANT THAT THE CITY WAS COMMITTED TO A DOWNTOWN LOCATION TO FURTHER ECONOMIC DEVELOPMENT. THIS PLACED THE

VESSEL IN THE BEND WHERE WE DID NOT WANT IT. AFTER SOME DISCUSSION THE COMMITTEE OFFERED A COMPROMISE POSITION. IT WOULD NOT OPPOSE A SITE IN EVANSVILLE BEND IF THE FOLLOWING CONDITIONS WERE MET:

1. THE VESSEL MUST NOT EXTEND RIVERWARD PAST THE POOL ELEVATION SHORELINE WHEN DOCKED.

2. THE VESSEL MUST BE ADEQUATELY PROTECTED FROM COLLISION ON THE UPSTREAM END OF THE SITE.

3. THE MASTER OF THE VESSEL MUST HAVE THE ABSOLUTE AUTHORITY TO MAKE THE DECISION WHETHER TO SAIL OR NOT TO SAIL BASED ON PREVAILING CONDITIONS. THESE CONDITIONS INCLUDE (BUT ARE NOT INCLUSIVE):

WEATHER CONDITIONS, RIVER STAGE AND VELOCITY OF THE CURRENT, DRIFT, VISIBILITY, AND RIVER TRAFFIC. COMMERCIAL OR OTHERWISE.

THE ICE COMMITTEE HAS MET WITH REPRESENTATIVES OF SEVERAL APPLICANTS FOR THE GAMING LICENSE AT EVANSVILLE. ALL APPLICANTS HAVE BEEN TOLD THE SAME STORY CONCERNING THE ICE COMMITTEE'S POSITION ON THIS SUBJECT. THE ICE COMMITTEE IS UNBIASED IN IT'S POSITION TOWARD INDIVIDUAL APPLICANTS. OUR ONLY CONCERN IS SAFETY. WE ARE CONCERNED WITH THE SAFETY OF THE PASSENGERS AND

CREW OF THE GAMING VESSEL AS WELL AS THE SAFETY OF OUR CREWS, OUR EQUIPMENT, AND THE INTEGRITY OF THE CARGO WE CARRY. I WOULD LIKE TO STRESS THAT THE ICE COMMITTEE DOES NOT FAVOR THE DOWNTOWN SITE THAT HAS BEEN PROPOSED NOR DOES IT FAVOR ONE APPLICANT OVER ANOTHER.

RISK IS ALWAYS PRESENT WHENEVER TWO VESSELS ARE OPERATING IN THE SAME WATERS. THE COMMITTEE FEELS THAT NAVIGATION SAFETY IS PRIMARILY AT RISK AT LOW WATER WHEN THE CHANNEL IS RESTRICTED BY THE SAND BAR PROTRUDING FROM THE INSIDE OF THE BEND. TOWS MUST THEN PASS WITHIN A BUOYED CHANNEL WHICH IS SIGNIFICANTLY NARROWED IN THE OUTER EDGE OF THE BEND. TRAFFIC WOULD PASS VERY CLOSE TO THE MOORING SITE OF THE GAMING VESSEL. IN THESE PERIODS THE CURRENT VELOCITY IS LESS AND CONTROL OF A TOW IS LESS DIFFICULT THAN IN HIGH WATER WHEN CURRENT VELOCITIES ARE FAR GREATER. WE DO FEEL, HOWEVER, THAT THE VESSEL CAN BE OPERATED SAFELY FROM THIS SITE IF THE CRITERIA PREVIOUSLY STATED ARE STRICTLY ENFORCED.

THANK YOU FOR THE OPPORTUNITY TO COMMENT ON THIS IMPORTANT ISSUE.