

AIR QUALITY BOARD
CHARLESTON, WEST VIRGINIA

ROXUL USA, INC., D/B/A
ROCKWOOL,

Appellant,

v.

Appeal No. 23-01-AQB

LAURA M. CROWDER, DIRECTOR,
DIVISION OF AIR QUALITY,
DEPARTMENT OF ENVIRONMENTAL
PROTECTION,

Appellee.

H E A R I N G

MONDAY, DECEMBER 18, 2023
1:00 P.M.

AIR QUALITY BOARD
601 57th STREET, SE
CHARLESTON, WEST VIRGINIA

Wendy M. Thomas
Certified Court Reporter

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P R O C E E D I N G S

1
2 CHAIRMAN KOON: Let's call this session to order.
3 As you know, this is an informal hearing and provided for by
4 the procedural rules so that we can hear the stay in an
5 expedited manner or hear the request for a stay in an
6 expedited manner. So it is somewhat informal. We'll start
7 basically with the plaintiff presenting the request for the
8 stay, and then we'll allow the DEP to respond to that, and
9 then we'll see where we go from there. So, Mr. Yaussy, it's
10 yours to start with.

11 MR. YAUSSY: Thank you, Chairman Koon. If I could,
12 I'd like to defer to my partner, Jim Walls, who is going to
13 handle this hearing.

14 CHAIRMAN KOON: All right.

15 MR. WALLS: Thank you, Mr. Chairman. As Dave said,
16 along with Dave I represent the appellant in this case, Roxul
17 USA, Inc., which does business under the trade name Rockwool.
18 We filed this motion for stay in a timely fashion with
19 respect to Condition 4.1.11 of the modified permit which
20 requires us to keep all the doors at the facility closed
21 unless people are going in and out or equipment is going in
22 and out.

23 Since we filed the motion for stay, Mr. Chairman,
24 we've been able to sharpen our pencils and be kind of laser-

1 like in what we're asking the Board to do. With the Board's
2 permission, we're going to call Mr. Graves who is the plant
3 manager to testify about the doors at the facility and how
4 the facility works. He will tell you that there are a total
5 of 95 doors there. We don't have a problem with complying
6 with Condition 4.1.11 until the appeal is heard with respect
7 to -- let me make sure my math is right -- 64 of those 95
8 doors.

9 There are 31, and Mr. Graves is going to explain to
10 you why, but there are 31 doors at the facility through which
11 there's no chance that fugitive emissions will leave the
12 facility and that we need to have the ability to keep open
13 from time to time for safety reasons, you know, comfort of
14 the workers. It gets hot in there. We need to keep some of
15 these doors open for airflow reasons, and there are a couple
16 that we just need to keep open almost all the time, although
17 there's no chance that fugitive emissions are going to leave
18 the facility via those doors, but there are just some doors
19 that we have to have the ability to keep open from time to
20 time.

21 Again, 95 total doors. 64 of those doors we have
22 no problem with complying with Condition 4.1.11 until we get
23 this appeal heard, and that's what the stay is for. It's for
24 the duration of the appeal. That sort of sets up what we're

1 asking for today. Again, with the Chairman's permission, we
2 will call Mr. Graves to put some meat on the bone there. But
3 I want to give you a little background about the facility
4 itself and about Rockwool -- and I won't take too long, but I
5 think it's important to understand why we do need the ability
6 to keep those 31 doors open from time to time.

7 Rockwool's corporate parent is an 86-year-old Dutch
8 company. They've been doing this for a long time. Stone
9 wool insulation is not as popular here in North America as it
10 is in Europe. Rockwool is the leading manufacturer of stone
11 wool insulation. They have 45 manufacturing facilities in 39
12 countries. They employ nearly 12,000 people. As I said,
13 their core business is manufacturing stone wool insulation
14 and related products.

15 Rockwool owns and operates a 338,000 square foot
16 stone wool insulation manufacturing facility in Ranson, West
17 Virginia, which is near Charles Town. That facility sits on
18 a 136-acre site and it began commercial operations in early
19 July 2021. It currently employs 150 people. And, Mr.
20 Chairman, with your permission, I'd like to share my screen
21 and show the Board a photograph of the facility.

22 CHAIRMAN KOON: That will be fine.

23 MR. WALLS: Can you see, Mr. Chairman?

24 CHAIRMAN KOON: Yes.

1 MR. WALLS: Okay, great. This is the facility.
2 Down here -- I don't know if you can see my cursor -- down in
3 this area is the sort of raw material bin where they take the
4 raw materials in, and they just process that through these
5 various parts of the facility, and this is what we call the
6 coal den down here. And Mr. Graves will explain to you why
7 under the current air permit we keep a number of doors in
8 this area closed, because to keep those fugitive emissions
9 from escaping.

10 On the other end of the spectrum, we've got doors
11 up here at the coal den that it, with all due respect, makes
12 no sense to keep closed, and those are some of the 31 doors
13 that Mr. Graves is going to explain to you why we need to
14 have the ability. We're not going to keep them open all the
15 time, except for one, and he'll tell you which one, but we
16 need to have the ability for airflow purposes, for comfort
17 and safety of the employees and things like that, we need to
18 have the ability to keep open from time to time. And again,
19 I stress, there's no chance that fugitive emissions will
20 leave those doors when they're open. It's only the doors
21 down here at the hot end that we need to keep closed, and we
22 do. So that's the facility.

23 With the original air permit, which was issued in
24 April of 2018, we had the ability to burn either coal or

1 natural gas to melt the raw materials into the insulation.
2 We elected to go with natural gas, not coal, and so we
3 applied recently for a modification of the permit to get the
4 conditions in the original air permit out that deal with coal
5 because we're not burning coal.

6 The DAQ went through its normal permit modification
7 process. They issued a draft modification, put it out for
8 comment, and I think it's important to note that this
9 condition that we're seeking to stay today, 4.1.11 -- I'll
10 call it the "closed door condition" -- was not in the draft
11 permit that went out for comment. We never had a chance to
12 comment on this. Had we had the opportunity to do so, we
13 would have said, "Look, we don't have a problem with keeping,
14 you know, with that condition applying to 64 of our 95 doors.
15 We do have a problem with it applying to these 31 and here's
16 why." And I think we would have had a pretty good chance of
17 convincing the DAQ not to make this closed door condition
18 apply to all 95 of our doors, but we didn't have a chance.

19 And I also think, and maybe we'll hear from the
20 DAQ's witness today, that nobody presented any evidence in
21 the permit review process that with respect to these 31 doors
22 that we want to have the ability to keep open, that they
23 would emit fugitive dust, because that evidence doesn't exist
24 because they're just not in the hot end area.

1 In this appeal, we've timely appealed on November
2 -- or a week or two ago. We appealed three of the new
3 conditions in the permit, and this is the only one we're
4 seeking a stay of, and I'll call it a partial stay because
5 we're not seeking a stay of it entirely. We only want it
6 with respect to those 31 doors. The other two conditions
7 that we're appealing we're not seeking to stay.

8 I think, Mr. Chairman, I wanted to give you an
9 overview of the facility, tell you what relief we're seeking
10 in the stay, explain to you how of our 95 doors we have no
11 problem with complying with Condition 4.1.11 with respect to
12 64 of the 95 doors, and with the Board's permission, the
13 Chairman's permission, I would like to call Mr. Graves to
14 explain to you why.

15 CHAIRMAN KOON: I think that's fine. Go ahead.
16 Let's call Mr. Graves in.

17 MR. WALLS: Okay. Mr. Chairman, at this time I'd
18 like to call Mark Graves.

19 (Witness sworn.)

20 (WHEREUPON,

21 **MARK GRAVES**

22 WAS CALLED AS A WITNESS, DULY SWORN, AND

23 TESTIFIED AS FOLLOWS:)

24 DIRECT EXAMINATION

1 BY MR. WALLS:

2 Q. State your name, please, sir?

3 A. My name is Mark Graves.

4 Q. Mr. Graves, are you currently employed?

5 A. Yes, I am.

6 Q. By whom?

7 A. By Rockwool.

8 Q. And sometimes you'll hear me refer to it as RAN-5
9 or the Ranson facility. Do you understand the term RAN-5?

10 A. Yeah. RAN-5 is the name we give to the facility,
11 and it is derived from Ranson, which is the town we are
12 located in, and the 5 denotes the fifth production line in
13 North America, so we're the fifth Rockwool production line
14 between Canada and the United States.

15 Q. And what do you do for Rockwool?

16 A. I'm the factory manager or director of operations
17 is my official title.

18 Q. At Ranson?

19 A. At RAN-5, yes.

20 Q. And how long have you done that?

21 A. In this current role it will be six years in
22 January.

23 MR. WALLS: Mr. Chairman, could I share my screen
24 again?

1 CHAIRMAN KOON: Yes.

2 MR. WALLS: Thank you.

3 BY MR. WALLS:

4 Q. Mr. Graves, do you see the aerial photograph?

5 A. Yes, I do.

6 Q. Okay. Using this photograph, can you walk the
7 Board through -- explain to the Board how this facility --
8 Well, is this an accurate depiction of the RAN-5 facility?

9 A. Yes, it is.

10 Q. And how recent is this?

11 A. That would be from 2021.

12 Q. Okay. Have there been any major changes to the
13 facility since then?

14 A. Yeah, we've cleaned up the construction village
15 that's up in the top right-hand corner. It's no longer
16 there. A lot of the temporary C containers that you might
17 see there, Conexes, they're cleaned up now as the project is
18 now complete. Otherwise, as far as the main building itself,
19 it's like that today.

20 Q. Can you tell us what happened at this area of the
21 facility?

22 A. Yeah. So the area you circled there is our raw
23 material area, so there's two three-sided enclosures that's
24 our raw material bunkers. This is where we're storing our

1 raw materials or the stone products. From there, we have a
2 front end loader that would load those into our charging
3 plant, and that charging plant is that -- if you could just
4 sort of circle that building next to the one bunker.

5 Q. Here?

6 A. Yeah.

7 Q. What happens in the charging plant?

8 A. So in the charging plant we have a series of silos
9 where each material gets put into its own individual silo.
10 We weigh each material out onto a belt, and then we transport
11 that up into our furnace tower which is that nine-story, the
12 largest building that you see there.

13 Q. What happens in that building?

14 A. So this is basically where we do all of our melting
15 in our wool collection, so I'll explain that here. So the
16 materials go up and they go into our melting process. We
17 have a two-stage preheater cyclone, they're basically turning
18 those stones into a lava or what we call melt. That melt is
19 diverted over a series of spinners where we fiberize and we
20 form the wool fibers. The fibers are then collected in our
21 spin chamber onto we call it our spinning chamber drum, and
22 then it is released onto a conveyor. Then we have a series
23 of conveyors that transport that wool into our curing hall
24 where we remove all the moisture from that, cure the binder.

1 Q. Is that here?

2 A. That is in behind there, yeah, yeah. And then
3 after that, we sent it into what we call our coal den. So
4 this is our formatting where we have our sawing sections. We
5 cut the wool. We package it and that's the building you're
6 referring to right there, yeah. And then once it's packaged,
7 pelletized, it is transported into our finished warehouse at
8 the very top hand corner there.

9 Q. And you heard me explain to the Board that there
10 are a total of 95 doors at the facility. Is that accurate?

11 A. Yeah, 95 exterior doors.

12 Q. Exterior doors, yes.

13 A. Ones that open to the environment, yes.

14 Q. And I explained to the Board that of those 95
15 doors, we have no problem with keeping -- with complying with
16 Condition 4.1.11 with respect to 64 of the 95 doors. Is that
17 accurate?

18 A. That's accurate.

19 Q. And then which leaves by my simple lawyer math --
20 which leaves 31 doors left. Right?

21 A. Correct.

22 Q. Okay. And can you walk us through -- like where
23 generally are those 31 doors that we need the ability to keep
24 open from time to time?

1 A. So the majority of the doors we're talking about is
2 in the curing hall which is sort of in the central part of
3 that photo, the packaging area.

4 Q. Here?

5 A. Yeah. It's in along the back there, not the best
6 view from this photo, but it's in that middle section there.
7 And then the next building over which is our packaging
8 facility, and then finally our finished goods warehouse. So
9 those are the ones that we typically need to open from time
10 to time.

11 Q. Okay. Is it --

12 A. It's facing from this side, yes. It's in the top.

13 Q. From this straight line -- let me do it this way.
14 Draw a line across here, and the doors that we need the
15 ability to keep open from time to time are on this of the
16 facility. Right?

17 A. Primarily, yeah, and then some in the curing hall
18 as well.

19 Q. So in here?

20 A. Yes.

21 Q. Okay. I told the Board that there's no chance of
22 any fugitive emissions leaving through these doors. Did you
23 hear me say that?

24 A. I did.

1 Q. Is that accurate?

2 A. That is accurate, yes.

3 Q. How do you know that?

4 A. Well, I guess I'll answer that in two parts. One
5 is the way the building is designed. I mentioned that we
6 have that spinning chamber. Part of that spinning chamber is
7 a very large spinning chamber fan, and when we're operating
8 that fan, it is moving around 365,000 normal cubic meters of
9 air every hour, so that's a lot of air being pulled into that
10 spinning chamber, and it has to get that air from somewhere,
11 and it's getting that air from outside, but it's also getting
12 it from within the building as well. So we have a little bit
13 of under pressure or negative pressure in this building.

14 And then the second part of that is because of our
15 management practices that we train our people to be mindful
16 and be aware of our impact on the environment and not having
17 any adverse effect to them, so we wouldn't -- simply wouldn't
18 allow that to happen.

19 Q. Okay. Let me go back to the first point you made
20 about negative pressure. How does that help us feel
21 confident or comfortable that emissions aren't going to leave
22 those doors if they're left open?

23 A. Well, with it being an under pressure like that, we
24 are actually drawing air into that building and not forcing

1 air out.

2 Q. So are there any doors at this facility that we,
3 even under the original permit, keep closed for fugitive dust
4 purposes?

5 A. Yes, and that would be located down in the charging
6 plant which we circled before. Correct, yeah, right there.

7 MR. WALLS: So, Mr. Chairman, I'm trying to
8 simplify this, and I hope I didn't make it too confusing, but
9 what I'd like to do is have Mr. Graves categorize these doors
10 in Category 1, 2, 3, or 4 doors. Category 1 doors would be
11 the doors that we agree -- that we'll keep closed all the
12 time because it's good practice for fugitive dust control
13 purposes. And in Category 2 is a door that --

14 BY MR. WALLS:

15 Q. Well, let me throw it out to you, Mr. Graves.
16 What's the Category 2 door?

17 A. The Category 2 door is a door that we just have to
18 keep open at all times, and the reason is that's the main
19 source of air through our spinning chamber. And if you look
20 at the very bottom of that nine-store tower, you'll see a
21 large opening at the bottom, and we call it a door, but
22 really it's the opening where it went to our melt pit.

23 Q. Is that what that is?

24 A. That is the melt pit door, and that is where we get

1 the bulk of the air that is supplied to our spinning chamber.
2 So it's not an access to the building. It is what we call
3 the melt pit. So if I have to divert melt off of the
4 spinners, it goes into the pit there where it is cooled and
5 then removed for recycling afterwards. So it's the front
6 loader access is what that is.

7 Q. And is it fair to say you need to keep this open
8 for airflow and safety purposes?

9 A. Yes, yeah. That door is never actually closed, and
10 it's only a door because there is actually a roll door on it
11 that we could close if we were doing maintenance in there in
12 the winter and wanted them to not be too cold, but it's not
13 one that is what you would normally categorize as a door.

14 Q. If you keep this door open, won't fugitive
15 emissions leave through that door?

16 A. No. There is a big in-rush of air drawing in
17 because for us to do proper fiberization at our spinners, we
18 need to have air coming from behind those spinners up
19 underneath them to provide a lift to get the wool up to the
20 spinning chamber drum.

21 Q. Earlier I told the Board that there are 20 doors
22 that I would put in Category 3 for the purposes of today, and
23 those I believe are doors that need to have the ability to
24 keep open from time to time regardless of what the

1 temperature is outside. Is that fair to say?

2 A. That is correct.

3 Q. Where are these 20 doors?

4 A. So they are -- they would be shown at the very
5 southern end of the building, and that's our loading docks,
6 so we have 18 loading docks for --

7 Q. So is this -- is this south this way?

8 A. Correct, yes.

9 Q. Okay. So where are those 20 doors?

10 A. So they would be the very end of the warehouse
11 building itself. That's basically -- there's a total of 18
12 loading docks, and we also have one door for our forklift
13 access with a ramp, so in and out of the building where we
14 move product, finished product goes in and out of there. And
15 then the 20th door is actually at the very front, and this is
16 part of our office. And we have an exposition center, what
17 we call the Brand Experience Center, where we have our, you
18 know, just some displays. We host customer events or
19 community events there. So there's some doors that we would
20 open up to welcome people into that part of the building
21 during those events, but these aren't even attached to the
22 manufacturing facility itself. There's no access to the
23 production floor there. It is just a part of the office
24 building.

1 Q. And how do you know there's no chance that fugitive
2 emissions will leave through any of those 20 doors when we
3 keep them open from time to time?

4 A. Well, there just isn't any fugitive emissions in
5 there, so our finished goods warehouse is a clean warehouse.
6 It's just packaged product that our forklifts will pick up
7 and load into trucks, and the other is an office-type
8 building with several doors in between that and the
9 manufacturing floor.

10 Q. Then the last category, Category 4 doors, how many
11 of those are there and where are they located?

12 A. Yeah, so it shows all the doors that are basically
13 in the packaging area where most of our people work, so we
14 have --

15 Q. In here? This building?

16 A. -- doors in there and in the curing hall, and the
17 reason we categorize those as Category 4 is most of the time
18 we can keep those closed, but in the summertime it gets very
19 warm here, very hot and humid, and where our people are, we
20 have to also be able to mitigate any heat stress conditions.
21 So if it's hot outside, it'll be even warmer in the factory,
22 particularly in that curing hall because our curing element
23 has two large circulation burners that are actually creating
24 the heat for the oven itself, and then we have our after

1 burner, and the temperatures in that after burner are like
2 950 degrees Fahrenheit, so just the radiant heat off of that
3 also gets quite warm. So when it's warm outside, it is even
4 warmer inside, and our operators would like to open up those
5 overhead doors, those roll-up doors, to be able to just
6 provide some fresh air and some cooler air during those
7 times.

8 MR. WALLS: Thank you. Mr. Chairman, to sum up,
9 what we're asking the Board to do is stay Condition 4.1.11
10 for the duration of this appeal, until the Board rules on our
11 entire appeal. With respect to this melt pit door right
12 here, we need to have the ability to keep that open all the
13 time for operational purposes. Then we ask the Board to stay
14 enforcement of Condition 4.1.11 with respect to the 20 doors
15 down here and with respect to the 10 doors in this area. Of
16 the 95 doors, when you subtract those 31, that leaves 64
17 other doors throughout the facility, including the ones down
18 here that we keep closed anyhow, and so we just ask the Board
19 for that sort of limited relief with respect to the
20 enforcement of Condition 4.1.11. We'd be happy to answer any
21 questions that the Board may have.

22 CHAIRMAN KOON: So there's 10 doors at the lower
23 end then. Right? I didn't get the number for that. Next to
24 the curing hall? The last Category 4 was 10 doors?

1 MR. WALLS: Yes.

2 THE WITNESS: Yeah. The curing hall and in the
3 packaging area.

4 CHAIRMAN KOON: Packaging, right.

5 MS. DERAIMO: I'm sorry to interrupt, but --

6 COURT REPORTER: This is Wendy, the court reporter,
7 and I'm not sure who was speaking just now. When he said
8 does anybody have any questions, and I didn't know who was
9 speaking.

10 CHAIRMAN KOON: That was the Chair. I'm sorry. I
11 should have identified myself.

12 COURT REPORTER: Okay. The screen share is still
13 up there, so I can't see who's speaking. Okay. Thank you.

14 MR. WALLS: Would you like me to take that down,
15 Mr. Chairman, or do you need it?

16 CHAIRMAN KOON: Yeah, I think you can take it down
17 now.

18 COURT REPORTER: Thank you.

19 CHAIRMAN KOON: I don't think I have any questions
20 at this point. Grant, do you have any?

21 MR. BISHOP: No, sir.

22 CHAIRMAN KOON: Okay. Well, then let's hear from
23 DEP. Mr. Wandling?

24 MR. WANDLING: Thank you, Mr. Chairman.

1
2 CROSS EXAMINATION

3 BY MR. WANDLING:

4 Q. Sir, I've got a couple of questions for you, Mr.
5 Graves. These four classes of doors, during the permit
6 modification process during which Rockwool was discussing
7 this issue with DEP's Division of Air Quality, were these
8 four categories of doors and door usage, were those
9 communicated to the Division of Air Quality?10 A. No, they wouldn't have been. We were not
11 discussing doors at that time.12 Q. And I'm not trying to be flippant or anything. I
13 just want to make sure the record's clear that at no point
14 did Mr. Pursley, the engineer who wrote the permit
15 modification, he was never presented with the four
16 classifications of doors at RAN-5. And so if -- Well,
17 scratch that.18 At any point during the permitting process, did
19 Rockwool tell the Division of Air Quality which, if any, of
20 these doors needed to be open at RAN-5 during, you know,
21 operations at the facility?

22 A. Not that I'm aware of.

23 MR. WANDLING: I don't have any other questions.
24 Thank you very much, Mr. Graves. I appreciate it.

CHAIRMAN KOON: All right, Mr. Wandling, do you

1 want to -- Let me back up. Mr. Yaussy, are you finished with
2 your presentation?

3 MR. YAUSSY: I think Mr. Walls may have a couple of
4 questions to follow up.

5 MR. WALLS: Mr. Chairman, sorry. I couldn't unmute
6 fast enough. Could I ask one or two very quick followups?

7 CHAIRMAN KOON: Sure.

8 REDIRECT EXAMINATION

9 BY MR. WALLS:

10 Q. Mr. Graves, is it fair to say that Rockwool didn't
11 -- there was no discussion about doors because there was no
12 discussion about doors?

13 A. That's correct.

14 Q. You didn't know it was an issue until you got the
15 final permit?

16 A. That's correct.

17 Q. Had it been in the draft that they shared with you,
18 or had somebody from DAQ, from the Division, called you and
19 said, "Hey, what about these doors?" you would have told
20 them, "There are 31 that we just have to have the ability to
21 keep open." Right?

22 A. That's correct.

23 MR. WALLS: Thank you. No further questions.

24 CHAIRMAN KOON: All right. So are you all

1 finished?

2 MR. YAussy: We are finished, Mr. Chairman.

3 MR. WALLS: Yes, Mr. Chairman.

4 CHAIRMAN KOON: All right. Mr. Wandling?

5 MR. WANDLING: Thank you. Yes, sir, Mr. Chairman.

6 I'll call Steve Pursley to the stand.

7 (Witness sworn.)

8 (WHEREUPON,

9 **STEVEN PURSLEY**

10 WAS CALLED AS A WITNESS, DULY SWORN, AND

11 TESTIFIED AS FOLLOWS:)

12 DIRECT EXAMINATION

13 BY MR. WANDLING:

14 Q. Steve, thanks for taking some time to testify
15 today. I appreciate it. Could you state your name for the
16 record?

17 A. Steven Pursley.

18 Q. What is your current position?

19 A. I'm an engineer with the Division of Air Quality.

20 Q. And that's here at the West Virginia Department of
21 Environmental Protection?

22 A. Correct.

23 Q. Education-wise, what's your highest level of
24 education that you've obtained?

1 A. Bachelor of science in mechanical engineering.

2 Q. And are you an engineer that practices today?

3 A. Yes.

4 Q. In your work with the Division of Air Quality here
5 at the DEP, what do you do every day here at the agency?

6 A. Typically review air permit applications and draft
7 engineering evaluations and draft permits.

8 Q. How long have you done that?

9 A. A long time, since 1996.

10 Q. And so are you familiar with the permit
11 modification that we're discussing today?

12 A. Yeah, I was assigned to review this application.

13 Q. And did you work on the underlying, the first
14 permit for Rockwool?

15 A. I did not.

16 Q. And so the permit modification that we're
17 discussing today is the first work that you've done on RAN-5?

18 A. With the original one, I was involved in a very,
19 very limited degree with their air modeling, but other than
20 that, yes.

21 Q. So at issue is not obviously the entire permit
22 modification. We'll be talking about that in a couple of
23 months. You've heard the testimony from Mr. Graves, and
24 you've heard that we're limiting what we're talking about

1 today is simply Condition 4.1.11. In your words, could you
2 describe to the Board what Condition 4.1.11 achieves in the
3 modified permit?

4 A. Well, first, I mean, just kind of one correction.
5 I mean, we did discuss this, the door issue, with Roxul, and
6 they even -- I mean, you know, we even have written comments.
7 When they submitted their comments, one of their comments
8 even addressed it much more generally. It was a much more
9 general statement than what's been presented here, but it was
10 mentioned to them verbally. It was not in the original draft
11 permit. That's correct. But subsequently, after the public
12 comment period, we did discuss it with their consultant at
13 least, and maybe it was only their consultant, but at least
14 with their consultant is was discussed. And they did include
15 some general comments regarding the doors in their comments
16 on the draft permit. But what that does is essentially
17 lessens the possibility of fugitive emissions escaping from
18 the buildings. Obviously, you have to keep the doors shut.

19 Q. And when you said you received public comment
20 regarding the door, what was that public comment?

21 A. The public comment was that apparently Roxul had
22 held a kind of an open house and plant tour, and some of the
23 people who commented were at that plant tour and were told by
24 Roxul that they had to open some of the doors when the

1 temperatures outside got too hot.

2 Q. And the public comment, I guess, was that
3 expressing concern that there would be greater emission?

4 A. Yes, that there would be an increase in fugitive
5 emissions since those open doors weren't specifically
6 addressed either in the application or the permit.

7 Q. Well, you anticipated my next question. Is that
8 why it was not included in the draft permit?

9 A. Yes.

10 Q. Who was the consultant for Rockwool with whom you
11 spoke about the doors?

12 A. Grant Morgan. Sorry, I blanked there for a second.
13 Grant Morgan.

14 Q. And what did you and Grant discuss with regard to
15 the doors?

16 A. It was brief. It was basically we had a phone call
17 shortly after one of the two public -- I think it was the in-
18 person public meeting we had in the eastern panhandle. And
19 we talked about a couple of the issues. There was some other
20 issues that some citizens had questions about that I couldn't
21 answer, the (inaudible) issue, a couple other things, but
22 included in that was the doors being open.

23 Q. And for the Board's sort of edification, Steve, is
24 this facility -- has this generated substantial public

1 interest both for the air and associated water and
2 construction permits?

3 A. That would be an understatement.

4 Q. Okay. So it's received quite a bit of scrutiny,
5 and so this is something with which you've dedicated a bit of
6 attention, I assume.

7 A. Absolutely.

8 Q. And I don't want to belabor the point since this is
9 going to be, if it's granted, a stay that lasts for a couple
10 of months at the max. It's important that the doors are
11 accounted for in this modified permit whether they're going
12 to be open or closed for what reason, Steve?

13 A. Well, I mean, in their emissions calculations, some
14 of the emissions calculations in the matter included -- and
15 this I know was not in the original, but in the updated
16 permit -- included what they called an indoor settling factor
17 that if you've got, you know, doors open, I think it's
18 reasonable to say that that would probably not be appropriate
19 to include.

20 Q. And what is an indoor settling factor briefly?

21 A. I mean, it's not necessarily a common term or
22 phrase, but it's -- what essentially is what they're saying
23 is since this is occurring inside a closed building, there's,
24 you know, limited wind and things coming through there so

1 that the particulate matter will fall out of the air before
2 the air ever makes it to the ambient atmosphere.

3 Q. So Rockwool receives almost a credit for that
4 particular matter because it will be falling to the floor
5 inside the facility and not outside of the facility?

6 A. That's correct.

7 Q. And so if the stay were granted or if the condition
8 is removed as a part of the -- as part of the appeal
9 permanently, will you have to revisit that PM 2.5 limit?

10 A. Well, it's probably not the PM 2.5. It will
11 probably be more likely the total suspended particulate, but
12 possibly. You know, like I said, today is the first time I'm
13 hearing of the four categories, and some of those categories
14 maybe didn't include that factor, but some of them did, and
15 if those doors were to remain open, then yeah, that's
16 something we would have to visit.

17 Q. So point being it's not as simple as we're going to
18 have some doors open and some doors closed. If the stay is
19 granted and/or the modification -- I hate it when I have
20 things right in front of me and even -- or if the modified
21 permit is altered, we'll have to go back probably and do some
22 more math. Is that accurate?

23 A. That's -- it's a possibly -- a possibility.

24 MR. WANDLING: Thank you, Steve. I don't have

1 anything else.

2 CHAIRMAN KOON: Mr. Yaussy, do you have any
3 questions?

4 MR. YAUSSY: Mr. Walls may.

5 MR. WALLS: I do, Mr. Chairman. Thank you.

6 CROSS EXAMINATION

7 BY MR. WALLS:

8 Q. Mr. Pursley, how are you?

9 A. Good. How are you?

10 Q. I'm fine. Thanks. How many times have you been to
11 the facility?

12 A. I've never been to the facility. At least not
13 since they started actual construction. I think I was there
14 once pre-groundbreaking.

15 MR. WALLS: Mr. Chairman, may I share my screen?

16 CHAIRMAN KOON: Sure.

17 BY MR. WALLS:

18 Q. Do you see that, Mr. Pursley?

19 A. Yes.

20 Q. And since you've never been there, I guess you
21 can't tell us if this is an accurate depiction of the
22 facility. Right?

23 A. Right.

24 Q. But you heard Mr. Graves testify earlier. Correct?

1 A. Correct.

2 Q. And you understand that we're asking the Board to
3 stay enforcement of the closed door condition with respect to
4 the 31 doors that are in this area of the facility. Correct?

5 A. Correct.

6 Q. And tell me if I'm wrong, but I think what you
7 testified to earlier is that the agency inserted the closed
8 door condition because a member of the general public, who
9 has no scientific or engineering background whatsoever,
10 suggested that there may be fugitive emissions coming from
11 some of the open doors at Rockwool. Right?

12 A. Yeah. I mean, I wouldn't think you would need a
13 high degree of education to realize -- and I understand, you
14 know, that he's testified that there's -- I think he said a
15 little bit of negative pressure through the building. I
16 understand that, but, you know, I think it's any reasonable
17 person would see open doors and think that that -- you know,
18 result in fugitive emissions escaping.

19 Q. But that's why we want scientists and engineers to
20 make those decisions. Right? Because, you know, laypeople
21 can make a mistake. Right?

22 A. Well, sure.

23 Q. And is it typical for the agency to enter or
24 enforce a condition like this for, in this case, all 95 of

1 these doors without a shred of evidence that any fugitive
2 emissions are leaving most of these open doors?

3 A. Well, I mean, again, there was -- I think there is
4 evidence that some of these doors being open would result in
5 fugitive emissions, at least some of them being open.

6 Q. Sir, I'm talking about the 31.

7 A. Yeah, and this is -- today's the first day I've
8 heard of the 31 doors, so, I mean, I can't necessarily speak
9 to those specific doors.

10 Q. Well, yeah, but so tell me if this is accurate or
11 not. As you sit here today on December 18, 2023, you're not
12 aware of any evidence whatsoever, credible or otherwise, that
13 there's fugitive emissions leaving the open doors in this
14 area of the facility.

15 A. In those particular areas, I couldn't say. I
16 couldn't say.

17 Q. Is it typical for you to enter such a broad -- or
18 issue such a broad condition that applies to all 95 doors
19 without having that evidence and without even going to the
20 facility to take a look at it yourself?

21 A. I mean, every permit is specific to that instance,
22 so typically, you know, and having a normal permit, average
23 permit probably doesn't have -- wouldn't have mentioned doors
24 specifically. It might say something along the lines of, you

1 know, that a particular emission point had to be within a
2 full enclosure.

3 Q. So you recall having, I think you said, one phone
4 call with Grant Morgan who is a third-party contractor for
5 Rockwool. Right?

6 A. Right.

7 Q. About doors. How long did that phone call last?

8 A. I can't recall.

9 Q. Five minutes, five hours, five days?

10 A. I'm sure it was not five hours, but if you're
11 asking me if it was five minutes or an hour, I don't know.

12 Q. And did you have any other discussions with Mr.
13 Graves about doors at Rockwool?

14 A. I don't think I've had any discussions with Mr.
15 Graves.

16 Q. And do you know whether Mr. Graves conveyed the
17 comments that you made to him in that conversation to anybody
18 at Rockwool?

19 A. You mean Mr. Morgan?

20 Q. Mr. Morgan, yes, sir.

21 A. I wouldn't have any idea.

22 Q. Okay. But you do know this: Had Condition 4.1.11
23 been in the draft permit that you sent to Rockwool and said,
24 "Hey, this is the one, make comments on this," you know

1 Rockwool would have made those comments. They would have
2 said, "Hey, we can't do that with all 95 doors." You'd fully
3 expect that Rockwool would have done that. Right?

4 A. I can't -- I have no idea what Rockwool would do.

5 MR. WALLS: Mr. Chairman, I have no further
6 questions for this witness.

7 CHAIRMAN KOON: All right. Thank you. May the
8 screen be shut down, please?

9 MR. WALLS: Sorry. I was having trouble finding my
10 cursor.

11 CHAIRMAN KOON: That's all right. I can't see
12 everything with that up there.

13 MR. WALLS: I understand. I apologize.

14 CHAIRMAN KOON: All right. Again, this is the
15 Chair, for our court reporter. I do have a couple of
16 questions for Mr. Pursley. In the original permit, was there
17 a requirement for all doors to be closed?

18 THE WITNESS: In the original permit that was
19 issued in 2019? No.

20 CHAIRMAN KOON: I know you're not in enforcement,
21 but that's been operational for two years now. Has there
22 been any comments of DEP about fugitive emissions?

23 THE WITNESS: There have been -- I know that our
24 enforcement staff has been onsite a lot. I don't know if

1 they've made any comments or anything like that on that
2 particular issue.

3 CHAIRMAN KOON: The purpose of a stay request
4 basically is obviously to block enforcement of a particular
5 issue, and one of the key questions is, in a stay request, is
6 the party going to be harmed by not enforcing it, and then
7 contrary, is the public going to be harmed by it -- I'm
8 sorry. The other way around. Is the party, the plant, going
9 to be harmed if we do enforce it, and then is the public
10 going to be harmed if we don't enforce it for two months? Is
11 there any evidence you have that there's fugitive emissions
12 coming out of those doors that would warrant not granting the
13 stay?

14 THE WITNESS: Without looking at the specific --
15 without seeing the specific doors they're talking about, I
16 can't say that there is.

17 CHAIRMAN KOON: All right. I think that's my
18 questions. Any redirect from either side?

19 MR. WALLS: None for the appellant, Mr. Chairman.

20 CHAIRMAN KOON: Mr. Wandling?

21 MR. WANDLING: Nothing, Mr. Chairman.

22 CHAIRMAN KOON: All right. Anything else anybody
23 wants to say?

24 MR. WALLS: No, Mr. Chairman.

1 CHAIRMAN KOON: I'll tell you what. Let me have a
2 few minutes to talk to the Board attorney here in private,
3 and we will issue an order here within the next hour.

4 MR. WALLS: That will be fine. Should we drop off
5 or --

6 CHAIRMAN KOON: Yeah, I think you can drop off, and
7 we'll communicate with you by e-mail within the hour with the
8 order.

9 MR. WALLS: That will be great. Thank you very
10 much.

11 CHAIRMAN KOON: Thank you.

12 MR. WANDLING: Thank you, Mr. Chairman.

13 (Adjourned at 1:47 p.m.)

REPORTER'S CERTIFICATE

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

I, Wendy M. Thomas, Notary Public within and for the State of West Virginia, duly commissioned and qualified, do hereby certify that the foregoing hearing was duly taken by and before me, under the West Virginia Rules of Civil Procedure, at the time and place and for the purpose specified in the caption thereof; the said witness having been duly sworn by me to testify the whole truth and nothing but the truth concerning the matter in controversy.

I do certify that the said hearing was correctly taken by me by means of the Stenomask; that the same was transcribed by me or under my direct supervision, and that the said transcript is a true record of the testimony given by said witness.

I further certify that I am not connected by blood or marriage with any of the parties to this action, am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or

counsel, or financially interested in the action, or interested, directly or indirectly, in the matter in controversy.

I certify that the attached transcript meets the requirements set forth within article twenty-seven, chapter forty-seven of the West Virginia Code.

Given under my hand this 10th day of January, 2024.

Wendy M. Thomas
Certified Court Reporter
and Notary Public

My commission expires March 15, 2025.