

TAZEWELL COUNTY ZONING BOARD OF APPEALS HEARING

Date: May 1, 2008
Time: 6:00 p.m.
Location: McKenzie Building
Court and Fourth Street
Third Floor
Pekin, Illinois

PRESENT:

ZONING BOARD OF APPEALS

Loren Toevs, Chairman
Mary Hoeft
Steve Larson
Duane Lessen
Jim Newman
Ken Zimmerman
Bob Vogelsang

ALSO PRESENT:

Kristal Deininger
Mike Holly, Esq.
Paul Lewis, Esq.
Nick Hayward
Jackie Workman
Judy Searle
Melissa Killion

I N D E X

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Case Number 08-16-S (Continuing)

Examination of Richard James 22-103

Examination of Michael McCann 104-190

NOTARY PUBLIC CERTIFICATION 199

Frank Miles, Esq. Chris Spanos, Esq.
Bill Whitlock
Bennett Lasco

1 CHAIRMAN TOEVS: Let me have your
2 attention. We're about to start this meeting.

3 The same ground rules that applied before,
4 apply now, about extraneous testimony and so on and
5 so forth.

6 Okay, I would like to have a roll call,
7 please.

8 MS. DEININGER: Hoeft.

9 MS. HOEFT: Present.

10 MS. DEININGER: Larson.

11 MR. LARSON: Present.

12 MS. DEININGER: Lessen.

13 MR. LESSEN: Present.

14 MS. DEININGER: Newman.

15 MR. NEWMAN: Present.

16 MS. DEININGER: Vogelsang.

17 MR. VOGELSANG: Present.

18 MS. DEININGER: Zimmerman.

19 MR. ZIMMERMAN: Here.

20 MS. DEININGER: Chairman Toevs.

21 CHAIRMAN TOEVS: Here.

22 MS. DEININGER: We have a quorum.

23 We need a motion to reconvene from the
24 previous meeting.

1 MR. NEWMAN: So moved.

2 MR. ZIMMERMAN: Second.

3 CHAIRMAN TOEVS: That was Jim and Ken.

4 It has been moved and seconded that we
5 reconvene the wind farm meeting from the 15th of
6 April to the 1st of May.

7 All those favor say aye.

8 (All saying aye).

9 CHAIRMAN TOEVS: All opposed say nay.

10 Okay, now we're going to turn this over to
11 Chris Spanos for his part of the presentation.

12 MR. SPANOS: Mr. Chairman, I think Mr.
13 Miles has filed a motion, which I received late
14 yesterday. I'm sure Mr. Miles would like to have
15 that motion heard before we proceed.

16 CHAIRMAN TOEVS: Go ahead, Mr. Miles.

17 MR. MILES: Thank you, Mr. Chairman, ladies
18 and gentlemen.

19 We did file a motion to limit the testimony
20 of two of the disclosed so-called expert witnesses,
21 specifically we objected to Luke Taylor being
22 qualified as an expert witness, and Rene Taylor
23 being qualified as an expert witness.

24 Really there are two reasons for that

1 objection. The first is that neither of them seems
2 to have the academic background or experience to
3 qualify them as an expert. And secondly, and
4 perhaps as importantly, Mr. Taylor had an
5 opportunity and in fact spoke during the ten-minute
6 presentations. And Rene Taylor was asked whether
7 she wanted to speak and indicated she did not want
8 to speak. And so it's for those reasons that we
9 would ask to have those two, quote, unquote, expert
10 witnesses excluded this evening.

11 MR. SPANOS: May I respond?

12 CHAIRMAN TOEVS: Yes.

13 MR. SPANOS: Mr. Miles in his motion
14 suggests that the reason that we reconvened or
15 continued this matter was simply for expert
16 witnesses.

17 If you look at the motion itself, the
18 relief asked for does not ask for a continuance
19 just for expert witnesses, it asks for time to put
20 together a case.

21 Now, with respect to the specific
22 objections to Rene Taylor; Ms. Taylor has lived
23 under a wind farm for a year. There is not, I
24 don't imagine, one other person in here that has

1 that expertise. And there is no requirement in
2 Illinois law, or any other law that I'm aware of,
3 of any specific academic knowledge. An expert
4 witness has a specific knowledge that's not
5 something that's common to anyone else. Ms. Taylor
6 has this knowledge and clearly is an expert
7 witness.

8 With respect to Mr. Taylor, this is Mr.
9 Taylor's case, I think he has a right to be heard
10 and he has information that we can bring before the
11 Board. Sure, he had his ten minutes, but he has
12 other things that I think we can bring before the
13 Board that are relevant and pertinent, and I think
14 due process requires that you give him an
15 opportunity to be heard in this case with his
16 lawyer asking him questions. Mr. Miles will have
17 every opportunity to cross examine Mr. Taylor, and
18 Ms. Taylor as far as that goes.

19 The one last thing I would point out with
20 respect to Mr. Miles' motion, on one hand he seeks
21 to bar Mr. Taylor because he's testified once
22 already, and on the other hand he seeks to bar Ms.
23 Taylor because she didn't testify when she had an
24 opportunity.

1 If you look at the motion that was made by
2 the Board -- if you look at the motion that I
3 submitted to the Board, the motion to continue does
4 not say continued for expert witnesses, it says
5 continue the matter. Therefore, I think Mr. Miles'
6 motion should be denied.

7 MR. MILES: Mr. Chairman just in a brief
8 response. As I said the first night, the strict
9 rules of evidence don't apply at this hearing. The
10 purpose and object of this hearing is to get
11 factual information before the Board responsive to
12 the particular standards that are set forth in both
13 the Wind Energy Conversion Ordinance and the Zoning
14 Ordinance.

15 If in fact these witness, these two that we
16 object to, are allowed to testify, they should
17 testify from personal knowledge only, not opinion,
18 knowledge, not things that they read someplace
19 else, not things they saw on the Internet, but from
20 their personal knowledge.

21 MR. SPANOS: That's a new motion, it's a
22 new issue. I would like an opportunity to respond,
23 please.

24 MS. DEININGER: I'm going to have to

1 apologize to everyone tonight. I know the sound is
2 going to be bad in here. If you cannot hear, I
3 truly apologize. We will make it the best that we
4 can with what we have. So bear with us.

5 MR. SPANOS: Now with the interruption I
6 forgot what the motion was. Mr. Miles is basically
7 making a hearsay objection.

8 CHAIRMAN TOEVS: Yes.

9 MR. SPANOS: And if that's a hearsay
10 objection and Mr. Miles wants to bar any testimony
11 that's hearsay, then I would move to strike just
12 about every sentence that Mr. Whitlock said in the
13 first hearing.

14 Mr. Whitlock was the only person to
15 testify, and yet the application contains nothing
16 but hearsay, unless you call those witnesses.
17 There are -- the sound study, did Mr. Zack
18 testify? Does Mr. Whitlock have personal knowledge
19 of the study? Does Mr. Whitlock know how the study
20 was conducted? Of course he doesn't. And the
21 reason that they didn't bring those witnesses on
22 the first day is because a hearsay objection does
23 not apply.

24 In this case, Mr. Taylor has done a ton of

1 research on a number of things, things that should
2 be brought to the attention of the Board, things
3 that are just as pertinent as any document that is
4 included in that Application.

5 So, if the Board sees fit barring Mr.
6 Taylor from testifying about any of those
7 documents, then I would move that we strike every
8 document in the Application because as of today
9 those are all hearsay, too.

10 CHAIRMAN TOEVS: Would you define a ton of
11 research or ton of whatever?

12 MR. SPANOS: We've given you a packet of
13 information. My intention with Mr. Taylor is to go
14 through some highlights in that information.
15 Honestly, I don't want to give you a ton of
16 research, I don't want to give you a ton of
17 testimony. I would like to see us all go home
18 early tonight -- I don't think it's probably going
19 to happen -- but I am going to do my very best to
20 keep it as short as possible.

21 You have a stack of documents, given the
22 opportunity Mr. Taylor will summarize some of those
23 issues for you. If then you decide that you want
24 to go home and read some of this stuff, then you

1 can take it home and read what you like. That's
2 all we intend to accomplish with Mr. Taylor.

3 MR. LEWIS: Mr. Chairman, if I may, because
4 we seem to have heard three or four motions in very
5 short order here labeled and unlabeled. And so
6 maybe if we go back two squares we might be able to
7 get it straight.

8 After this hearing started, Mr. Taylor I
9 believe requested the Board to give him the, what
10 may be either an indulgence or a right, to come in
11 with evidence that he had not originally named in
12 accordance with the usual rules of these hearings.

13 My understanding, and I would stand
14 corrected by the memory of the Board because I
15 don't think any of us has a transcript here, was
16 that the courtesy extended was to allow Mr. Taylor
17 the opportunity to present expert witnesses. And
18 arrangements were made and discussed I think at
19 some length in the second hearing about when Mr.
20 Miles would present his experts, and when Mr.
21 Taylor might present his experts.

22 And my memory, without looking at the
23 transcript, was that tonight was for the
24 presentation of expert witnesses and that the last

1 time we were here we finished, and we did finish
2 early, we finished at 8:20, with what one might
3 call ordinary testimony, that is personal
4 observances, personal statements, personal
5 understandings, which may or may not be expert but
6 can be weighed by this Board according to how the
7 Board judges the demeanor of that person and that
8 person's opportunity and so forth.

9 So, in the first instance my understanding
10 was that we were going to hear expert testimony
11 tonight. Now, Mr. Miles has correctly said that
12 courtroom rules of evidence do not apply here. In
13 a courtroom a Judge would be asked to rule on the
14 qualifications of the witness and would state his
15 reasons on the record of why this witness or that
16 witness was or was not an expert.

17 This Board does not have similar rules and
18 I suspect most of the time you don't really deal
19 with expert versus non-expert witnesses. But,
20 under courtroom rules there is a clear distinction
21 between an owner who wishes to testify as to his
22 personal observation, his subjective
23 understandings, or things that he has seen and
24 heard, and someone who holds themselves out and

1 perhaps makes their living at a given subject.

2 In that context, someone who has lived next
3 to something for a year probably would not qualify
4 as an expert. I'm not sure if I lived next to a
5 mechanic's garage I would qualify as an expert
6 after a year as a mechanic. One can observe, but
7 they are just that, that person's subjective
8 observations and not trained objective analysis
9 that would be in the nature of an expert.

10 So, to that extent I think Mr. Miles'
11 motion is well taken. If we are here for experts
12 tonight, then these should be people who can put
13 forth professional qualifications, and I guess I
14 would underline that word professional, not amateur
15 or observed, or I read something somewhere, but I
16 am in this business to make a living and have been
17 for long enough to understand what I'm doing. To
18 that extent I would suggest that Mr. Miles'
19 objection is well taken, and that if others besides
20 professional experts are testifying that the Board
21 keep clearly in mind that they are testifying as to
22 their subjective personal observations.

23 And in a court of law in a case of say
24 eminent domain or putting through a power line, an

1 owner's testimony as to his subjective like or
2 dislike or reaction to something that's going in
3 would not qualify as an expert and would not go to
4 the questions of value.

5 The standard in court, and as a matter of
6 fact, I did look at a number of cases on this
7 trying to determine things like siting. It would
8 be a burden on the owner to come up with proof of
9 what he is saying. The owner must show objective
10 evidence. It's not such to simply say I don't like
11 the way these things look or I think they're ugly
12 or I don't want to be near them, there must be
13 objective evidence as to what the harm or the
14 diminution of value or other aspects is. The proof
15 must include expert testimony which verifies and
16 quantifies that particular item.

17 Now, an expert may rely on evidence that
18 experts in the field normally rely on, for example,
19 you realtor or your realty appraiser may say I
20 pulled comps by looking at the recorder's office
21 and looking at the tax stamps. That's something
22 that appraisers and realtors do. He would not have
23 to call in to court the person who bought and sold
24 the house and have their sworn testimony. Okay, he

1 can rely on that kind of thing.

2 And an expert may do that, but must tell
3 you what the source is and it must be a source that
4 is a kind that is usually used and relied on by
5 experts in that field. And again, my auto mechanic
6 may say I got a disc from General Motors and I put
7 it into my computer and it shows me X, Y and Z,
8 that's a little different than I asked my cousin
9 Harry that has been fixing Chevys for a number of
10 years; which one is relied on by experts in the
11 field. That's the key to that.

12 It's then for you to draw not only the
13 question of is this an expert and is his source
14 reliable, but also how much weight you give. Has
15 he given some objective evidence, has he given the
16 quantifiable evidence in this, and is he a person
17 with the kind of professional experience relying on
18 the kind of sources that an expert would rely on.

19 Okay. That's my piece and so my
20 recommendation to the Board would be that those who
21 are speaking only from subjective, personal
22 observation or personal research, anyone can go on
23 the computer, anyone can go down the street and
24 look at something, that's not an expert. These are

1 for experts tonight, qualifications and bases.
2 Cross examination will bring out whether it's the
3 kind of material they rely on or should rely on,
4 whether their expertise or their training and
5 experience is proper.

6 But I think we're here to hear experts only
7 tonight, and I think Mr. Miles' motion is well
8 taken in that regard.

9 MR. SPANOS: Mr. Chairman, may I respond at
10 least in part to counsel's statement?

11 I have the transcript in front of me and I
12 have the motion that was made by Mr. Lessen. And
13 the motion reads, "Mr. Chairman, I move that we
14 allow for a continuance with a deadline of April
15 23rd" -- sorry, Frank, I forgot -- "to have
16 documents submitted to the Zoning Administration
17 Office by 5:00 at the end of the 23rd and that we
18 -- those documents be distributed to the
19 appropriate people, and we have counter testimony
20 and testimony on May 1st."

21 Mr. Lewis asks, "Does your motion
22 contemplate also identifying what witnesses there
23 will be for purposes of, again, preparation on the
24 part of the Applicant and the Board understanding

1 how long the schedule might be?"

2 Mr. Holly gives you a short bit of advice.

3 "Isn't that what they asked for, a motion for a
4 continuance?" That's Mr. Lessen.

5 Mr. Holly says, "Right." And he goes on
6 and talks about scheduling and that's the motion
7 that was approved. It wasn't a motion for expert
8 witnesses, it was a motion to continue for
9 witnesses. It doesn't say expert witnesses.

10 I would also take exception to counsel's
11 description of what an expert witness is. An
12 expert witness, if you're going to case law and you
13 are going to ignore the relaxed rules of evidence,
14 an expert witness is someone who brings a
15 specialized knowledge, and I will underline the
16 word specialized, not professional, it's not
17 someone who is a doctor or an engineer necessarily,
18 it can be, certainly.

19 You have to ask yourself what's the issue
20 that this person is being presented to testify
21 about, and does this person have specialized
22 knowledge that no one else has or that the tryer of
23 fact doesn't have -- and that would be you --
24 that's the standard for a professional -- or excuse

1 me -- an expert witness.

2 And in this case, Ms. Taylor lives in the
3 shadows of turbines every day, every night. She
4 experiences what happens every day, every night.
5 She's around them all the time. Who better, who
6 has more specialized knowledge than someone who
7 lives in these turbines, in the area of these
8 turbines.

9 And what's the purpose she is being offered
10 for? The purpose is to tell you what it's like,
11 what her experiences are, what she's personally
12 experienced over the course of 11 months living in
13 the shadows of these turbines. That is specialized
14 knowledge. There is no one else here that has that
15 knowledge.

16 CHAIRMAN TOEVS: I would agree with you
17 except -- I agree with you, but she is one person.
18 Are we going to depend on one person for expert
19 testimony?

20 MR. SPANOS: That would go to the weight
21 that you give it and not the admissibility of it,
22 sir. And, you know, you can give it whatever
23 credit you want. And Mr. Miles I'm sure will have
24 plenty of questions for her on cross examination,

1 she and Mr. Miles apparently have a history, so he
2 will have all kinds of things I'm sure to bring
3 out. And you can consider both her testimony on
4 direct, and the testimony on Mr. Miles' cross
5 examination.

6 MR. LEWIS: Mr. Spanos, if a person lives
7 in a house surrounded by cornfields for a year,
8 does that make them an expert on corn and farming?

9 MR. SPANOS: I would suggest in Illinois,
10 no, because there are millions of people that live
11 in the cornfields in Illinois. There are very few
12 that live in the shadows of wind towers that have
13 not signed a gag order by a wind company and taken
14 their money and said, okay, I can't come and
15 testify. Most of those people that sign those
16 documents signed them before they lived in the
17 shadows of the wind towers.

18 MR. LEWIS: Are you going to present
19 evidence to that statement that you just made, Mr.
20 Spanos?

21 MR. SPANOS: What statement?

22 MR. LEWIS: That people signed gag orders.

23 MR. SPANOS: I certainly will.

24 MR. LEWIS: I would like to hear it.

1 MR. MILES: Let me try to respond a little
2 bit. The motion to continue that was filed a month
3 ago to give the objectors an opportunity to bring
4 their people back at a later date than they were
5 supposed to reads as follows, fundamental fairness
6 and due process require that this matter be
7 continued at least 30 days to enable a careful
8 review of Horizon's Special Use Permit Application
9 and supporting materials and to allow time to
10 arrange for testimony by experts on land
11 appraisals, safety and engineering issues, and
12 environmental concerns.

13 I think the whole purpose of the original
14 continuance was to allow the objectors tonight to
15 bring their expert witnesses in, not to avoid the
16 ten-minute rule, not to avoid the fact that they
17 weren't ready the night they were supposed to be
18 ready, and so I guess if there is going to be
19 testimony allowed again by Luke Taylor a second
20 time, then it ought to clearly be based on his
21 personal knowledge. If Renee Taylor is going to be
22 allowed to testify, when she chose not to when she
23 had the opportunity before, her testimony, too,
24 ought to be based on her personal knowledge, not on

1 the sort of things that an expert might rely upon
2 to give testimony tonight.

3 And frankly, I think the appropriate way to
4 do this is we hear the experts tonight, the way
5 they're suppose to be, and if the Board wants to
6 allow a few more lay witnesses to testify later on,
7 that's up to the Board.

8 CHAIRMAN TOEVS: So now we ask the Board
9 what they think.

10 MS. DEININGER: It's up to the Board.

11 CHAIRMAN TOEVS: If you got a feeling,
12 strong feeling one way or another, I need a motion
13 to do something.

14 MR. NEWMAN: Comment. I thought it was for
15 expert testimony tonight, not for continued,
16 continuation of witnesses and their subjective
17 viewpoints. I thought we were going to be
18 listening to experts in certain fields.

19 CHAIRMAN TOEVS: How do the rest of you
20 feel?

21 MR. LARSON: Same feeling, because I
22 remember a number of times we used that very
23 specific term, expert witnesses, and was my
24 expectation coming in tonight for the hearing.

1 MR. LESSEN: I made that motion, and my
2 interpretation was that it would be experts. And
3 that was the purpose of them identifying for the
4 petitioner that they would be experts in whatever
5 field they're going to testify in.

6 CHAIRMAN TOEVS: Then does somebody want to
7 make a motion that --

8 MS. DEININGER: What you would be doing, if
9 you chose to accept Mr. Miles' motion, you have to
10 make a motion to accept that motion to limit --

11 MR. NEWMAN: I would make a motion that we
12 accept his motion and it only include expert
13 witnesses.

14 MR. ZIMMERMAN: Second.

15 CHAIRMAN TOEVS: Ken seconded. Anymore
16 discussion? All those in favor say aye.

17 (All saying aye).

18 CHAIRMAN TOEVS: All opposed say nay.

19 Okay, now back to you, Mr. Spanos.

20 MR. SPANOS: I take it then that the motion
21 is to disqualify Ms. Taylor as an expert since
22 that's the second part of it.

23 CHAIRMAN TOEVS: Yes.

24 MR. SPANOS: That works for me. I knew

1 what you meant.

2 We'll call Richard James as a witness,
3 please.

4 MS. DEININGER: If you want to stand and
5 speak in the mic, that would be great.

6 MR. JAMES: Oh, yeah.

7 CHAIRMAN TOEVS: Give us your name and
8 address, please.

9 MS. DEININGER: You need to be sworn in.

10 CHAIRMAN TOEVS: Raise your right hand.

11 (Witness sworn.)

12 CHAIRMAN TOEVS: Now give us your name and
13 address.

14 MR. JAMES: I am going to change it.
15 Richard R. James. My address is 3966 West Sunwind
16 Drive, Okemos, Michigan.

17 CHAIRMAN TOEVS: Go ahead with your
18 testimony.

19 MR. SPANOS: Thank you, Mr. Chairman.

20 Q Mr. James, would you tell the Board,
21 please, how you are employed?

22 A I am a noise control consultant and an
23 acoustical consultant, and I have been since 1971.

24 MS. SCHERTZ: Excuse me, is there a working

1 microphone in here?

2 MS. DEININGER: This is the best I can do,
3 so sorry. I will remind everyone to speak loudly
4 and speak into the mic. The mics don't work that
5 well. I apologize.

6 CHAIRMAN TOEVS: Ma'am, Mrs. Schertz, you
7 might move your chair over there. (Indicating).

8 MS. SCHERTZ: We can't hear with this
9 furnace running. Sure, we had great michrophones
10 all along and then when it comes time to present
11 our experts, then we can't hear them.

12 MS. DEININGER: We couldn't use the other
13 facility because the sheriff had to use it. I
14 apologize. Everyone, please remember to speak
15 loudly and very clearly. We will do the best that
16 we can.

17 A As an acoustics expert I ought to be able
18 to figure this out, right? We need a bigger
19 speaker.

20 MR. CRAWFORD: You need to have your mouth
21 about this far from the mic. (Indicating).

22 A I understand that now. It's a very close
23 feel for a michrophone.

24 BY MR. SPANOS:

1 Q Let's try that again. Mr. James, how are
2 you employed?

3 A I'm a control consultant and an acoustic
4 consultant. I have a background in mechanical
5 engineering. Degree from General Motors Institute,
6 which was an accredited engineering college, is
7 accredited.

8 And to give you a little background on
9 that, when I was going to college, that was at the
10 time when the EPA and alot of the other noise
11 issues were coming to a head. And so General
12 Motors wanted to educate a limited number of
13 engineers in the necessary issues, and that was the
14 curriculum that I took. There was about ten of
15 us. I graduated in 1971, again, with a Bachelor's
16 in Mechanical Engineering.

17 Q So how long have you been working as an
18 acoustic engineer?

19 A Since 1971. At that time I was working for
20 Chevrolet. And in 1972 -- or 1973 I should say --
21 I formed my own company, Total Environmental
22 Systems. Later we changed the name to James T.
23 Anderson and Associates. And now I'm working as an
24 independent consultant under the name Acoustic

1 Solutions.

2 Q Would you please tell the Board -- would
3 you please tell the Board about your teaching
4 experience?

5 A I have been -- well, let's say this. In my
6 later years, last 20 years or so, I have been
7 teaching both at Michigan State University in their
8 Speech and Communicative Disorders Department on
9 the issues of noise and how it relates to speech
10 sciences. I've also taught most at General Motors
11 University. I have taught about all of their
12 engineers noise control and safety and health
13 issues. Noise control relating both to community
14 noise issues and in-plant noise issues.

15 Also have been an instructor for the
16 American Industrial Hygiene Association, Michigan
17 Department of Public Health, and a number of other
18 groups on the issues of noise.

19 Q Tell the Board a little bit about your work
20 experience with noise related issues, please.

21 A One of the most important portions of the
22 work I've done -- my firm, at one time we had 45
23 people before I had a health issue that caused me
24 to split off from it. We were the tier one

1 supplier of noise control engineer services for
2 General Motors, John Deere, Navistar, almost all of
3 the large companies. We did all of the noise work,
4 all their community noise work for the period from
5 about 1976 forward to the present.

6 And so I have been involved in a lot of
7 issues, siting of new plants, doing the studies to
8 identify whether communities are compatible, and I
9 also started out with a very strong interest in
10 computer modeling.

11 When I was a young engineer, computers were
12 not yet one of the tools that we have for
13 engineering, but I saw it as an opportunity. And
14 so my thesis for graduation was on the formulas
15 that are used for computer modeling. At that time
16 there were no standards, so we really had to rely
17 on some very preliminary work. And I continued
18 work both for in-plant modeling and community noise
19 modeling throughout my career.

20 Q Have you ever been retained to evaluate and
21 testify regarding nice related issues associated
22 with wind turbines?

23 A I've worked -- since 2005 I have worked
24 almost 90 percent of my work on wind turbines. And

1 I've worked with the Herron Zoning Board, Calumet
2 Zoning Board, and a number of other communities
3 around the country for setting up guidelines for
4 the wind turbines.

5 I'm also involved in about three
6 litigations cases at this point as the expert for
7 the community on those cases.

8 Q Have you written any articles regarding
9 wind related noise issues?

10 A That's a very good question. I hear
11 everyone talking about the Internet and all the
12 information out there. A lot of it is antidotal.
13 One of my partners is George W. Kamperman. George
14 Kamperman is the father of the Illinois EPA noise
15 criteria. And also he was basically the person who
16 helped establish those criterion, and he has
17 monitored them over the years. He has been
18 practicing since 1952. And so at this time he's in
19 semi retirement.

20 He and I started talking about the
21 confusion in the industry and the fact that almost
22 all the articles that we saw were coming from only
23 one side of the argument. So, we decided that for
24 a paper that we're presenting this summer that we

1 would do a review of all of the data that we could
2 get our hands on basically on noise studies, before
3 and after studies, what's good, what's bad about
4 turbines, health issues, et cetera. And then based
5 upon our combined almost 80 years of experience,
6 try to sort that out into a set of guidelines the
7 communities could use that would allow them to site
8 wind turbines without having the problems we see in
9 the different parts of the United States at this
10 time.

11 So, that paper has not yet been published.
12 It will be presented this summer, late July, in
13 Detroit. But I've just, we have basically just
14 done a review of all this antidotal information
15 that you are talking about and drawn our
16 conclusions as to what it really means.

17 Q In your professional work did you have an
18 opportunity to discuss certain health related
19 issues with Dr. Nina Pierpont?

20 A One of the things we did want to do was to
21 get right to the sources of a lot of the
22 information, so, yes, I've carried on a number of
23 discussions with Dr. Pierpont, shared some -- she
24 shared some of her insights with us.

1 Again, this is prepublication and we really
2 can't talk about a lot of it, medical privacy
3 issues enter into it. But, my opinion of what she
4 said and what her study is finding is that we do
5 have a valid concern about health related to
6 improperly sited wind turbines -- and that's
7 improperly sited wind turbines.

8 One of the things that she pointed out is
9 that all of her studies are for the newer models of
10 wind turbines. A lot of the questions are why
11 aren't we having problems in the other countries;
12 and the other countries are using smaller wind
13 turbines in many cases. But where they have put in
14 the larger wind turbines those problems are
15 cropping up overseas also.

16 Q Did you rely on Dr. Pierpont's studies and
17 information in forming your conclusions with
18 respect to the paper that you have recently
19 authored?

20 A Actually, we put in a cautionary statement
21 that that is still preliminary. There is plenty of
22 evidence already from the World Health
23 Organization, and other studies not specific to
24 wind turbines but specific to noise sources, that

1 they can cause disturbances with sleep, that they
2 do have an impact on health, not just a
3 psychological impact, you know -- I don't like that
4 -- it's physiological changes as a result of
5 long-term sleep deprivation.

6 Those are well-recognized within the field
7 whether it railroad yards, airports, just about any
8 type of noise sources. If the noise is such that
9 it can wake people up, it does have a physiological
10 effect. The bulk of the study put the weight on
11 that because it's peer review and is well
12 established and is used by people all around the
13 world in making the decision for land use planning
14 with regard to noise sources.

15 Q Are you familiar with the Illinois
16 Pollution Control Board standards with respect to
17 acceptable limits of noise?

18 A That's another very good question. Back in
19 1980 or so one of my clients, General Motors was
20 issued a complaint or a violation of the Illinois
21 standards for the foundry over in Danville.

22 As a result of that, Mr. Zack was the head
23 of the Illinois EPA's noise office at that time.
24 As a result of that, we tried to duplicate the

1 readings that he found and were unable to do so
2 after a whole summer of testing.

3 One of the problems we found with the
4 Illinois EPA standard at that time is that it did
5 not define how long a measurement should be. And
6 so we proceeded with a rule change that took just
7 about ten years to change the period of observation
8 for the Illinois EPA measurement proceedings for
9 enforcement proceedings to one hour.

10 And that -- in order to sustain that, we
11 had Mr. Kamperman as one of our experts, so we
12 really had to go through the whole standards before
13 the hearing panel in detail. So, yes, I have a
14 very good understanding of it both from how it's
15 applied in a specific case, which was Danville's
16 foundry, but also what was intended by that
17 standard when Mr. Kamperman made the tables up in
18 the early 1970s.

19 Q Why don't you give a summary to the Board
20 of what the current noise standards are.

21 A Well, the summary that's provided in the
22 Application really is a fairly good one. The
23 standards here for a new noise source, there are
24 daytime and nighttime standards because -- and

1 these standards are specified in octave bands.

2 Now, it may not be something that we can
3 change at this point, but the limits set for rural
4 communities in the -- in the Pollution Control
5 Board standards now are questionable. They really
6 apply more for a suburban environment. When the
7 standards were written they were never intended to
8 apply to very rural areas. I say that may not be
9 an issue we can change, because the standards are
10 what they are, but at this time there is a serious
11 question as to whether they're really applicable
12 for a rural community and whether they will protect
13 that community in the way that the standard was
14 intended to be protective.

15 Q You reviewed the noise study prepared by
16 Greg Zack; is that correct?

17 A That's correct.

18 Q And you mentioned in that noise study that
19 the standards as they are set out in the study are
20 accurate; is that right?

21 A I think the standards as they're described
22 are accurate.

23 I think one point, though, that is not made
24 in this study is that the standards were intended

1 to be applied by use of a sound level meter, they
2 were not -- they were not designable standards,
3 so-to-speak. They were standards that's true use
4 was for enforcement after a company has built a new
5 facility, built a new foundry, or put up a wind
6 turbine. And I think that leads to some very
7 serious concerns about the report because what we
8 see here is the use of computer modeling to replace
9 measurement.

10 Q According to the Illinois Pollution Control
11 Board noise standards, where is the measurement to
12 be made with respect to the residents or the
13 property?

14 A The standard is very clear, the measurement
15 is made at the property line.

16 Q And you can see on the screen now those
17 measurements -- or excuse me -- those limits as
18 listed. And you see across the top row is the
19 frequency, correct?

20 A Yes, that's correct.

21 Q And then what are the number across the
22 bottom?

23 A The numbers below it are the maximum not to
24 exceed limits for nighttime, I believe. Is that

1 the nighttime standard?

2 Q Yes.

3 A Yes, nighttime standard where you have a
4 class C emitter emitting sound to a class A
5 residential property.

6 Q For instance, on this chart at a thousand
7 hertz, what is the maximum nighttime level?

8 A 41.

9 Q And measured where?

10 A At the property line.

11 Q And would that be the property line or the
12 point on the property line closest to the noise
13 source?

14 A That is correct.

15 Q Have you had an opportunity to review the
16 numbers in Mr. Zack's study?

17 A Yes, I have.

18 Q Are you aware of whether any of those
19 numbers exceed any of the nighttime limits as
20 listed by the Illinois Pollution Control Board?

21 A I believe there are two that do exceed it.
22 But I think a more egregious error is that all of
23 those values that were demonstrated are at the home
24 and not at the property line.

1 Q Before we go into that any further, let's
2 talk about Mr. Zack's study. Does there happen to
3 be -- you see on the screen a copy of what is Mr.
4 Zack's study, a little bit different format, but
5 the same study, right?

6 A Yes.

7 Q And you see the numbers that are marked in
8 yellow?

9 A Yes, I do.

10 Q And what are those numbers, do you know?

11 A Those are the values that are at the
12 maximum limit allowable for receiving property
13 lines, not residents.

14 MR. LASCO: Excuse me, Mr. Chairman, I
15 cannot possibly make this out from here. Is this
16 one of the documents that were distributed this
17 evening?

18 MR. SPANOS: Yes, thank you. That is under
19 tab -- this particular document starts in tab
20 three. And I apologize that the documents in your
21 folder were copied in black and white instead of
22 color, contrary to my instructions. But, you will
23 see on the next page that there are some that
24 clearly stand out.

1 Q Tell the board what is indicated by the red
2 boxes there.

3 A The red boxes indicate model predictions at
4 42 decibels in the one thousand hertz frequency
5 range, which is at least one decibel above the
6 limit permitted by the Pollution Control Board's
7 rules.

8 Q And what is the limit for a thousand
9 megahertz?

10 A 41.

11 Q I'm sorry, a thousand hertz?

12 A 41.

13 Q And each of those readings is in excess of
14 the limit; is that correct?

15 A Yes, they are.

16 Q And you see the yellow again, those are
17 right at the limit; is that right?

18 A That's correct.

19 Q And this is, again, Mr. Zack's study; is
20 that right?

21 A Yes, it is.

22 Q Going to page three of Mr. Zack's studies,
23 are there also additional readings that are in
24 excess of the Illinois Pollution Control Board?

1 A Yes. For resident number 95 we have an
2 exceedence in both the five hundred and the one
3 thousand hertz octave bands by one decibel in each
4 case.

5 Q Now, do you have any opinions with regard
6 to the accuracy of these measurements?

7 A That's exactly the point I was going to go
8 to.

9 Q Let's take it a step at a time first, okay?

10 A Okay.

11 Q What effect -- or do you know whether or
12 not Mr. Zack's measurements were taken to the wall
13 of the residence or the lot line?

14 A He clearly states that they were at the
15 residence.

16 Q And is this in accordance with the statute?

17 A No, it is not.

18 Q In fact, the statute that was cited by Mr.
19 Zack in his report specifically says that the noise
20 should be tested at anywhere on the property; is
21 that right?

22 A That's correct.

23 Q Now, going forward, do you have any
24 criticisms of Mr. Zack's modeling?

1 A Well, you know, I've been doing modeling
2 for an awful long time and one of the things that I
3 find that disturbs me is that people see the values
4 put out by a computer and they believe them as
5 hard, fixed, solid, to be -- what do I want to call
6 it -- relied upon numbers, and computer prediction
7 is anything but a hard science.

8 My interpretation of Mr. Zack's modeling is
9 basically he claims he has a proprietary model and
10 does not disclose how that model works. However,
11 almost all models, whether they be proprietary
12 models built by an acoustical consultant, or models
13 that are commercially available, like Catna or Nord
14 2000, are bench marked in an ISO standard, an
15 International Standards Organization, standards.
16 And I believe that standard number is, it's 9613-2,
17 acoustics attenuation of sound during propagation
18 outdoors, part two, general method of calculation.

19 Now, this standard is very, very -- what do
20 you want to call it -- basic. It is -- it includes
21 many assumptions about how noise spreads that may
22 or may not be true. But, as a general rule, the
23 modeling equations do not pertain to any noise
24 source that is 30 meters above the ground. And

1 even under the most ideal conditions where all the
2 assumptions of a model are -- all of the
3 assumptions of the equation match up with the
4 reality of what is being modeled, the accuracy is
5 only plus or minus three decibels.

6 So, to say we have a 41 decibel prediction
7 when we say, first of all, the equations don't
8 apply to a noise source that's a hundred meters off
9 the ground, and that even if they did, we would
10 have an error range of plus or minus three dB,
11 means that we have to look at those numbers as
12 being only an estimate of what might happen when
13 the turbines are put into place and that we need to
14 adjust those minimally at least three decibels for
15 a known error. And that's assuming we ignore the
16 fact that the model's equations are not accurate
17 for wind turbines at a hundred meters because of
18 the 30 meter limit put into the standard itself.

19 Q If you look on the screen now, and this is
20 under tab, the next tab, number five I believe --
21 I'm sorry -- tab four. What is depicted in this
22 diagram?

23 A This shows the numbers that Mr. Zack
24 predicted with that three dB error range added to

1 them. And at a minimum -- well, what we have done
2 here is we have increased the number of places
3 where we exceed the Pollution Control Board limits
4 up to probably about a third of the properties or
5 so.

6 Q And again, the red indicates measurements
7 that exceed --

8 A Predictions. If they were measurements we
9 might have more faith in them.

10 Q -- predictions of what the noise level
11 would be at the residence, correct?

12 A Yes, that's correct.

13 Q Not at the lot line?

14 A That's correct.

15 Q Okay. And red indicates measurements that
16 exceed -- or I'm sorry -- predictions that exceed
17 the standard, correct?

18 A Yes, that's correct.

19 Q Are there any circumstances where you would
20 suggest that the additional number be greater than
21 three, in other words, that Mr. Zack's figures
22 should be increased by even more than three
23 decibels?

24 A Well, as I said earlier, the modeling

1 equations are very general and they assume
2 something that is not true about wind turbines.
3 The assumption on these equations is if you have a
4 noise source, let's say a noise source right up
5 here in my hand, that the sound will radiate from
6 that equally in all directions. So that if my
7 prediction says it's 41 dB over here, then at an
8 equal distance all the way around that circle will
9 be 41 dB. Now, the situation with wind turbines is
10 that they focus the sound such that there are
11 places around the wind turbines where it will be
12 lower than the 41 and places that will be higher.

13 If anyone has gone to a wind farm and stood
14 underneath the wind turbine you will notice that
15 it's very quiet. Now that is proof of the
16 directivity factor. They are basically the loudest
17 areas around the wind turbines are in front of the
18 blades and behind the blades. So with the modeling
19 making the assumption that it's equal all the way
20 around it being in error, we would normally
21 identify the directivity which is the focusing
22 effect of the machine, and we would have an adder
23 to these values to account for that focusing
24 effect, and in the -- in the absence of hard data

1 on the directivity, my own tests when I have tried
2 doing this indicate that should be about three
3 decibels more, so we would have an error potential
4 of three dB. And then we need to correct his
5 numbers for the focusing effect with another dB,
6 and that would put us up about six dB over his
7 numbers.

8 Q On the screen now you will see what's under
9 tab five. What does this document indicate?

10 A We're at six. This document reflects those
11 adjustments made to Greg Zack's predictions.

12 Q And again those adjustments added on to Mr.
13 Zack's predictions, the ones in red are the ones
14 that exceed the --

15 A That's correct.

16 Q -- the Illinois Pollution Control Board's
17 numbers, correct?

18 A Yes. And that would be just correcting for
19 the inherent error of the model under its best
20 circumstances, plus another correction for the
21 focusing effect of the wind turbine sound pattern
22 that was not accounted for in the ISO document.

23 Q Are there certain conditions where the
24 turbine will produce a greater or a higher noise

1 level?

2 A Yes, very clearly Greg's model was made for
3 the condition of seven meters per second, which --
4 and I'm going to say part of his study is very
5 confusing on wind speeds, but this is my
6 interpretation of it -- the turbine predictions he
7 made were for the situation of the turbine not at
8 full power but at a lower power rating. General
9 Electric's manual for the 1.5 SE says that when it
10 is at -- the difference between the cut in sound
11 level and the cut off sound level is eight
12 decibels, so it is conceivable that the sound
13 levels from the turbine could be eight decibels
14 higher just due to the fact that the turbine
15 predictions were done for a lower wind speed than
16 the maximum operating wind speed.

17 Q So, under these more stringent or more
18 difficult circumstances, what is your expectation
19 with regard to Mr. Zack's study?

20 A I think if we, if we just said that we took
21 the three dB error, the three dB for directivity,
22 and maybe half of what GE says for the increase in
23 sound level another four, we could easily find ten
24 decibels of error in his predictions.

1 Q You see on the screen attachment C, can you
2 tell the Board, please, what this is?

3 A That table shows the effect of adding the
4 ten decibels for error, directivity and wind speed
5 to the predicted levels from Mr. Zack.

6 Q And you have also have an even higher
7 number --

8 A We haven't talked about weather. If you
9 read the ISO standards it says that it only applies
10 to moderate wind conditions and for atmospheric
11 conditions that are not going to affect the sound.
12 If you do meteorological conditions, one of the
13 problems you have with any noise source, and you
14 may have experienced this in your own life, is that
15 under certain weather conditions the sound is
16 reflected off of an upper layer of the atmosphere
17 so what would have been radiating up and way out
18 and never seeing the ground now gets reflected back
19 down and adds to the sound which comes from the
20 noise source to the receiver directly. That kind
21 of addition being easily add five decibels to the
22 receiving site sound level.

23 This doesn't happen every day, but it is
24 the kind of situation that can happen on a nice

1 evening in the summertime. There are a lot of
2 weather conditions in which temperature inversions
3 affect the sound propagation and that was not
4 considered in the model.

5 Q And the result would be then what? The
6 result could easily be that we would have a total
7 of fifteen decibels of error in the predictions and
8 that's reflected under tab seven; is that right?

9 A That's correct.

10 Q Now, you very recently had some experience
11 observing a wind tower; is that right?

12 A That's correct.

13 Q Tell the Board the circumstances that took
14 you out to observe that wind tower?

15 A I was asked to come out, put on a
16 presentation for Lake Township's county
17 commissioners. Lake township is a small community
18 on the northern end of Michigan's thumb, very
19 rural, very flat, and now targeted for Detroit
20 Edison's Wind Turbines, and they wanted to know
21 some of the things that I would recommend for how
22 to set up good guidelines.

23 On the day I came for the meeting one of
24 the county commissioners asked if we could go out

1 and take a look at the wind farm that is run by
2 John Deere just south of their township. So we
3 went out and we found one of the turbines. We were
4 about a thousand, 200 feet away from it, and we
5 were watching it. It was a day in which we had
6 gusting winds where it would be mild for -- on the
7 surface we would have the wind be fairly mild and
8 then it would pick up a little bit, probably in the
9 range of about five to ten miles per hour at
10 surface levels.

11 The turbines were operating, were very
12 obviously audible, although the sound of a wind
13 turbine and the sound of the wind may have a lot of
14 similar characteristics, there are characteristics
15 of that wind turbine that make it, make it possible
16 for an educated ear to differentiate.

17 I noted -- because of the fact I thought
18 these conditions were kind of unique, I decided I
19 would go back to my van to get my sound level meter
20 out and find out what kind of sound levels we were
21 testing. And as part of the story I need to say
22 the day before the newspaper had advertised that I
23 was coming, so I'm pretty sure John Deere's people
24 knew I was coming.

1 As I came around to the other side of the
2 van and held my meter up, the turbine that we were
3 watching was shutdown. The first thing that
4 happened was the blades were feathered and
5 basically going from the mode where it generated
6 power to just rotating, and then shut down
7 completely.

8 The Commissioner thought that was
9 coincidental at first until I pointed out to her
10 that these are, most of the turbines are monitored
11 remotely and it would have been perfectly possible
12 that an operator could have seen me with a meter
13 and shut the turbine down so that I could not get a
14 good reading on it.

15 Q You were talking about feathering the
16 blades, what does that mean?

17 A The amount of power that the blades can
18 pull from the air depends on the angle of attach of
19 the blades, and the more they dig in, then the more
20 power you can pull out. But that also increases
21 the turbulence and noise, so by feathering the
22 blades, bringing them back so there is less
23 turbulence, the sound emissions from the blades
24 went down, even though the blades were still

1 rotating.

2 Q And this is controlled remotely; is that
3 right?

4 A Remotely, yes.

5 Q Is it possible to shut the turbine down
6 completely remotely?

7 A Yes, it is. That's the common way of doing
8 it.

9 Q You spent a fair amount of time, or at
10 least some time going out and checking on wind
11 turbines; is that correct?

12 A I have for the last few years, yes.

13 Q And in your profession have you had the
14 opportunity to review the operating or the owner's
15 manual, if you will, of a wind turbine?

16 A One of the questions that I've had is just
17 how safe is it to get up, if I'm going to do
18 testing of these, how safe is it. There is a lot
19 of Internet things, I'm sure you have all seen
20 them, on wind turbine problems.

21 I finally managed to get ahold of a manual
22 of the Vestas V-90, V-100s for the operators and
23 the technicians and there is a specific prohibition
24 against any employee of the wind turbine company

1 being within 13 hundred feet of an operating
2 turbine due to safety concerns. And if for some
3 reason the turbine can't be shut down remotely
4 before they approach, they're to approach it only
5 from the front or the back.

6 So, as a person who has to take noise tests
7 around the turbines, I decided that my safe
8 distance is also roughly about 13 hundred feet.

9 Q And this manual has information that you've
10 relied on in forming your opinions?

11 A Yes, it is.

12 Q Have you formed any opinions whether or not
13 the noise study prepared by Mr. Zack on behalf of
14 Horizon Wind suggests compliance with the Illinois
15 Pollution Control Board standards for noise?

16 A Well, the report clearly suggests
17 compliance, but when you look into the details of
18 it, as I've discussed here today, we can see that
19 it may be at best an indication of the best face on
20 the problem, and that reality when we begin to
21 introduce the errors from the equations in
22 modeling, the focusing effect, and all of the other
23 factors that I've talked about, could easily make
24 that model 15 decibels off in error.

1 Q With respect to property number 55, is the
2 study or does the study suggest that noise levels
3 are in compliance with the noise statute?

4 A 55?

5 Q I'm sorry, 56.

6 A Of the first table?

7 Q That's correct, of Mr. Zack's study not
8 authored by anyone else.

9 A Okay.

10 Q It's on the screen.

11 A Oh. Now your question again, sir?

12 Q According to Mr. Zack's study is the
13 measurement at a thousand hertz --

14 A Okay, those three readings in red show that
15 although his conclusion was that they were in
16 compliance, his data actually does not support
17 that. And that's without corrections.

18 Q And the same thing for property number 95;
19 is that right?

20 A That is correct.

21 Q Are all of your opinions that you've given
22 here today based on a reasonable degree of acoustic
23 engineer certainty?

24 A Absolutely. And like I said, one of the

1 problems I've had with modeling -- I started, I
2 wrote the first papers for the Institute of Noise
3 Control of engineers on computer modeling at a time
4 when most acousticians didn't know what a computer
5 was. And my papers were warmly received with
6 comments from the moderators of we have a young kid
7 here who is going to talk about computers, don't
8 know what they have to do with acoustics. Nowadays
9 acousticians use computers routinely, but they have
10 to be used like any other tool knowing what the
11 strong points and weak points are.

12 And one of the weak points in modeling is
13 that the current algorithms at predicting sounds at
14 a distance do not consider many of the factors that
15 moderate the sound as it propagates between a noise
16 source and a receiver.

17 And in looking at Mr. Zack's information
18 and applying some of those corrections we can see
19 that it can create a very significant difference
20 from the model predicted -- or the predicted
21 results from the equations.

22 Q You mentioned earlier that you worked with
23 George Kamperman in preparing your recent paper
24 that you are going to present this summer. What is

1 Mr. Kamperman's background again?

2 A Mr. Kamperman is one of the senior
3 gentlemen in the field. He started consulting with
4 Leo Beranek in 1952 or so, at a time when the
5 government asked Leo to form a company to do this
6 kind of work. At that time it was MIT. Later on
7 in the later part of the 60s and 70s Mr. Kamperman
8 headed the Chicago Office and went into private
9 practice in 1970 or '71, at which time he was a
10 consultant to the Illinois EPA and Pollution
11 Control Board in establishing the guidelines, the
12 measurement procedures, and the tables of the
13 octave bands that we're discussing here today.

14 Q And did Mr. Kamperman have a working
15 relationship with Mr. Zack at one time?

16 A Mr. Kamperman trained Mr. Zack. Mr. Zack
17 is not a mechanical engineer by background, Mr.
18 Kamperman basically took Greg under his arm and
19 taught him what he needed to know in order to
20 manage the department given that he did not have
21 the engineering background.

22 Q And your conclusions here today, are they
23 supported by the research that you and Mr.
24 Kamperman have done together during the past few

1 years?

2 A Yes, they are. And in fact I discussed
3 some of this with Mr. Kamperman because I was
4 concerned about his long-term relationship with Mr.
5 Zack. And Mr. Kamperman, his comment was if these
6 kind of errors are being made, they need to be
7 pointed out.

8 MR. SPANOS: I don't have anything else.

9 CHAIRMAN TOEVS: Board members, do you got
10 any questions?

11 MR. LARSON: Mr. James, I have a question
12 about the impact of the noise because these
13 turbines are so high off the ground, you talked
14 about front and back and --

15 MR. JAMES: Yes.

16 MR. LARSON: -- the directional focus. How
17 about vertical impact?

18 MR. JAMES: My own subjective experience is
19 that, you know, I have been underneath a wind
20 turbine, too, listening to it, and it is actually
21 quieter at the base of a wind turbine than it is a
22 thousand feet away from a wind turbine in front of
23 it. So vertically, I don't think the issue is so
24 much vertical on the plane of the blades in the

1 cylinder of the blades as they turn the front and
2 back, upwind and downwind. As a general rule
3 downwind being the higher noise situation.

4 MR. LARSON: The essence of my question
5 isn't so much if you are standing underneath the
6 blades or not, but if there is a tower and you have
7 got the turbine on there, and you are underneath
8 it, obviously, it's vertical as you go farther
9 away, then you still have a vertical component of
10 the noise. So what you are saying is that the
11 noise goes, as you say, in front and behind in a
12 cylinder?

13 MR. JAMES: The cylinder expands as you,
14 basically it starts at the blade site, but as you
15 go out from it, it expands.

16 MR. LARSON: So have you done measurements,
17 actual measurements of wind turbines and plotted
18 that kind of --

19 MR. JAMES: The problem with doing that is
20 that really to get good data you need to do it in a
21 laboratory environment, and the laboratories that
22 test wind turbines and the wind turbine companies
23 do not reveal that information.

24 MR. LARSON: So if you haven't measured

1 this in a real life situation, then you really
2 don't have hard data?

3 MR. JAMES: I have data from the
4 measurements that I have made around wind turbines,
5 but it is not laboratory grade, it is field data.
6 And what I'm saying is that we do have every reason
7 to believe that laboratory grade information is
8 also available, it just has not been made public.

9 MR. LARSON: You have data that you have
10 actually taken and compared it to your
11 assimilations?

12 MR. JAMES: Yes.

13 MR. LARSON: How do they compare?

14 MR. JAMES: As a general rule my
15 assimilation are projected numbers that are lower
16 than the real numbers that I measure.

17 MR. LARSON: Is that assimilation you use
18 the same one that Mr. Zack used?

19 MR. JAMES: Yes. Yes, yes.

20 MR. LARSON: So you don't have your own
21 assimilation tool?

22 MR. JAMES: We all use the same ISO
23 standard in acoustics. The ISO 9613-2 is
24 essentially the gospel. And anyone whose

1 prediction equations are different than that would
2 need to justify them against the -- you know, the
3 data that went into supporting 9613-2 would have to
4 be duplicated if someone chose some other type of
5 model approach.

6 MR. LARSON: So your experience in computer
7 modeling really is no different than anybody
8 else's, you are using the same formulas as
9 everybody else?

10 MR. JAMES: I am, except I would be more
11 cautious about applying those formulas to a noise
12 source that is a hundred meters above the ground,
13 because it specifically says in the standard, in
14 table five, if anyone wants to look for it, that
15 the standard only applies to noise sources that are
16 30 meters off the ground or less, flat and with
17 very minimal wind distance.

18 MR. LARSON: So then we really don't have
19 hard data about the effective noise when you get
20 above 30 meters.

21 MR. JAMES: No, we don't. We begin to
22 gather them in how they model aircraft noise and
23 airplanes, but again they are studied in laboratory
24 environments concerning the directivity, the

1 different sound emissions on your different power
2 conditions, in order to let those models be
3 accurate. But we don't have that data for the
4 turbines, so we can't build those kind of models.

5 MR. LARSON: So all of this data is really
6 speculative?

7 MR. JAMES: The raw data that Mr. Greg Zack
8 did is speculative.

9 MR. LARSON: All of it is?

10 MR. JAMES: Yes. To base a decision on
11 siting by saying, well, the table says 41, so we're
12 okay because that's what the Pollution Control
13 Board tables permit is over-valuing the precision
14 of modeling today.

15 MR. LARSON: I guess what strikes me is
16 there we're using computer modeling when there is a
17 lot of wind farms out there already.

18 MR. JAMES: That's right. This is an error
19 that I believe is one of the reasons why models --
20 projects are approved but then result in complaints
21 from residents who live near them. I think the
22 tools that we're using in modeling may need to be
23 refined and we may need to find some adjustments to
24 the model predictions to give us an appropriate

1 cushion of safety for the errors that the models
2 have.

3 And we're seeing that minimally that should
4 be six decibels, just based on directivity and the
5 error. But that it could easily be up to ten
6 decibels or fifteen decibels if we introduce other
7 factors as I discussed.

8 MR. LARSON: Second line of questioning is,
9 you made the implication that there are safety
10 issues about being within 13 hundred feet or
11 something like that?

12 MR. JAMES: Yes.

13 MR. LARSON: But it's safety concerns about
14 being around --

15 MR. JAMES: That Vestas, the manufacturer
16 has that concern for its own employees, yes.

17 MR. LARSON: When were those, the turbines,
18 those Vestas turbines made that you talked about?

19 MR. JAMES: The operating manual I have is
20 for the newest models of the Vestas.

21 MR. LARSON: And those were made when?

22 MR. JAMES: It's for the newest models, the
23 V-90s and V-100s.

24 MR. LARSON: Are they in production now?

1 MR. JAMES: Yes, they're in production
2 now.

3 MR. LARSON: Are there similar safety
4 issues with the GE 1.5, the ones that are being
5 planned for this site?

6 MR. JAMES: I would have no way to say that
7 they're not. The machines are essentially the
8 same, the failure modes result in the same kind of
9 debris, and so I would have to say that that's
10 probably a general rule that's good for all wind
11 turbines.

12 MR. LARSON: Is the concern that the blades
13 may break and fly apart?

14 MR. JAMES: Yes, yes.

15 MR. LARSON: And have there been any --
16 maybe this is a line of questioning that is not
17 appropriate for you, but have there been any
18 improvements in the reliability of the blades?

19 MR. JAMES: I'm sure that that's being
20 worked on. I'm sure that it is because we've
21 already got one fatality here in the country, a
22 wind farm out in Oregon operated by Siemens, and
23 that was a Vestas model in which we had a
24 fatality. We've had several other situations

1 similar to that that have gone on.

2 MR. LARSON: Are you aware of any with GE
3 turbines?

4 MR. JAMES: I'm not aware of any with GE,
5 but I have not looked for that. My thought, I mean
6 my purpose for the safety issue was my own personal
7 safety.

8 CHAIRMAN TOEVES: Anymore questions from the
9 Board? Mr. Miles?

10 MR. MILES: Mr. Lasco will ask the
11 questions.

12 CHAIRMAN TOEVES: You haven't been sworn.

13 MR. LASCO: I don't think so. I was going
14 to introduce myself and ask that we take a few
15 minutes break so we can kind of go over this.

16 CHAIRMAN TOEVES: Let's correct that. Raise
17 your right hand, please.

18 (Witness sworn.)

19 CHAIRMAN TOEVES: Give us your name and
20 address,.

21 MR. LASCO: My name is Bennett Lasco,
22 L-A-S-C-O. I live at 1211 Linden, Highland Park,
23 Illinois.

24 May we take a few minutes break so I can

1 organize my thoughts a little bit?

2 CHAIRMAN TOEVS: Sure. One of you guys
3 move for a recess.

4 MR. NEWMAN: I move.

5 MR. ZIMMERMAN: Second.

6 CHAIRMAN TOEVS: Moved and seconded that we
7 take a recess. All those in favor say aye.

8 (All saying aye).

9 CHAIRMAN TOEVS: All opposed say nay.

10 (Whereupon a break was taken).

11 CHAIRMAN TOEVS: I need a motion to
12 reconvene.

13 MR. VOGELSANG: So moved.

14 MR. NEWMAN: Second.

15 CHAIRMAN TOEVS: All those in favor say
16 aye.

17 (All saying aye).

18 CHAIRMAN TOEVS: All opposed say nay.

19 MS. DEININGER: I will make a statement for
20 everyone. We are going to have all three experts
21 speak first. Once they have completed their
22 testimony, then we will actually start with the
23 witnesses that have signed up to cross examine. We
24 will do all three experts first and then you can

1 come up. That way you will have the opportunity to
2 ask questions of each expert so you don't have to
3 go back and forth, back and forth.

4 CHAIRMAN TOEVS: Now we have another
5 expert?

6 MS. DEININGER: No, Mr. Miles is going to
7 cross examine.

8 CHAIRMAN TOEVS: You have got the floor.

9 MR. LASCO: Thank you, Mr. Chairman.

10 Q Mr. James, could we look at that slide you
11 had up with the chart of the different octave
12 ranges or hertz ranges and the decibel standards?

13 A Sure, if Chris can get it up there again.

14 MR. SPANOS: You have to bring your own
15 screen for that.

16 MR. LASCO: You don't share the screen with
17 us? That's okay. Is that something you can do
18 with a -- The chart is at the top of page two of
19 Mr. Zack's report.

20 MR. JAMES: Page two of Mr. Zack's report,
21 of the appendix itself.

22 MR. LASCO: Table one Illinois Pollution
23 Control Board limits. There was a slide earlier.

24 MR. SPANOS: I will work on it. I am

1 waiting for the projector to warm up.

2 MR. JAMES: Table one?

3 MR. LASCO: Yes, table one.

4 Q Let me ask you my question, since I don't
5 want to take up everyone's time here. This chart
6 sets -- we'll see it in a minute -- it's sets a
7 standard of the noise level that's permissible in
8 each of these various octave bands, and octave
9 bands are just a way of breaking down sounds in
10 another different component part?

11 A That's correct.

12 Q With a limit for each octave bands in this
13 chart?

14 A Yes.

15 Q This is the chart. And then we were --
16 when you were testifying earlier you pointed out
17 what Mr. Zack projected and with your adjustments
18 they might exceed them in some of these octave
19 bands; is that correct?

20 A Yes.

21 Q And you were looking at the five hundred
22 and the thousand octave bands?

23 A For the smaller corrections they affect the
24 five hundred and thousand first, but for the larger

1 corrections they affected other frequencies also.

2 Q Have you ever gone out and measured an
3 actual operating wind turbine say at 15 hundred
4 feet and measured what sound they produce in
5 decibels in the thousand octave band?

6 A Yes.

7 Q What is your --

8 A Forty-six.

9 Q Where did you do that?

10 A John Deere. And also in the paper that
11 we're presenting where we reviewed not only our
12 work but the work of probably a dozen other
13 consultants.

14 Q But I mean your own measurements. You have
15 done your own measurements?

16 A Yes.

17 Q And what kind of wind turbines were these?

18 A GE 1.5s for John Deere.

19 Q And what did you measure actually, the one
20 thousand?

21 A One thousand hertz, and I had 46.

22 Q You had 46 and at what distance was that?

23 A 12 hundred feet.

24 Q Do you know what it would be, what it was

1 at 15 hundred feet?

2 A I would have to go back and measure it or
3 calculate it.

4 Q And you gave us --

5 A You can knock a decibel off of it, 45.

6 Q -- doing that adjustment here -- And do you
7 have any kind of report of those findings with you?

8 A No, I don't.

9 Q How many times have you made that
10 measurement, how many different turbines, how many
11 different days?

12 A On that turbine it was one day, and on a
13 similar GE at another site on the next day we took
14 two tests. So I did a similar --

15 Q Let me see if I understand you. On two
16 different occasions, two different turbines you
17 have measured a GE 1.5?

18 A Yes.

19 Q And on the second occasion did you come up
20 with a measurement at the thousand hertz octave
21 band?

22 A Yes, I did frequency analysis on all of
23 them.

24 Q And what was the measurement?

1 A They were right in that range of 45, 46 dB
2 at a thousand hertz.

3 Q At 12 hundred feet?

4 A Thirteen hundred and 50 feet at one and 12
5 hundred feet at the other one.

6 Q Let me understand this. One measurement at
7 12 hundred of 46, and another measurement at 13
8 hundred and 50 feet which you said was 45 or 46?

9 A Yes.

10 Q Have you recorded those findings anywhere?

11 A There was information I took for the
12 purpose of checking the work we had done on the
13 paper to see if the readings that I would get would
14 be similar to what we had used in creating -- in
15 the paper we have a generic, a chart of a generic
16 GE 1.5 SE, and I wanted to use this as an
17 opportunity to see if my own tests would come up
18 with the numbers that the other people came up
19 with.

20 Q So did you report your observations, your
21 recorded data somewhere?

22 A I have only reported it as, I will call it
23 information for the paper. We did not detail out
24 the graphs, we didn't report them. They were used

1 just to support the observations we made and the
2 information that we reviewed and included in the
3 report.

4 Q So I think that means --

5 A It was my personal quality check.

6 Q So I think that means you didn't report it?

7 A That's what I said, yes.

8 Q When you -- and by the way, did you do a
9 model projection of what you thought the sound
10 would be at that distance?

11 A I had a model using the GEs technical
12 specs, the data that you got from the --

13 Q So your --

14 A -- 6-1-4 hundred 11 tests, and when I threw
15 in my other factors gave me a 46.

16 Q So your model predicted 46?

17 A Yes.

18 Q And you came out at 46?

19 A I came out within that range, yes.

20 Q So, in other words, what you measured was
21 what your model predicted, did I understand you
22 right?

23 A It was, but I was very careful to make sure
24 that the assumptions that I used in my model were

1 also as close as I could get to the way the wind
2 was blowing, the types of conditions I had on the
3 day I tested it.

4 Q And those are the only two times you have
5 ever measured --

6 A A GE 1.5, yes. Vestas V-80s. A lot of the
7 other ones we have also measured.

8 Q Now, when you were talking about some of
9 the uncertainties that you described in Mr. Zack's
10 sound modeling, those uncertainties are plus or
11 minus, right, there could be exceedences or --

12 A Well, the uncertainty for the equation is
13 plus or minus. The directivity would always be a
14 plus. And the wind speed adjustment going from
15 seven meters per second up to full power would also
16 be a plus. And the weather condition effects, the
17 temperature inversions, et cetera, would also be a
18 plus.

19 Q Weather conditions would never reduce those
20 sound readings --

21 A Not if you are always studying when you are
22 upwind. In other words, the assumption is that the
23 noise is going to be greatest in certain
24 directions. I would change my direction at that

1 point, so yes, you know --

2 Q So, I just want to make sure I understand.
3 Are you saying weather conditions would never
4 reduce the amount of sound?

5 A They would for other locations. For a
6 resident living off the sides or behind it, that
7 would be true. But if the wind changes in another
8 direction, then different people get the noise and
9 other people get the quiet.

10 Q And atmospheric conditions like humidity or
11 --

12 A Humidity plays a factor. A lot of things
13 play a factor. And that's exactly the problem with
14 the modeling. The modeling assumes that the
15 atmosphere is a very simple atmosphere. The
16 reality is that the atmosphere can be very complex,
17 we can have different speeds at different levels,
18 et cetera.

19 Q So, you are saying that you don't think the
20 modeling is appropriate to be used for this kind of
21 planning of a project?

22 A I think it may be a good tool but that
23 there needs to be some validation. One of the
24 studies that just came out recently that did a

1 comparison of the predicted levels at Maple Ridge
2 -- I don't know if that's a GE or not -- but
3 that's the -- you may even have it in your packet,
4 accuracies of model predictions --

5 Q Let me just --

6 A -- on wind turbines at Maple Ridge Wind
7 Farm facility. This was published in 2007.

8 This study found that at several -- at
9 winds just above generator cut in speed, three
10 meters per second, the measured noise was 3.7 above
11 the predicted level of the receptor sites.

12 Q Can you repeat the last part?

13 A For winds just above the generator cut in
14 speed, EG 3.07 at the 80 meter hub height, the
15 measured noise was 3.7 above the predicted level of
16 the receptor sites.

17 Q Let me go back to what I was asking you.
18 You are saying that the modeling such as Mr. Zack
19 did is not the appropriate way to make these kind
20 of planning decisions, there needs to be some other
21 -- how did you say that?

22 A It needs to be used with caution, it's not
23 a sharp knife, it's a broad --

24 Q Do you have some other way to do it that

1 you proposed? You have been in this business --

2 A I think what I would probably do. It's the
3 same thing, if I had a sound level meter I would
4 calibrate -- and it has a microphone, they will
5 only guarantee that meter is operating within --

6 Q You are not --

7 A If it's a compliance issue, if I get a
8 reading of 41 at a thousand hertz, then I have to
9 give the benefit of the doubt with the error that
10 that 41 could either be 42 or it could be 40.

11 And if you are talking about compliance
12 then the benefit of the doubt goes to the person
13 who would be damaged. And so if that's what we do
14 with all tests with sound level meters for
15 compliance, then we need to take these same
16 correction factors for modeling and put them into
17 the decision-making so that we do not end up
18 putting wind turbines in areas where they may
19 produce sound levels that are not compatible with
20 the local community.

21 Q So prior to standing here tonight, have you
22 proposed a method for predicting sound levels from
23 a wind turbine in order to make good planning
24 decisions?

1 A We have a -- as part of the paper I did --
2 we put together a set of guidelines.

3 Q Are those available to any of us?

4 A When they're published in late July they
5 will be available.

6 Q But none of us can see it now?

7 A But I tell you what they are.

8 Q Have you ever presented them to a
9 regulatory body, say the Illinois Pollution Control
10 Board?

11 A No, don't have to. We're not talking about
12 my proposed regulations, we just want to know if
13 the model is sufficiently accurate for us to look
14 at a number like 41 and believe that it is reality
15 and not just an indicator of what we might be
16 getting.

17 Q So just to make sure I know the answer to
18 my question, you have never proposed a technique or
19 methodology to any kind of regulatory authority of
20 regular like the Illinois Pollution Control Board?

21 A We have -- Herron and Calumet Zoning Boards
22 have all adopted guidelines that I have set up.

23 Q I thought you hadn't set them up. We can't
24 see them. How have you proposed them?

1 A You are talking about modeling. We don't
2 rely on modeling in those standards, that's why I
3 said no in the beginning. What we are setting up
4 is criteria for the wind industry to meet that has
5 sufficient safeguards built into it.

6 Q What I don't understand is how you propose
7 for this Zoning Board or for an Applicant to this
8 Zoning Board to predict what the noise levels will
9 be from something that has not yet been
10 constructed, and I thought you told me that --

11 A I think the modeling is a essential tool,
12 but it cannot be used as a sharp laser tool. It's
13 got to be looked at in terms of it's potential for
14 errors.

15 Q You have never proposed modeling standards
16 or put them on paper for anybody else to see?

17 A That's not my field. There are academics
18 that play those games. I don't play those games.
19 There are standards --

20 Q I thought you were a pioneer in the
21 computer modeling?

22 A I did -- and what I said was the models
23 that are currently available are similar -- I
24 didn't pioneer it, I was one of the first people to

1 apply the equations that will be put out in
2 textbooks to the computer prediction. So, I
3 applied the science that was available using a tool
4 at that time that was not commonly applied.

5 Q You're aware, I'm sure, that the Illinois
6 Pollution Control Board standards distinguish
7 between different classes of land and property?

8 A That's true.

9 Q Right?

10 A Yes.

11 Q And there are three classes, right?

12 A A, C -- A, B and C.

13 Q And A is residential property?

14 A That's a generalization, but that's fairly
15 close.

16 Q They each have their own definition, that
17 would roughly go to A being residential, B being
18 industrial and commercial, and C being rural?

19 A C is Industrial. B is commercial.

20 Q Well, where would ag land fall into --

21 A Actually when these tables were set up
22 agricultural land really was not part of the
23 consideration. It was more of a suburban concern
24 at the time the tables were set.

1 Q So are you saying that agricultural land is
2 not classified as either, any of A, B or C?

3 A It is probably in the tables for land, the
4 classes, but the specific octave band limits when
5 they were designed with that in mind --

6 Q We will talk about that in a minute, but
7 what I want to know right now --

8 A But we're not talking --

9 Q How is agricultural land classified within
10 A, B and C? There are some standards in there,
11 aren't there? The Illinois Pollution Control Board
12 have some standards you have told us, right?

13 A I don't see where agricultural land comes
14 in. Greg Zack clearly states that the -- that wind
15 turbines are class C under the table, and the
16 residents are class A, so I don't see where
17 agricultural land comes in. Nobody has talked
18 about agricultural land. We're talking about the
19 people who live near wind turbines as class A.

20 Q And the land that the people who live near
21 this project live on, is that zoned residential?

22 A That's typically class A, yes.

23 Q No, I didn't ask you that. I asked you how
24 was it zoned?

1 A I have no idea.

2 Q Do you think -- you didn't look into that?

3 A I don't see how it's even relevant to the
4 issue.

5 Q I'm not talking about the home itself, the
6 land?

7 A You know, I don't know about the specifics
8 here, but a lot of the communities I have been
9 working with don't have zoning. And I don't know
10 if Tazewell does or not. But, for the purpose of
11 applying the Illinois Pollution Control Board's
12 tables, the only thing that matters is class C, B
13 or A according to the tables. I don't remember
14 where it is. That defines what types of land uses
15 go into each of those categories.

16 Q I am going to represent to you that I'm
17 looking at a table right now that says agricultural
18 land use goes into land class C.

19 A That could be.

20 Q And I'm also going to represent to you that
21 the land surrounding this project is zoned as
22 agricultural land in this county. I may be wrong
23 about those things, and I'm sure your counsel will
24 point that out if I am, but will you take those two

1 assumptions from me?

2 A You can make the assumption.

3 Q There is no Illinois EPA standard that sets
4 a limit on the sound that promulgates from a class
5 C source to another class C land; isn't that
6 right?

7 A It may or may not be. I don't know.

8 Q The standard we're looking at here --

9 A The standard, as the Rail Splitter noise
10 impact assessment was presented, it says that the
11 recipients, the receivers are class A and the wind
12 turbine's a class C. And I didn't come prepared to
13 discuss whether or not those assumptions were
14 correct.

15 Q And in the report that you are referring to
16 also measures it at the residence, right?

17 A Yes, instead of the property line.

18 Q Mr. Zack's report treats the residence as a
19 class A recipient; is that right?

20 A But the standard is written for the
21 property line.

22 Q That's not what I asked you. We'll talk
23 about that in a minute. The report treats the
24 residence as a class A recipient, right?

1 A Yes, it does. It treats them as a class A.

2 Q It does not treat the property line as a
3 class A recipient, you agree with that, right?

4 A It ignores the property line.

5 Q And your testimony is that the Illinois EPA
6 standards require the measurements be made at the
7 property line?

8 A Yes. That is the way the measurement
9 standards are written.

10 Q How do you know that?

11 A That is -- well, figure it up.

12 Q Is there an EPA regulation --

13 A Yes, there is a measurement procedure and
14 it specifies 25 feet off the property line.

15 Q And it tells you where to make the
16 measurement --

17 MR. HOLLY: We do have a court reporter and
18 we need to make sure that she gets the record
19 accurate, and if the two of you continue to talk
20 over each other, that's going to be very difficult
21 for her to do.

22 And for the interest of keeping the record
23 clear and keeping her sane, please don't talk over
24 each.

1 And as far as the questions, I don't want
2 anybody to get into a situation where it's an
3 argumentative situation or there is a banter going
4 back and forth. Cross examination is just your
5 opportunity to ask questions, and your opportunity
6 to answer those questions.

7 So, if there is a question he poses, just
8 simply answer his question.

9 BY MR. LASCO:

10 Q Would you look at page two of Mr. Zack's
11 report? Do you have that there?

12 A I have that.

13 Q In there section 901.102 is set forth -- is
14 set forth on page two, do you see that?

15 A Could you get that up, Chris?

16 Q And this is the standard that says how one
17 should measure noise transmitted to class A land,
18 right?

19 A Yes.

20 Q And it says at the very end there, when
21 measured at any point within such receiving class A
22 land provided, however, that no measurement of
23 sound pressure levels shall be made less than 25
24 feet from the property line noise source?

1 A Right. That says that the standard can be
2 applied 25 feet within the property of the
3 receiving --

4 Q Well, you told us it had to be measured at
5 the property line.

6 A Well, at the property line according to
7 this rule, 25 feet is in case the noise source
8 happens to be right on the property to give
9 sufficient distance so that we're not too close
10 from the noise source when we measure it.

11 Q So when you said at the property line you
12 meant not closer than 25 feet?

13 A 25 feet to the property line.

14 Q Are you familiar with any interpretations
15 of the Illinois Pollution Control Board about what
16 that section means in terms of where the
17 measurement should be taken?

18 A I am only familiar with how that applied to
19 the case with General Motors.

20 Q You have never been employed by the
21 Illinois EPA or Illinois Pollution Control Board,
22 have you?

23 A No, I was not.

24 Q And you never have been authorized by the

1 State of Illinois to issue any type of
2 interpretations of their guidelines or --

3 A No.

4 Q Are you familiar with the case of Turris,
5 T-U-R-R-I-S, Coal, C-O-A-L, from the Illinois
6 Pollution Control Board --

7 A Go ahead.

8 Q Have you heard of that case, that
9 interpretation?

10 A No.

11 Q Then we don't even need to talk about it.

12 My understanding is the Illinois Pollution
13 Control Board interpreted this section that we were
14 just looking at as -- sorry, I don't have the
15 number at my fingertips, 901.102, to say that the
16 measurements of noise projected to a residential
17 property should be made at the residence.

18 A In contradiction of their measurement
19 procedures? I don't know.

20 Q I am just asking you if you are familiar.

21 A I don't know what precedent, what weight
22 that has to --

23 MR. HOLLY: Please wait for each person to
24 finish before you answer, and before you ask

1 another question.

2 MR. LASCO: You are absolutely right. I
3 apologize, particularly to the court reporter.

4 Q When you told your little story about going
5 to the John Deere turbine in Michigan, you took out
6 the meter and the turbine was shut down?

7 A Yes.

8 Q You're not suggesting that anybody
9 connected with Horizon had anything to do with
10 that, are you?

11 A I have no idea. It could have been
12 absolutely coincidental.

13 Q Are you suggesting that anyone connected
14 with Horizon had anything to do with that?

15 A I have no idea. Maybe just coincidental.

16 Q I am asking you a question. Are you
17 suggesting that anybody having anything to do with
18 Horizon had anything to do with that?

19 MR. SPANOS: I object. He answered the
20 question three times. He said he had has no idea.

21 BY MR. LASCO:

22 Q And you talked about a safety manual of the
23 Vestas --

24 A Yes, Vestas V-90 and V-100 operating

1 manual.

2 Q About keeping some distance from the
3 turbine?

4 A Yes.

5 Q Do you have that manual with you? Can we
6 look at that?

7 A I don't have it with me. I can make it
8 available if you want to see it.

9 Q We would appreciate seeing that. And
10 you're not testifying here as an expert on safety
11 engineering or anything like that?

12 A I am not. I only used that manual for my
13 own guidance in terms of what was the proper
14 distance to stay away from them.

15 Q So you're just telling us what you read in
16 a manual?

17 A What I read as to how I -- why I'm not at
18 five hundred feet doing the measurements, yes.

19 Q And you didn't bring it with you to show us
20 what it said, you are just telling us what you
21 remember from reading it some other time?

22 A That's true.

23 Q You said something about, that you think
24 that a lot of wind projects have been located so

1 that they result in complaints because of the
2 failure to correctly anticipate the noise
3 introduced, do you remember saying something like
4 that?

5 A I said something to that effect, yes.

6 Q I didn't get the words down, have you
7 compiled any kind of tabulation yourself as to the
8 number of people in the State of Illinois who live
9 near an operating wind farm and have complained
10 about noise problems?

11 A I have not done it as a scientific study.

12 Q You know, I wanted to ask you about one
13 other thing. You said you referred to Mr. Zack's
14 study as putting the best face on a -- on the
15 potential interpretation, results, something to
16 that effect, do you recall that?

17 A That's correct.

18 Q Now, is it right that Mr. Zack's study did
19 not account for any dampening of the sound by the
20 ground absorption; is that right?

21 A That's correct.

22 Q And that wasn't put in the best face?

23 A The ground absorption, when you have a
24 noise source a hundred meters above the ground, and

1 you are talking about a measurement site a thousand
2 feet away, ground absorption is not an issue, nor
3 are trees, nor are vegetation, and he did not take
4 those into consideration because they don't apply.

5 Sound source in this case is about the home
6 from the perspective of most homes that are close
7 to wind turbines.

8 Q And he also didn't make an adjustment for
9 atmospheric absorption; is that right?

10 A Yes, he did.

11 Q Minimal adjustment?

12 A It was an assumption that -- it's not
13 minimal, it's the adjustment.

14 Q And he used --

15 A It was an --

16 Q On the basis of his calculations, he used
17 data provided by the turbine manufacturer, right?

18 A It appears to be because his numbers looked
19 very close to what I have seen from GE before.

20 Q And the report says that, that he used the
21 numbers that are provided by GE, right?

22 A Yes.

23 Q And he also said the number we have on GE
24 has an uncertainty value of plus or minus two; is

1 that right?

2 A Yes.

3 Q So they could have been higher or lower by
4 two?

5 A Yes.

6 Q And he applied the assumption that it was
7 higher by two, right?

8 A That's true.

9 Q In some of the octave bands he applied the
10 assumption that it was higher by six?

11 A I don't remember that comment.

12 Q If you look at page five I think you will
13 see that. In any event, would you agree that
14 that's a conservative assumption to make, to apply
15 the maximum uncertainty and assume the maximum?

16 A As far as it goes, yes. That is one -- you
17 know, I give him the fact that he did provide
18 corrections for some of those issues, and also for
19 hemispherical spreading, but I'm pointing out
20 things he did not include.

21 Q You made a brief reference earlier in your
22 testimony to Dr. Nina Pierpont, right?

23 A Yes.

24 Q You are not a medical doctor; is that

1 right?

2 A I am not. That's why I talked to one to
3 find out what a medical doctor had to say about
4 this.

5 Q You are not qualified yourself to make any
6 judgment about the quality of the body research?

7 A I would not try to, no. That's why I rely
8 on the international standards and the
9 international documents from groups like that.

10 MR. LASCO: No other questions.

11 MR. JAMES: Okay.

12 MR. SPANOS: Redirect?

13 CHAIRMAN TOEVS: ZBA, do you got any
14 redirect questions?

15 MR. LARSON: Yes. I need some
16 clarification. On page five that is up here now,
17 there is plus six dB that was added onto these
18 numbers. How does that correlate to your charts
19 where you had plus six? Is that your plus six
20 compounding the conservative estimate that they
21 made?

22 MR. JAMES: There is another one -- yeah,
23 the plus six -- the ones that I pointed out would
24 be in addition to the plus six that he's talking

1 about here.

2 MR. LARSON: Can you explain that?

3 MR. JAMES: Well, when you start measuring
4 very low frequency sounds, the 31.5 hertz, it gets
5 more difficult to be precise, and what Greg is
6 saying is that based upon GEs analysis of its own
7 data they feel that the 31.5 hertz band could be as
8 high as plus or -- as high or low as plus or minus
9 six off of the number that they reported.

10 Q Just the 31.5?

11 A But just the 31.5. I don't want to take
12 away any credit as to what he did do to try to get
13 the model to reality. Those are all proper
14 corrections that he made.

15 MR. VOGELSANG: I would like to ask a
16 simple question. If you were going to buy some
17 land and you were going to build a home for
18 yourself, and you were going to have a wind turbine
19 near you, at what distance would you have it where
20 the noise barrier would be nil?

21 MR. JAMES: That was one of the things that
22 we looked into for our paper. And our review
23 indicated that at about two kilometers we get to
24 the point where there is minimal likelihood of the

1 wind turbine creating an ongoing problem. And I
2 think that's about, what, a mile and a half in our
3 terms.

4 MR. VOGELSANG: Thank you.

5 MR. JAMES: Am I close?

6 MR. SPANOS: It's 1.2.

7 MR. JAMES: 1.2 miles. Thank you, Chris.

8 CHAIRMAN TOEVS: Any other questions?

9 MR. SPANOS: I don't have anything. Give
10 me just one second, would you please? Just a
11 couple, sorry.

12 Q Mr. Lasco I think just asked you a number
13 of questions about the credibility and the
14 reliability of Mr. Zack's study. Did Mr. Zack's
15 study take into account multiple sources of sound?

16 A He used an adder of 0.5 dB to account for
17 all of the turbines other than the one that was
18 closest to the property.

19 Q So, is that an adequate factor to consider
20 when you may have more than one wind turbine?

21 A This was one of the questions they had on
22 his model, normally you would calculate the effect
23 of all wind turbines on each resident. And that
24 way if you have a situation where there is several

1 of them around a home that are all in close
2 proximity they would be accounted for that way.
3 And he just used an average 0.5 dB. I think it
4 made his calculations simpler, but it also
5 introduced another opportunity for error.

6 Q So, what you're saying is that if there is
7 more than two turbines within that two kilometers
8 that you were just talking about both of those
9 turbines would have some noise effect on the
10 residence, correct?

11 A If you had a person living an equal
12 distance between two turbines, then it would be
13 expected that the sound level from the two turbines
14 would be somewhere in the neighborhood of three to
15 six dB higher than any one turbine depending on
16 frequencies and a lot of other things, but it would
17 be more than the 0.5.

18 Q And does that go back then to your, the
19 charts that we've shown three to six decibels at?

20 A Well, we didn't include that as a factor,
21 but we could include that in also. But that would
22 be very specific just the way he did it.

23 MR. SPANOS: I don't have anything else.

24 MR. LARSON: I have a question. Mr. James,

1 you mentioned you went out and took some readings,
2 some actual sound readings?

3 MR. JAMES: Yes.

4 MR. LARSON: Could you explain where you
5 took those relative to a circle around the turbine,
6 if the turbine is blowing -- the wind is blowing
7 from the north to the south? Where were you on the
8 compass when you took those readings?

9 MR. JAMES: We were directly downwind of
10 the turbines.

11 MR. LARSON: Would you consider that the
12 loudest, the noisiest point on the compass?

13 MR. JAMES: Upwind and downwind, depending
14 on how the wind is blowing are going to be your two
15 primary noise --

16 MR. LARSON: Did you consider it all the
17 way around, though, so you would get --

18 MR. JAMES: No, because we couldn't get on
19 a lot of the properties. This was only limited
20 access roads where we didn't have to literally get
21 on the property of people who we had not, did not
22 have permission to get on the property.

23 MR. LARSON: Have you ever measured that in
24 any other location?

1 MR. JAMES: Not all the way around it, no.

2 MR. LARSON: Because I'm wondering about
3 the variation, the peaks and valleys, the highest
4 and the lowest, because if the house is right
5 beside the turbine it may have a lower noise, but
6 if it's in the wind --

7 MR. JAMES: The wind varies around the
8 seasons, you kind of have an equal opportunity
9 noise source there.

10 MR. LARSON: I am trying to understand the
11 noise dynamics. There are prevailing winds around
12 here, so the percentage of the time it blows one
13 direction is higher.

14 MR. JAMES: If you find out which direction
15 the wind blows you can more than likely figure out
16 where you will have trouble from a wind turbine.

17 MR. LASCO: I had one follow up point, Mr.
18 James.

19 Q You said that one of the flaws you find in
20 Mr. Zack's study is he used only this 0.5 decibels
21 additive factor for multiple turbines, where do you
22 see that in his report?

23 A Let's go for it. If you can find it,
24 Chris. My eyes are blurry enough at this point I

1 can't find it. I am looking at it backwards. On
2 page seven, second paragraph, last sentence, he
3 says this conclusion is not valid for multiple
4 turbines.

5 Q On page seven there he's referring to
6 determining what he called the minimal distance for
7 a single turbine to a single residence; is that
8 right?

9 A But if you had two turbines at the same
10 distance, then his distance would have to be
11 reduced by about half.

12 Q Again, I'm sorry, that's not what I am
13 trying to talk about. When you say -- the sentence
14 that says this conclusion is not valid for multiple
15 turbines, the sentence right before it he is
16 talking about the minimal distance from a single
17 turbine to a single residence, right?

18 A He is referring to his 41 dB at one
19 thousand hertz, so my assumption is that he is
20 referring to his model results in general and not
21 just his statement about one turbine.

22 Q I am going to ask you again. The statement
23 here is a statement about a single turbine and a
24 single residence, isn't it? It says that right in

1 black and white on the piece of paper; is that
2 right?

3 It says the conclusion is not valid for
4 multiple turbines, and the sentence before that
5 says the minimal distance a single turbine should
6 be from a single residence is 1 thousand 20 feet,
7 right?

8 A That's correct.

9 Q And that's the conclusion that it is not
10 valid for multiple turbines?

11 A That's correct.

12 Q He doesn't say it is not valid for multiple
13 turbines, it is a statement about a single turbine
14 and a single residence; isn't that correct?

15 A That's correct.

16 Q It says nothing about adding the factor of
17 0.5 dB for testing the effect of multiple turbines,
18 does he?

19 A Well, I'm going to say I read it in here
20 somewhere. I can't find it at this point.

21 Q And it doesn't say where --

22 A But what it does say is that his model
23 results, the 41 dB at a thousand hertz that he
24 presents in his tables appears to be single turbine

1 calculations.

2 Q So you would expect his tables and
3 attachment C to Mr. Zack's report to be based on a
4 single turbine sound level?

5 A That appears to be what he is saying. He
6 says nothing specific about it being turbines,
7 other than this comment, which says a single
8 turbine.

9 Q I'm getting confused and I got to sort out
10 a couple things here.

11 The first thing I want to know is, are you
12 interrupting attachment C to the tables that
13 project predicted sound levels at the various
14 different house numbers, are you interrupting that
15 to be based on a single turbine source, or to be
16 adding together multiple turbine sources?

17 A My interpretation of it is that given the
18 information he provided, it is possible to say that
19 is a single turbine at each residence, the closest
20 turbine.

21 Q And then my other question is, where did
22 you get this thing you said about he uses a 0.5
23 additive factor for multiple turbines?

24 A That's what I can't find at this point.

1 Q I can represent to you that you're not
2 going to find it. I don't think it's there. Take
3 all the time you need to look.

4 A It's may not be. I won't quibble about the
5 0.5. That's not the errors -- even the single
6 turbine error is not going to be equal to the
7 potential error from the equations and the other
8 things that I discussed earlier. We're talking
9 potential errors of ten decibels that far
10 overwhelms the impact of multiple turbines.

11 Q It's assuming all the things that you
12 projected happen just the way you were talking
13 about?

14 A That's right, just like he assumes
15 everything happens the way he projected.

16 MR. LASCO: Thank you.

17 MR. JAMES: Okay.

18 CHAIRMAN TOEVS: Okay, we're going to
19 change our order just a little bit. Anybody in the
20 audience whose name is on here that wants to cross
21 examine this witness, stand up and I'll swear you
22 in and then we'll have you --

23 MS. DEININGER: We will allow them to ask
24 questions.

1 CHAIRMAN TOEVS: -- ask questions or cross
2 examine. All of you stand and raise your right
3 hand.

4 (Witnesses sworn.)

5 CHAIRMAN TOEVS: Come on up, Randy. Give
6 us your name.

7 MR. PRESSWOOD: Randy Presswood, 2449
8 2200th Avenue, McLean, Illinois.

9 CHAIRMAN TOEVS: Go ahead.

10 MS. DEININGER: Randy, did you sign in to
11 speak?

12 MR. PRESSWOOD: Yes.

13 MS. DEININGER: An actual form to be able
14 to come forward and speak? You did not submit
15 anything to my office?

16 MR. PRESSWOOD: No, ma'am.

17 MS. DEININGER: I'm sorry, you cannot
18 talk. I apologize.

19 CHAIRMAN TOEVS: Sorry. Okay, Mrs. I think
20 Aper?

21 MS. DEININGER: Schertz.

22 CHAIRMAN TOEVS: Mrs. Schertz.

23 MRS. SCHERTZ: Do I need to come up
24 there? I only have one question.

1 MS. DEININGER: Come on up.

2 MRS. SCHERTZ: I'm not sure you will know
3 the answer to this since you're not from our
4 state.

5 CHAIRMAN TOEVS: Give us your name and
6 address.

7 MRS. SCHERTZ: Kim Schertz. Post Office
8 Box 347, Hudson, Illinois, 61748.

9 CHAIRMAN TOEVS: Okay.

10 MRS. SCHERTZ: In my very limited
11 understanding of the Illinois Pollution Control
12 Board regulations, I remember reading about a year
13 ago that the classification, any time there is a
14 house on agricultural land the entire parcel of
15 land automatically becomes class A with the
16 residence. Because that's the case at our house,
17 we have 65 acres with a house on one corner --

18 MR. HOLLY: Is this --

19 MRS. SCHERTZ: I'm asking, can he confirm
20 this is correct or he doesn't know or it's
21 incorrect?

22 MR. JAMES: I can't speak to that.

23 MRS. SCHERTZ: Okay, thank you.

24 CHAIRMAN TOEVS: Come on up. Name and

1 address, please.

2 MR. EGLI: It's Rod Egli. 1473 Hopedale
3 Road, Delavan.

4 CHAIRMAN TOEVS: Go ahead.

5 MR. EGLI: I just want to know if it's
6 going to affect my house being I have about 15 wind
7 towers within one mile of my house, and also a
8 transformer station that also I found out that puts
9 out noise. And I'm wondering, I think I have about
10 three of them within 23 hundred feet, have a group
11 of six that's within three thousand feet. What do
12 you think the wind noise on something like this
13 would be?

14 MR. JAMES: I would say as a general --
15 there will be days when you have a problem. It may
16 not be every day, but there will be days when you
17 will have a noticeable nighttime disturbance.

18 MR. EGLI: So if I got my windows open in
19 the nighttime I am going to hear it?

20 MR. JAMES: That's right. On days when you
21 have a stable atmosphere and the turbines are
22 operating at their full capacity, but the ground
23 level winds are low, kind of the typical summer
24 evening, those will be the likely times when you

1 would be able to hear the wind turbines.

2 MR. EGLI: Okay, that's my only questions.

3 Thank you.

4 CHAIRMAN TOEVS: Nobody else out there?

5 MR. LASCO: Mr. Chairman, may I follow up
6 on the last question, please?

7 CHAIRMAN TOEVS: One more time.

8 MR. LASCO: Hopefully just one.

9 Q When you answered Mr. Egli's question, and
10 you said that he would have a problem on a still
11 night or certain conditions, not every night but
12 some nights, when he had his windows open he would
13 be able to hear, at what level would he be able to
14 hear, can you compare --

15 A Well, I'm making an assumption that his
16 background sound level at night, that basically
17 he's in a quiet rural environment without a lot of
18 noises at night, would be roughly in the 30 decibel
19 range, and that he would probably find the wind
20 turbines to be eight to ten decibels above that
21 background.

22 Q So 38 to 40, that's what that works out to?

23 A Let's say 36 to 40 depending on weather
24 conditions and other things.

1 Q There is kind of a fan going or a
2 ventilation system in here now. If everybody was
3 quiet in this room right now, what would be the
4 decibel level in this room right now?

5 A With the fans.

6 Q With the fans.

7 A This is a fairly noisy room. 50, 55 dB.
8 That's the projector, the blowers for the heating
9 and air conditioning. If it was a quiet office, if
10 it was someone's living room, we would be talking
11 35, 40 decibels unless the TV was on.

12 Q But right here when everybody is quiet you
13 are saying it's 50 to 55?

14 A If we put a wind turbine outside here in
15 Pekin, it probably would not be an audible problem
16 in the interior, but this isn't what we're talking
17 about for the people that are living in the rural
18 communities.

19 Q I am trying to give everybody in the room a
20 sense of what this sound is, what it is on the
21 ground and --

22 A What I am trying to say it's not a
23 comparison that is valid. It's not apples and
24 apples. This is a meeting room in which people --

1 people in many cases have an expectation of how a
2 different room is going to sound. This is good for
3 the kind of room it is. It would not meet a
4 person's criteria for what they want in a living
5 room, which would be 35 to 40 decibels. Assuming,
6 like I said, they don't have any amplified music.

7 Q I am going to try to ask my questions
8 again. I think it's a fair question for everyone
9 in the room here to know.

10 How would a sound expert put into numbers
11 the sound we hear in this room now, it's the only
12 sound in the room, everybody can hear it and --

13 A I don't think it's a fair question because
14 I don't --

15 MR. HOLLY: Let him at least finish his
16 question. If you don't know it, you can't answer
17 it.

18 MR. JAMES: I don't know.

19 MR. HOLLY: He hasn't finished the
20 question.

21 BY MR. LASCO:

22 Q Do you know the question?

23 A I know the question.

24 Q And your answer is 50 to 55?

1 A I wouldn't be able to put a precise number
2 on this room other than a generic number for how we
3 design these rooms when they're being designed.

4 Q So you are telling me that an acoustic
5 expert as you stand here right now and listen to
6 this room you have no idea what the decibel level
7 is? You said before --

8 A I am saying if you are looking for a
9 scientific answer I need a meter.

10 Q I was looking for your estimate. You said
11 50 to 55?

12 A One of the things that people don't
13 understand is that the ear is not a linear meter.
14 What we hear, what we judge, is different for all
15 of us, and it includes emotional characteristics,
16 and that's why I can't answer those questions. If
17 I was to take a guess what should this room be, 50,
18 55 dB, but do I know that is what it is, not
19 without an instrument. That's why sound level had
20 -- acoustical consultants have instruments and
21 don't have calibrated ears. We can't calibrate the
22 ear.

23 Q Are you finished?

24 A Yes.

1 MR. LASCO: Okay, thank you.

2 MS. DEININGER: Call your next witness.

3 MR. SPANOS: Just one second. I will talk
4 to him out in the hall and come back.

5 I call Mike McCann to the stand, please.

6 CHAIRMAN TOEVS: Mike, raise your right
7 hand.

8 (Witness sworn.)

9 BY MR. SPANOS:

10 Q Give us your name and address, please.

11 A Michael McCann, spelled M-C capital
12 C-A-N-N. My business address is 500 North Michigan
13 Avenue, Chicago.

14 Q Mike, tell the Board how you are employed.

15 A I'm the owner of my own appraisal firm,
16 McCann Appraisal, LLC.

17 Q Mike, would you give the Board a brief
18 summary of your educational background?

19 A Certainly. I've taken a wide variety of
20 courses through the Appraisal Institute following a
21 couple years of college at Dupage.

22 The courses that I've taken through the
23 Appraisal Institute in the form of real estate
24 appraisers all were appraisal and marketability

1 related courses, all resulting in obtaining an
2 appraisal license as listed in my qualifications on
3 the board.

4 MR. LASCO: Excuse me, Mr. Spanos, can you
5 just tell us if that document is in your booklet
6 where we can find it?

7 MR. SPANOS: Yes, sir. Thank you.

8 CHAIRMAN TOEVS: It's tab 8.

9 MR. SPANOS: Tab eight, second page.

10 Q Are you licensed to appraise in Illinois?

11 A I'm a licensed appraiser, certified general
12 real estate appraiser, which is the highest of the
13 three levels of licensing by the State of Illinois.

14 Q How long have you been working as an
15 appraiser?

16 A For 28 years with experience appraising
17 virtually all types of residential and commercial
18 property.

19 Q Would you briefly describe for the Board
20 the types of properties you have worked on over the
21 course of your career?

22 A Again, all types of residential,
23 commercial, industrial property, vacant land,
24 farms, houses, reaching from the Kominsky Park

1 Stadium, the old one, and all the land that was
2 around it that was acquired to build the new
3 stadium, to sanitary landfills, quarries, power
4 plants, typical industrial facilities, shopping
5 centers, trucking terminals, really just about
6 every type of property that is out there to
7 appraise.

8 Q And who has hired you in the past, Mike?

9 A I've worked for a wide variety of clients;
10 private enterprises, law firms such as yours, many
11 governmental bodies. I have been appointed by the
12 federal courts on pipeline property in Will County
13 as a commissioner to hear evidence on property
14 value and property value damages as it related to a
15 pipeline going through a rural area in Will County,
16 also corporations, lenders, private individuals,
17 investors, just again the whole variety of
18 potential clients that are sometimes in need of
19 appraisal services.

20 Q Have you ever been asked to evaluate the
21 affects of a perceived negative trait upon the
22 value of residential real estate plots?

23 A Yes, I have.

24 Q In what circumstances?

1 A Again, a wide variety of circumstances.
2 Sometimes it can be an issue such as contamination
3 from a leaking underground storage tank, or
4 recently a residence adjacent to the Braidwood
5 Nuclear Power Plant where the treated water has
6 leaked from where there are pipelines and saturated
7 the groundwater and migrated to adjacent property.
8 For many applications where there is stripping off
9 of property that sometimes affects the parking, or
10 ingress or egress to the property, in which cases
11 damage can result to the value of the property
12 beyond the value of the land actually acquired.

13 Q How about the effect of wind turbines or a
14 wind turbine facility?

15 A I have had a few occasions to evaluate wind
16 turbines, yes.

17 Q And you were asked in this case to evaluate
18 the potential effect of the Rail Splitter Wind Farm
19 on residential property in Tazewell County,
20 correct?

21 A That's correct.

22 Q And what methodology did you follow in
23 arriving at your conclusions?

24 A Well, I used the methodology that was best

1 suited to the information that is available, since
2 this is still a relatively new land use in
3 Illinois. But again, with review of the proposed
4 Rail Splitter Wind Farm Project, you know,
5 including you know, the location of the project
6 overall, the number of turbines, the height of the
7 structures, and the orientation with respect to the
8 nearest homes. So I also inspected the project
9 area, reviewed the project map, and again the
10 proposed turbine locations. I also made a curb
11 site inspection of each of the objector homes that
12 I'm aware of that have been -- have retained your
13 firm.

14 And beyond that I reviewed MLS listings and
15 sales data for homes in Lee County for properties
16 within or immediately adjacent to Mendota Hills, an
17 existing wind farm which is a smaller, I should say
18 not as tall of towers or structures or turbines as
19 what's proposed here.

20 I also researched the final conclusions of
21 a prior case study property that had been on the
22 market for a very extensive period of time. The
23 last time I looked at one of these proposed
24 facilities and found the ultimate conclusion of how

1 that property was in fact impacted by being
2 basically surrounded by these turbine facilities.

3 Beyond that, I also made a literature
4 review including the REPP report, which I believe
5 has been referenced in this hearing prior to me
6 being here, as well as reports contained in
7 appendixes eight and nine to the Application. And
8 then I incorporated the market trends that exist
9 for residential properties adjacent to these
10 facilities into a probable value impact on homes in
11 the Rail Splitter Project.

12 Q What methodology -- or I'm sorry -- what
13 does the term USPAP, U-S-P-A-P, stand for?

14 A USPAP, that stands for the unified
15 standards of professional appraisal practice. It
16 was essentially established by an Act of Congress
17 following the savings and loan bail out in the late
18 80s.

19 It's in fact now codified in Illinois law
20 under the Illinois Appraiser Licensing Act of 2002.

21 Q Have you been certified in any Illinois
22 courts as an expert on USPAP?

23 A USPAP is what the appraiser's call that.
24 And, yes, I have by the circuit courts in Cook

1 County.

2 Q Does USPAP and the Real Estate Appraisal
3 Licensing Act establish standards or requirements
4 for how appraisals of property value should be
5 conducted?

6 A Yes, USPAP does, and by being incorporated
7 into Illinois law it in fact does set standards for
8 how property is to be appraised.

9 Q What are those standards?

10 A An appropriate methodology has to be used,
11 and the methodology has to fit with what is
12 available in the market. Sometimes current sales
13 analysis is used if it's available, the sometimes,
14 in like a case like this, trying to find the effect
15 of the use in question, wind farms on property
16 values, just studying the actual property value
17 trends in close proximity to such a facility versus
18 further removed plots that have no such impact or
19 that would be so minimal as to be immeasurable, you
20 know, several miles out from such a project.

21 Q And you've reviewed Horizon Wind Energy's
22 Application for Special Use Permit in this case?

23 A I have, yes.

24 Q Page 22 of the Application refers to

1 property values, have you reviewed this section of
2 the report?

3 A Yes, I have.

4 Q And the section also refers to appendixes
5 eight and nine in the Application, right, you
6 mentioned those before?

7 A Yes, I did.

8 Q In the REPP report; is that right?

9 A Yes.

10 Q You had an opportunity to review the REPP
11 report in the past?

12 A Yes.

13 Q What is the REPP report?

14 A Well, the REPP report is essentially an
15 industry publication as opposed to something made
16 by an appraisal firm or an objective third party.
17 As I've learned in the past, it is essentially a
18 study that was done at the behest of and financed
19 by the wind power industry.

20 What it purports to show is an encompassing
21 study of plot values in wind farm locations, for
22 example, in the I-10 corridor near Palm Springs,
23 California, LaQuinta, I have actually visited that
24 particular location and I found that what the REPP

1 report is purporting is highly inaccurate really
2 because it was describing 25 thousand plot sales
3 that had been reviewed, many of which were in that
4 area and -- well, it's purporting to value for the
5 affect of a wind farm, or really multiple wind
6 farms, on residential property values.

7 Even in that study it recognizes that 70 or
8 72 percent of the properties aren't even within a
9 view shed of these wind farm facilities.

10 My personal visit out in the area revealed
11 that that's a very rural and desolate area. The
12 most I saw other than -- and at that I-10 corridor,
13 other than a variety of different generations of
14 wind farm and turbine facilities, some smaller,
15 some larger, some old and rusty and out of
16 commission, and some fairly modern ones, was that
17 there was not a single residence in site anywhere
18 along that corridor.

19 In fact, I had family that has a property
20 in the Palm Springs area and that's why I had the
21 occasion to visit that particular corridor and I
22 found it to be an inappropriate location unless you
23 are trying to value for the impact of wind farms on
24 grazing land.

1 Q Does the REPP report review or include any
2 properties located in the State of Illinois?

3 A It does not.

4 Q You have mentioned the word view shed, the
5 Board probably already knows, but explain that to
6 us.

7 A It mean different things to different
8 people, but the way I use the term, if you are in
9 close enough proximity that it actually impacts
10 your view as opposed to being such a great distance
11 that it can merely be seen from a great distance.
12 I use view shed in a more confined use of the
13 term. Properties in this case that are in the view
14 shed are certainly located within the project
15 footprint, covering quite a few sections, I believe
16 nine different sections in Tazewell County, as well
17 as properties in close enough proximity, say within
18 three/quarters of a mile to a mile that -- it's a
19 daily occurrence as opposed to being on the other
20 side of 39 when looking at Mendota Hills.

21 And, you know, there is some locations that
22 these wind farms can be viewed from as much as five
23 miles away, and in one of the other appendixes
24 there is two different locations cited that the

1 wind farms in Texas and elsewhere can be seen as
2 far as eight or 24 miles away. While that
3 certainly is visible, I wouldn't really call that
4 view shed in the sense that it has any potential
5 for impact on property values.

6 Q Do you think that the REPP -- do you have
7 an opinion as to whether or not the REPP report is
8 in any way relevant to the effects of wind farms in
9 Illinois?

10 A I do.

11 Q And what's your opinion?

12 A It's irrelevant.

13 Q And why is that?

14 A Well, it again draws on locations which are
15 outside Illinois, it does not reflect the local
16 market or even a comparable market. It reflects
17 Palm Springs property values at a point in time
18 when values were spiking, you know, to six hundred
19 thousand, million and a half, multi-million dollar
20 properties; far different than what we find along
21 Litwiller Road or Boynton Road in Tazewell.

22 These are not rural residential properties,
23 these are estates, in most cases, with walled
24 little communities, and each house, for that matter

1 most of them, having at least six foot and in some
2 cases eight foot walls around the houses.

3 It again uses data that does not, doesn't
4 have the potential to reflect any impact on the
5 property values as a result of wind farms because
6 of the lack of view and lack of proximity.

7 Q What about the methodology used in the REPP
8 report, do you feel like it's sound, does it meet
9 with USPAP?

10 A Just the fact that it's not using
11 information that is relevant to the question at
12 hand, you know, the impact on property values, any
13 statistical analysis of useless information ends in
14 an useless results.

15 Q Let's talk about appendix number eight and
16 appendix number nine. Were either of those studies
17 done in Illinois?

18 A No, they were not.

19 Q Were either of those studies done
20 specifically for the Rail Splitter Project?

21 A They were not.

22 Q Do you recall when the study or those
23 studies were performed?

24 A Appendix eight, the Grover study, I believe

1 2002, and then the new study in August, 2006.

2 Q Do we have any more information today than
3 what was available in 2006 with regard to property
4 values and the effects of wind farms?

5 A Yes, we do. It's still an area that needs
6 considerable study and really should be funded to
7 be done in a very objective and empirical manner,
8 but it might take some time because, frankly, a lot
9 of the plots immediately adjacent to these
10 facilities just don't sell, they get pulled off the
11 market, or an example we are going to go through in
12 a few minutes, sits on the market for nearly three
13 years prior to selling at a discounted price.

14 Q Now, you mentioned before that this isn't
15 your first wind farm that you have been involved
16 with, correct?

17 A That's correct.

18 Q When you first were asked to do a property
19 value study with respect to a wind farm, what kind
20 of information was available at that time?

21 A Well, really just literature and
22 information like this REPP report.

23 Q Was there much in the way of sales out
24 there that you could look at and compare?

1 A There really wasn't much. There were some
2 sales that occurred before or during the planning
3 stages of wind farm facilities, but the ones that
4 are most relevant really reflect what property
5 value trends are once the project is constructed,
6 not when it's merely proposed or there is an
7 application pending, such as this matter.

8 Q Is there more information available today?

9 A Yes.

10 Q And why is that?

11 A Well, passage of time, and it has, the
12 market is starting to catch up with the actual
13 impact of these facilities.

14 Q And specifically, are you referring to any
15 wind project?

16 A I am referring to the Mendota Hills project
17 in Lee County.

18 Q Is that one of the older wind projects here
19 in Illinois?

20 A Yes, it is.

21 Q So it makes sense that over time you would
22 have a little more data there since they have been
23 there a little bit longer; is that right?

24 A Yes, that's correct.

1 Q Have you reviewed any other studies with
2 respect to wind farm effects on property values
3 that we haven't talked about?

4 A Well, I have reviewed a, in the past some
5 information about an assessor's sale ratio study in
6 Wisconsin.

7 Q What did that study show?

8 A Well, it showed property sales were,
9 actually adjacent to an existing wind farm there,
10 were a significant percentage lower, 15 to 20
11 percent lower, if I remember correctly, or maybe as
12 high as 27 percent in closer proximity to what the
13 baseline or assessed values were, as differentiated
14 from the other properties in that county that were
15 selling at much closer to, you know, a 1.0 factor
16 to the assessment ratio.

17 Q Does the public's perception of a negative
18 trait or a perceived negative trait with respect to
19 something like a wind farm have an effect on
20 property values?

21 A Well, it certainly can, if it's a
22 perception that sticks or if there is an aversion
23 to selling -- or excuse me -- to buying properties
24 based on unknowns and fears and lack of guarantees

1 and so forth. When it's an unknown quantity, there
2 is the fear, and those kind of perceptions can
3 certainly be a factor in the buy/sell decision.

4 Q You have heard some testimony and talk
5 today about health issues, environmental issues, et
6 cetera, are those the type of issues that can have
7 a negative effect on property values?

8 A To the extent that people react to them by
9 selling out lower or not buying at all or holding
10 out for a discounted price, yes, it certainly can
11 be a factor.

12 Q In your research have you found that there
13 is a significant portion of the general public that
14 has a general negative perception of wind farms or
15 property around wind farms?

16 A Not just in my research, but also in the
17 research cited in appendixes eight and nine. There
18 is a variety of studies referenced in those two
19 appendixes that cite various surveys of communities
20 and assessor's offices, and so forth, and there are
21 several references to peoples' perceptions along
22 that line, yes.

23 Q All right, let's talk about the appraisal
24 that you did. There is a map of the properties and

1 wind turbines, did you go out and look at any of
2 these properties?

3 A I went out and looked at all of them up and
4 down all the roads in that immediate area, and
5 specifically stopped and looked at each of the
6 properties that are your clients.

7 Q What was the next step then in your
8 appraisal?

9 A Well, do you want me to go through them
10 real quick? If you would prefer that I not refer
11 to them by name. This is some of the typical homes
12 in this particular area. If you want to scan
13 through them. And what I did -- if you want to
14 keep scanning through them.

15 Q Just a minute here.

16 A The first photo that was on the prior
17 screen was the Taylor residence, and that's a view
18 that also picks up -- that's a view northwest and
19 from the various vantage points on the property I
20 looked at where the wind towers were proposed.

21 And I was able to determine, you know, on
22 that property that there is going to be various
23 vantage points from within the plot that the wind
24 turbines would be visible in fairly close

1 proximity.

2 That photo came up kind of dark, but that's
3 another view of the Taylor residence. With a view
4 east, northeast towards the location of the nearest
5 wind turbine.

6 And the next photograph is a view southeast
7 from the Taylor residence. I apologize for the
8 quality of these photos.

9 Q Well, they didn't copy very well.

10 Now let me ask you a question about this
11 picture. Does this depict where a wind turbine
12 will be as part of the plan, or according to the
13 plan a wind turbine is going to be placed somewhere
14 in this picture?

15 A Yes. From the best of my recollection, it
16 will be behind that stand of trees that are
17 standing in the side yard, the easterly side yard
18 of the Taylor residence.

19 Q And will that tower be visible over that
20 stand of trees?

21 A I believe it's going to be. It will be 389
22 feet tall to the tip of the blade, and you have to
23 be standing right up next to the trees for that to
24 provide any effect of screening.

1 Q I think you said this was kind of looking
2 in the opposite direction or to the south?

3 A South, southeast, yes, towards the location
4 of another wind farm turbine. And there the
5 topography kind of slopes down, and then in the far
6 background of the photo, further back up on the
7 ridge and pretty much centered in that photo, what
8 I attempted to do is show using the map or
9 orientation where that wind turbine was being
10 proposed. It's clearly an unobstructed view, not
11 even any on site trees or bushes or anything that
12 would shield the view.

13 Q And is this the look out of the Taylor home
14 basically?

15 A From the front yard, yes. The view
16 southeast from the front side yard.

17 The next photo, that just shows a testing
18 tower I believe it is adjacent to the Taylor
19 property just south of the location of that wind
20 proposed turbine to the east of the Taylor
21 residence.

22 But where that's located, along the north
23 side of Boynton Road again, is just south of where
24 the stake is which as I understand it is where the

1 turbine is proposed to be constructed.

2 Q And the next photograph, it's much better
3 on the paper than on the screen, but that's the
4 Walter residence on the north side of Litwiller
5 Road between Townhall and Bethel.

6 And the next photograph, if we could, is
7 the Maurer residence on the south side of Litwiller
8 Road between Bethel and the Hopedale. That one has
9 perhaps the best opportunity to screen the view
10 because of the on-site mature trees. And to the
11 southwest I believe is where the nearest turbine is
12 going to be located, but again still in fairly
13 close proximity.

14 And if we go to the next photograph, it
15 appears to be new construction on the Litwiller
16 residence property on the east side of Bethel Road
17 between Litwiller and Boynton.

18 The following photograph is another
19 representation of that new residence on the right
20 and the shop building on the left.

21 The following photograph is the original,
22 what I believe to be the original Litwiller
23 residence. All located, you know, right in a row
24 on the east side of the road.

1 Can we go back just for a second, Mike, and
2 point on the map -- this is the Litwiller property
3 right here, correct?

4 A Where it's pointing, yes.

5 Q And that property is surrounded by a number
6 of turbines; is that right?

7 A North, northeast, several to the west and
8 northwest, and to the south also, yes.

9 Q Is that terrain there fairly flat?

10 A It was pretty flat, yes. It's certainly
11 not enough topographic relief to provide any effect
12 of screening.

13 Q And that again is the Litwiller home; is
14 that correct?

15 A That's correct, the new construction.

16 Q So could you tell from the angle that you
17 were taking the pictures where the turbine would be
18 according to the map?

19 A Well, that is a view east, slightly
20 southeast, of that residence, so basically every
21 point on the compass.

22 Q Okay.

23 A And that photograph is a view southeast.

24 Q Now I think we're caught up.

1 A And I'm not sure I can pronounce this name
2 correctly, the Egli residence on Hopedale Road
3 between Boynton and Armstrong, a nice brick ranch,
4 which is again in pretty close proximity and
5 surrounded by, within the footprint of the project
6 area.

7 This is the Bradshaw residence on the north
8 side of Armstrong Road between Bethel and
9 Hopedale.

10 Q Again the turbines would be visible from
11 the property?

12 A Yes. If I recall correctly, that
13 particular residence, there is turbines proposed
14 just to the left in the photo, so that would be to
15 the north and northeast. And I would have to look
16 at the map to refresh my recollection about any
17 others around it.

18 Q Let's go through these and then we will
19 come back to the map.

20 A Okay.

21 There is another Walters residence on the
22 west side of Stagecoach, south of Armstrong, kind
23 of an angle road that extends south from
24 Armstrong.

1 And there we're getting into one of the
2 Mendota Hills properties.

3 Q Look at the various homes and tell us --
4 this is the Taylor residence. Is that turbine
5 there that's B16-4-1 the turbine that's behind the
6 trees; is that correct?

7 A Correct.

8 Q And the other one, that's B21-2-1 is off in
9 the field?

10 A Yes.

11 Q And there is another one there that looks
12 like B22-1-2, would that also be observable from
13 the Taylor property?

14 A Yes.

15 Q It has to stick up higher than the ridge
16 line in order to catch the eye?

17 A Yes.

18 Q How about B15-3-1?

19 A It depends on the height of the turbines.

20 Q This is the Bradshaws and the Walters, all
21 the turbines are to what direction?

22 A East, southeast.

23 Q Will all these turbines be visible from the
24 Bradshaw and Walters residence?

1 A I believe so. There is more to the north.
2 I believe I may have cropped that a little short.

3 Q It looks like the Egli home would have a
4 nice view of about seven or eight turbines, maybe
5 ten; does that sound right?

6 A Yes, quite a few of them, west, southeast,
7 east, southeast.

8 Q You did some comparison studies; is that
9 right?

10 A Yes.

11 Q Tell us about the comparison homes that you
12 are referencing here in the report.

13 A I used this in the previous zoning matter
14 for a proposed wind farm. Going forward -- back up
15 one, Chris. There you go. That's a home at 965
16 Bradshaw Road. That's the Paw Paw School
17 District. That's the west side of 39. And that's
18 just a view south down Big Hamm Road, and you can
19 see one of the turbines.

20 And I would point out that those are, from
21 memory, about 1250 feet in height from the base to
22 the tip of the rotar, so you can kind of imagine
23 the scale with adding about 50 percent of that to
24 the height of the turbines that are proposed in

1 Tazewell.

2 If you go to the next photograph, hopefully
3 it's a better view of that residence.

4 Q Before we move, is this a turbine right
5 here? (Indicating).

6 A Yes, it is.

7 Q And is that one right there?
8 (Indicating).

9 A Yes.

10 Q And another one? (Indicating).

11 A Yes.

12 Q How about right here? (Indicating).

13 A I believe it is, yes.

14 Q How about right here? (Indicating).

15 A There is quite a few of them, which that
16 next photograph also picks up one behind it.

17 Q (Indicating).

18 A Yes. And the following photograph gives
19 you a little bit more of the orientation along the
20 south lot line, and what the house looks like.

21 It's kind of in a field of wind farm turbines.

22 Q What do you know about this house, Mike?

23 A I inserted that slide in my report, a basic
24 description of the property. It was new

1 construction completed in the fall of '05. It's a
2 three bedroom, two bath home on a five acre lot,
3 carved out, a nice lot that had a couple of mature
4 trees on it.

5 The house has hardwood floors in the living
6 room and dining room, and a fire place, sliding
7 glass doors. The plaster bedroom has a private
8 master bath and shower and whirlpool tub. Split
9 floor plan and a full basement, and attached
10 two-car car garage. Also an out building that is
11 52 by 48 with water and electric. It's the Paw Paw
12 School District.

13 And upon completion of construction it was
14 listed in the fall of 2005. It was listed at a
15 price of 329 thousand. That is about right for
16 what it is. Nice size lot, private master
17 bathroom. It compares favorably in the market to
18 many of the existing homes in the area, you know,
19 well kept homes, homes that have updated features
20 by today's standards, and many of those homes were
21 listed and selling in the high 200s.

22 At the point in time this was on the market
23 there was very little in the way of new
24 construction, but I judge that to be a fairly

1 reasonable asking price. But like with most, you
2 expect the list price to come down a little bit to
3 result in a sale.

4 This property sat on the market for about
5 840 days, having gone through several different
6 realtors before a sale was finally accomplished at
7 275 thousand dollars. 28 months, 840 days is --
8 let me put it this way, it is a marketing time that
9 a relocation company just would absolutely not deal
10 with at all.

11 If somebody owned that property and sought
12 to bring it into a relocation program, they see
13 market value at typical marketing times and if a
14 property is in a market location or a particular
15 setting where the marketing times are longer, the
16 relocation companies charge an appraiser that's
17 doing such a relo their appraisal to determine the
18 value assuming a reasonable marketing time, and
19 they usually use in the neighborhood of 60 days
20 perhaps to as long as 90 days.

21 I found in Lee County at the time this
22 property was originally listed outside the Mendota
23 Hills project area that the typical marketing times
24 were over a hundred days, so even that wouldn't

1 meet the relo standards, but even the other
2 properties, just in homes located in close
3 proximity to Mendota Hills, were also experiencing
4 marketing times in excess of 300 days, 400 days as
5 this one, the end result was 840 days, and a
6 discount from the original asking price of just
7 under 17 percent or 55 thousand dollars.

8 But a typical price reduction for new
9 construction at that point in time, and normally
10 that was kind of the peak of the market when
11 everybody was buying properties with that
12 irrational exuberance as we are hearing about now
13 with the mortgage companies busting and so forth.
14 But new construction is often selling at list
15 price, and in some cases, you know, even a
16 competitive bidding prices higher than list price,
17 but I'm assuming for the sake of this study that a
18 normal reduction would be in the neighborhood of
19 five percent under normal market conditions from
20 list price. And these still shows a discount that
21 can be attributed to the wind farm of about 11 and
22 a half percent.

23 Now, again, that's new construction and the
24 builder had a pretty high basis in it compared to

1 existing homes, which may have been owned for five,
2 ten, twenty years or longer and just do not have
3 enough flexibility. The end result was over, you
4 know, 800 days in marketing time and a much higher
5 than normal discount to the sale price even after
6 that time.

7 Q Did you learn since you prepared this
8 report any additional information with regard to
9 the home sales in Lee County?

10 A Well, in Lee County what I did learn was
11 there was, for many of the homeowner's in close
12 proximity to the Mendota Hills facility, that when
13 the new assessment came out they brought in
14 considerable testimony to the Board of Review from
15 a number of property owners claiming that they
16 could not sell their homes and, bringing in
17 evidence of having listed the properties and with
18 no success.

19 And that's part of the problem with doing a
20 full blown empirical study in a location such as
21 this, that there just is not a large amount of
22 relevant data. But, that in itself is data in a
23 sense, if you look at it from a, you know, sort of
24 an appraisal perspective or investor perspective,

1 just the absence of sales is evidence in itself
2 that there is a considerably smaller demand or
3 ability to sell properties in the face of these
4 wind farms.

5 Q What did you learn with respect to the
6 amount of time these properties were listed for
7 sale? You talked about them coming into the tax
8 assessor to try to get a reduction in the amount of
9 appraised value, what did you find out about the
10 time these places had been for sale?

11 A Again, time and time again they were
12 citing, listing the same thing, they had expired,
13 had been pulled off the market because there was
14 nobody even coming to look at the properties, that
15 there was just a dearth of interest in properties,
16 residential properties that were located in close
17 proximity to these turbine facilities.

18 Q Okay, Mike, did you come to some
19 conclusions with regard to the effect on property
20 surrounding the proposed Rail Splitter site?

21 A I did. I did a fairly generic analysis
22 here just to show what the objectors, just for the
23 objectors, your clients. This doesn't even begin
24 to cover all the homes that would actually be

1 impacted but -- excuse me -- with seven objector
2 homes within the footprint, and assuming an average
3 value of 275 thousand dollars for these existing
4 homes, and as I mentioned earlier the existing
5 homes I would expect them to be discounted deeper
6 than the new construction because, frankly, most
7 buyers in the market will pay a higher price for
8 new construction compared to existing homes. The
9 existing homes should sell and can sell and do
10 sell, but usually they're not as high up on the
11 list as new construction, so using a somewhat
12 higher discount rate of 20 to 30 percent for
13 existing homes, that would vary depending on how
14 many turbines are nearby, how close they are, and
15 then the individual perceptions, I'm just using an
16 average of 25 percent diminution factor or a loss
17 of value, and only counting seven objectors' homes,
18 there is nearly half a million dollars in
19 reasonably certain value loss if every one of them
20 tried to sell. They would be looking at pretty
21 significant discounts to get out of those
22 properties and back into a more serene or rural
23 setting.

24 Q I think we've touched on these, Mike. Is

1 there anything else you want to add regarding the
2 basis of your opinions that we haven't talked
3 about?

4 A Well, there is a lot of property that
5 raises concern for neighboring owners, but usually
6 those properties are down the street and the
7 operations are being conducted with completely
8 enclosed buildings. A wind farm is really unique
9 in that regard, you cannot conduct the operations
10 within an enclosed building, or they're not going
11 to work. You would have to build a 40 story
12 building to run the operation if you would.

13 They take up tremendous amounts of land or
14 cast a shadow on the view shed, if you will, of
15 thousands of acres as opposed to much smaller land
16 areas for even a big project. A couple hundred
17 acres would be considered a big project in most
18 cases. I think I counted the section and it's 640
19 acres. I think I counted 64 hundred acres just in
20 Tazewell County that will have at least one turbine
21 located in it and otherwise be in the shadow.

22 These wind farm turbines surround the
23 properties, and certainly there are some lease
24 payments being made, or at least agreements being

1 entered into to pay the participating property
2 owners and it probably will be a benefit to those
3 particular properties and their value as long as
4 they're passing on the increase in utility taxes to
5 the utility company. But I would add, the benefit
6 to those applicants and the energy company
7 themselves is really at the expense, and not just
8 from an aesthetic standpoint but a immeasurable
9 sense, on the property values.

10 As a real estate appraiser, having worked
11 on many litigation sites, I found that not to meet
12 the standards for most the zoning changes of real
13 estate when it came at the expense of surrounding
14 owners.

15 Q Mike, are you familiar with the consent of
16 a guaranteed property -- excuse me -- I need one of
17 those glasses of water, a property value assurance
18 plan?

19 A I worked at a few of them and designed one
20 very recently for a project that raised a lot of
21 concerns out in Kendall County. What a property
22 value assurance plan is is a mechanism that any
23 concerned property owners can elect to sign up for,
24 and depending on how it's designed and there is a

1 variety of ways they can be designed, where the
2 applicant for the land use in question essentially
3 pays for a couple of appraisals of the property to
4 set a baseline, a value for the property. And then
5 depending on the circumstances and how it might or
6 should be, you know, modified or customized to fit
7 the circumstance it provides for mechanisms to pay
8 property owners any loss in values should they sell
9 at something lower than the appraised value. And
10 there really should be a mechanism to adjust the
11 value up in line with the rest of the market area,
12 in this case, you know, that part of Tazewell
13 County that has no wind farm, you know, I mean if
14 this is approved.

15 There is also property value assurance
16 plans that reflect -- oh, for example, there was a
17 wind farm application or project out in Kern County
18 in California, which is the Bakersfield area, where
19 a number of area residents objected and the wind
20 farm company, the energy company, just bought those
21 homes out entirely and allowed those people to
22 relocate without having to first experience a few
23 years of whatever the worst fears might be or
24 whatever the reality of the wind farms would be for

1 them.

2 Q I'm sorry, go ahead.

3 A Those property value assurance plans can be
4 customized to fit the circumstances, and I
5 certainly would be willing to work with the Board
6 if you wanted to approve this project with a
7 condition to that effect. I do have some
8 experience with that.

9 I am not trying to get another job, but
10 part of the reason that I am here is there is
11 legitimate concern, this is the biggest investment
12 a lot of people make, their homes.

13 Q What situations have you seen where
14 property value assurance plans have been agreed to?

15 A Well, I've seen it with respect to a few
16 different sanitary landfills. I've seen it most
17 recently with respect to a limestone quarry that
18 was first denied all through the zoning process in
19 Kendall County and then received approval through
20 the court process, and the applicant, to their
21 credit, in that matter even though the court didn't
22 require it still was willing to buy the property
23 value assurance plan. They put their money where
24 their mouth was when they assured the residents and

1 the County Board that their property values aren't
2 going to go down, they're backing it up.

3 Q So in this case where the Application and
4 Horizon Wind Energy says that property values won't
5 go down, if there is a property value assurance
6 plan agreed to, what would the risk be to Horizon
7 if they're right?

8 A If they're right, The risk would really be
9 some fairly nominal administration time and expense
10 to retain a couple of local appraisers to establish
11 baseline values and then monitor, a little
12 communication with the neighbors, which I would
13 think they would want to do anyhow just as part of
14 a good neighbor policy, keep them apprised of
15 what's going on with any issues of concern.

16 Q And if Horizon is wrong and there is no
17 property value assurance plan, what is the risk to
18 the landowners surrounding the project that didn't
19 enter into one of the thousand dollar a year
20 agreements or didn't enter into one of the five
21 hundred dollar per turbine agreements to be on
22 their property?

23 A Well, in my estimation, the risk to them is
24 either the inability to sell their homes or having

1 to sell at a fairly significant discount, a
2 substantial loss in value, in order to relocate out
3 of such a project area.

4 In fact, I will take it a step further. If
5 the supply of affected homes increases, that could
6 really exacerbate the effect of this. You know,
7 all you need is 20 properties sitting on the market
8 on wind farm locations and the prices are really
9 going to plummet.

10 Q Is there such a plan in the Application
11 filed by Horizon Energy?

12 A No, there isn't.

13 Q Would this proposed plan then help the
14 property values or the assure the property value of
15 the residents who own land around the property?

16 A If it's well drafted it could very well be
17 a valuable tool for as much the area residents, but
18 for the company. You can buy a lot of good will
19 with that kind of assurance.

20 Q One second, please.

21 MR. SPANOS: I have no more questions for
22 this witness. I would like the point out to the
23 Board that we have attached two sample property
24 value assurance plans under tab 32, the first

1 couple of documents under tab 32.

2 Thank you.

3 MR. MCCANN: Before we start any cross
4 examination, would you mind if I grab a cup of
5 water?

6 MR. SPANOS: Could we take another
7 ten-minute break before we get started?

8 CHAIRMAN TOEVS: Yes, let's take ten
9 minutes. Does the Board move to take a ten-minute
10 recess?

11 MR. MILES: How long are we going to go
12 tonight? We would like to get our cross done in
13 one cross examination, either tonight or come back
14 and make sure we get it done.

15 CHAIRMAN TOEVS: You got one more expert
16 witness?

17 MR. SPANOS: Well, that's the ruling.
18 That's all I have left. Yes, sir.

19 CHAIRMAN TOEVS: I would estimate that we
20 might adjourn at 10 or 10:15.

21 MR. SPANOS: I would agree to that. I
22 think Mr. McCann would not like to have to come
23 back the second time, if we can do him tonight and
24 not take a break. If that helps getting him done,

1 let's go. Whatever.

2 CHAIRMAN TOEVS: We will just go?

3 MR. MILES: Let's take a short break and
4 let him get a drink.

5 (Whereupon a short break was taken).

6 CHAIRMAN TOEVS: Okay ZBA, do you got any
7 questions?

8 MR. LARSON: I heard the term when we
9 started that there was a study behind tab eight and
10 nine. I think I heard that.

11 MR. SPANOS: I'm sorry, it's appendix eight
12 and nine in the Application is what we're referring
13 to.

14 MR. LARSON: I thought we were talking
15 about the tabs in your handout.

16 MR. SPANOS: I didn't include anything that
17 was not already in the Application.

18 MR. LARSON: How many data points did you
19 have in this, your analysis of the -- was it --
20 what was the location where this piece of property
21 was located?

22 MR. MCCANN: On Bingham Road.

23 MR. LARSON: In Steward, Illinois. What
24 site was that?

1 MR. MCCANN: That's Mendota Hills Wind
2 Farm.

3 MR. LARSON: From how many data points did
4 you have that you used to come to your conclusion
5 on your 4 points here of the projected value
6 diminution.

7 MR. MCCANN: I wish that was a simple
8 answer, but it's really one closed sale.

9 MR. LARSON: This example --

10 MR. MCCANN: Yes, but there are quite a few
11 properties that have been pulled off the market and
12 had extensive marketing times. And why that's
13 relevant is because as time goes on, the property
14 gets stale on the market, and the price drops.
15 It's a typical situation of the real estate plot.

16 MR. LARSON: Was this piece of property
17 built by an individual to live in, he lived in
18 during this time, or was it a spec home?

19 MR. MCCANN: It was a spec home.

20 MR. LARSON: So it laid dormant, empty,
21 during that time period?

22 MR. MCCANN: As far as I know, yes, sir, it
23 did.

24 MR. LARSON: Would you consider this maybe

1 a worst case scenario at 840 days? That sounds
2 like a long time.

3 MR. MCCANN: It is a very long time and
4 being that it's new construction, I would expect
5 that some homes, if they stayed on the market
6 rather than being pulled off the market, could even
7 exceed that.

8 MR. LARSON: And in this example, the value
9 loss was 16.6 percent?

10 MR. MCCANN: Right.

11 MR. LARSON: How did you get to the 25
12 percent average loss of value in your conclusion?

13 MR. MCCANN: Well, there is a certain
14 amount of judgment that goes into that based on
15 other situations where you have problematic
16 properties and the type of discounts that can
17 typically be realized or are typically realized
18 when a property loses its general appeal on the
19 market. And that could be for a number of reasons,
20 you know, ranging from, like I mentioned the
21 Braidwood situation, and I don't mean to compare
22 the presence of a wind farm with contamination of
23 groundwater, but in some sense it is comparable,
24 the market aversion to buying and living in a house

1 that has some type of dis-amenity or negative
2 effect.

3 MR. LARSON: But you had no analytical data
4 behind that, it was an estimate, the 25 percent?

5 MR. MCCANN: It's an estimate, yes, it's
6 not an absolute fact.

7 MR. LARSON: I'm curious, do any of your
8 appraisals add or detract value based on school
9 districts that they're in?

10 MR. MCCANN: Well, if I'm appraising a
11 property in one school district and using a comp
12 from another, I very well might make an adjustment
13 if the market shows a premium is being paid in one
14 of the school districts versus the other, yes, that
15 can be an important factor in residential
16 properties.

17 MR. LARSON: What type of differentiations
18 might there be?

19 MR. MCCANN: Well, I can tell you this, in
20 Aurora, Illinois, for example, there is part of it,
21 a newer part of town, that is in the Naperville
22 School District which is considered much more
23 desirable, and you go literally across the street
24 from the Naperville School District to the Aurora

1 School District and you might see property values
2 50 thousand, 75 thousand lower, significant
3 discount from what they are in the Naperville
4 School District.

5 MR. LARSON: So in those is there a linkage
6 or a correlation between the value of a school
7 district and its revenue, revenue being -- the tax
8 revenue that is supporting those schools?

9 MR. MCCANN: Oh, I think I understand your
10 question. If the school has more money to spend,
11 does it enhance the quality of the market
12 perception?

13 MR. LARSON: Right.

14 MR. MCCANN: I think the simple answer is
15 yes, but there are certainly some examples that I'm
16 aware of where school districts spend money
17 frivolously, and just raising more tax revenue is
18 not necessarily translated into a better education
19 or increased property values. And one of the city
20 --

21 MR. LARSON: I understand there is a lot of
22 variables, but do you recognize or see in your work
23 that school districts that are well funded, tend to
24 have higher property values than school districts

1 that do not have as much?

2 MR. MCCANN: I would have to say yes.

3 MR. LARSON: So if this application were to
4 go through and tax revenues were increased, hence
5 the schools were to benefit from that, that could
6 have a positive effect on property values?

7 MR. MCCANN: County wide or district wide I
8 would say so, but within the project area itself, I
9 don't see that, no.

10 MR. LARSON: So your experience doesn't see
11 that kind of impact, is that what you're saying?

12 MR. MCCANN: I'm saying with a higher
13 funding for the school district, as a general rule,
14 property values I would expect them to benefit from
15 that. District wide or county wide, within the
16 project area itself, the dis-amenity or the
17 negative influence, the market conception is going
18 to over shadow the benefit of a better school
19 district, a better funded school district, because
20 there will still be other property in Tazewell
21 County outside of the footprint of this project
22 that they can go avail themselves of that better
23 school district.

24 MR. LARSON: Thank you.

1 MR. MCCANN: Certainly.

2 CHAIRMAN TOEVS: Any other questions from
3 ZBA? Go ahead, Ken.

4 MR. KLOPFENSTEIN: I just want to make sure
5 that I understand the property in question it's new
6 construction?

7 MR. MCCANN: Yes.

8 MR. KLOPFENSTEIN: What year was it
9 constructed?

10 MR. MCCANN: Completed in the fall of
11 2005.

12 MR. KLOPFENSTEIN: And was that before or
13 after the wind farm was constructed?

14 MR. MCCANN: After.

15 MR. KLOPFENSTEIN: After the wind farm was
16 constructed?

17 MR. MCCANN: Yes.

18 MR. KLOPFENSTEIN: So unlike the current
19 situation where the homes already exist and a wind
20 farm is going to be constructed around the homes,
21 this was a construction in an area where the wind
22 farm already existed; is that correct?

23 MR. MCCANN: Well, yes, but I do recall
24 speaking with the realtor that had the second

1 listing on this house, and my recollection is that
2 she said that the gentleman had bought the lot
3 before the wind farm was completed, so it was
4 really just the natural conclusion of his original
5 plans.

6 MR. KLOPFENSTEIN: Thank you.

7 CHAIRMAN TOEVS: Any other questions from
8 ZBA? Okay, Mr. Miles.

9 MR. MILES: Mr. Lasco.

10 MR. LASCO: Thank you, Mr. Chairman.

11 Q Mr. McCann, could you tell us when you were
12 retained for this engagement, to look at this Rail
13 Splitter proposal?

14 A I believe it was about a week ago.

15 Q And how much time have you spent on this
16 engagement since you were retained?

17 A About three solid days.

18 Q And that's when you did the things you
19 described, you drove around the area, you stopped
20 at all the homes, you took the pictures, and
21 figured out where the turbines were going to be and
22 so on?

23 A Yes.

24 Q Did you go up to Paw Paw or the Mendota

1 area in those three days?

2 A Yes, I did.

3 Q And did you personally look at this 965
4 Bingham Road home when you were up there?

5 A Yes, I did.

6 Q What document are you referring to as the
7 REPP report, R-E-P-P, report?

8 A (Indicating).

9 Q Is that something that you found in
10 Horizon's Application?

11 A No. I found it referenced in Horizon's
12 Application.

13 Q Are you aware of a published study of the
14 effects of a wind farm, wind farms on property
15 values that you think is better than the REPP
16 study?

17 A Well, I've read synopses or summaries of a
18 variety of wind farm studies, including assessor
19 surveys, and one from the Royal Institute of
20 Chartered Surveyors that found the negative
21 impacts. I found another study referred to that
22 the author was using high voltage transmission
23 towers as a comparison that he felt was valid,
24 apparently, because of the height of the structures

1 and the nature of the use.

2 And even though that was a static use or
3 passive use, if you will, compared to an active use
4 with spinning blades, he still found a ten percent
5 value diminution in close proximity to the high
6 voltage towers.

7 There is a number of studies cited in
8 appendix eight and nine, some pro and some con,
9 mixed results really. And I would point out that
10 the assessor surveys, while one of these studies in
11 the application seems to hang their hat pretty
12 heavily on this assessor survey because I think the
13 quote is something along the lines that the
14 assessors are required to be objective. But it
15 doesn't say assessors are not only supposed to find
16 market value but they're supposed to assess
17 properties uniformly. So they have another charge
18 that is really contrary to separating out
19 properties that have distinctives such as being in
20 the project footprint of a wind farm.

21 Q So my question was, are you aware of a
22 study of the effect of wind farms on property
23 values that you think is a better study than the
24 REPP study?

1 A Frankly I don't think there has been a
2 thorough study of a populated residential area
3 adjacent to such a facility, at least that I have
4 seen.

5 I've seen a variety of studies and synopses
6 of the studies that are, some are flawed, some are
7 weak, but all in all it gives mixed results, and
8 there is nothing that I've read that is convincing
9 to me as a real estate appraiser that there is any
10 empirical evidence that shows that wind farms do
11 not cause value loss in the project area for
12 residential properties.

13 Q So, are you aware of a study that you think
14 is a better study of the effect of property values,
15 wind farm property values, than the REPP studies?

16 A Well, I think my study is better than the
17 REPP study, frankly, because it focuses on one
18 property in particular, it tells the whole story
19 from cradle to grave as opposed to using 25
20 thousand pieces of data for properties that don't
21 even have a view of the wind farms. And so, in
22 that case I would say one piece of data is better
23 than a large scale, you know, effort that doesn't
24 really use methodology that could result in finding

1 any impact.

2 Q One of the things you criticize about the
3 REPP report is that it didn't look at plots in
4 Illinois, right?

5 A That's correct, yes.

6 Q So it would be better, I take it your point
7 is it would be better to look into specific
8 properties in Illinois, right?

9 A Well, certainly every market can be a
10 little different, while values can be dropping in
11 San Francisco and Boston, for example, they can be
12 rising in Chicago, so different markets react
13 different ways at different times, and geographic
14 economy is something that's required under USPAP,
15 and applying a study that was prepared in a far
16 distant location or a variety of distant locations
17 and saying that there is, you know, compelling
18 evidence in this market area, it's just not
19 consistent with USPAP.

20 Q So it would be better to look at Illinois?

21 A I believe so, yes.

22 Q Would -- I'm not familiar with USPAP. Does
23 USPAP have standards for the things an appraiser
24 should do if they're asked to appraise the value of

1 a home?

2 A Well, it doesn't set up specific steps,
3 but, yes, if you can be more specific. I will be
4 happy to try to answer it.

5 Q Does one of the methods of appraising a
6 home look at comparable sales or the sale of other
7 homes that compare to it?

8 A Yes, it is.

9 Q And in order to do that you have to get
10 certain data about the homes to make a comparison?

11 A To the extent possible, yes.

12 Q And what kind of information would a
13 professional appraiser want to gather to make those
14 types of the comparisons?

15 A It depends on the question they're trying
16 to answer, and in this case I was trying to find
17 whether or not there was any value loss, and I
18 found one good case study example for a home that
19 was built right in the shadow of a number of
20 turbines, thus telling the story cradle to grave.

21 Q If you were doing -- I want to go back to
22 asking you about the compared sales method to value
23 property.

24 A We haven't talked about it yet, but I would

1 be happy to.

2 Q There are standard things you would do if
3 you were looking at the properties that were
4 comparable to each other, right?

5 A If you are looking at the tract home for
6 the decision you can see the sales, certainly that
7 is a method you would want to use.

8 Q You can also appraise homes that are not
9 identical in tract sales?

10 A Yes.

11 Q And the sales technique is to go out and
12 see if the home that you are looking at is, to find
13 homes that are substantially comparable to each
14 other?

15 A I didn't hear part of your question.

16 Q If you are trying to appraise a home that
17 is not in a tract subdivision of identical homes,
18 you need to go out and look for, using a comparable
19 tract sales technique, as a practicing appraiser,
20 you go out and look at homes that are comparable to
21 the home that you are trying to appraise?

22 A If I put a value on that home in particular
23 that is a step that I would follow, yes.

24 Q And that's what I mean, if you are trying

1 to put a value on a home, and if you go and look at
2 homes that are comparable, you would look at
3 factors like how old the home is?

4 A Certainly.

5 Q How many feet it is?

6 A Size and condition, sure.

7 Q The quality of upkeep, the quality of the
8 landscaping, the style of the home, neighborhood,
9 things like that?

10 A Sure.

11 Q Anything else that should go on that list?

12 A I would be happy to answer your questions,
13 but it varies from site to site, house to house.
14 There is such a wide variety that, you know, I'm
15 sure we would like to go home tonight sometime.

16 Q Did you actually yourself do an appraisal
17 of the 965 Bingham Road home that you were talking
18 about in Paw Paw, Lee County?

19 A I did an analysis of the home, again, you
20 know, looking at it from cradle to grave, but I did
21 not put a market value opinion on that house for
22 any purpose such as going to the bank for a loan,
23 or for the sale to a perspective buyer, anything
24 like that.

1 Q So you have no opinion then whether the
2 original listing price of that home of 330 thousand
3 dollars was a fair market price, right?

4 A Well, I did do some analysis that confirmed
5 it was a reasonable price in light of what it was
6 and where it was, but for the wind farm.

7 Q If a bank asked you whether that was a
8 reasonable value on the basis of which to make a
9 loan, your answer would be you didn't have enough
10 information to tell them; is that right?

11 A No, that's not quite right because,
12 frankly, with brand new construction, lenders will
13 often look at the construction costs or the use of
14 a cost approach. And in this case, I was able to
15 learn that he had purchased the lot for I believe
16 it was 67 thousand dollars, and that it was just
17 under 18 hundred square feet, and I did a brief
18 cost approach on it using 125 dollars a square
19 foot. And frankly, what it showed was he sold it
20 for less than cost.

21 Q Did you gather any comparable sales
22 information with respect to that home?

23 A I did not have any comparable sale
24 information that would really be comparable to that

1 home, so no.

2 Q Did you go inside the home and walk through
3 it and evaluate its condition and things like that?

4 A I did not. It was new construction.

5 Q Do you have any experience with appraising
6 homes in the Paw Paw or Lee County area for the
7 purpose of determining their value?

8 A I have evaluated some homes in Lee County
9 in the past, but not for individual market value
10 appraisals.

11 Q You have never done a market value
12 appraisal of a home in Lee County?

13 A That's correct.

14 Q How many homes, other than the 965 Bingham
15 Road home, have been sold within the view shed of
16 that Mendota Wind Farm since the wind farm has been
17 built?

18 A I don't have a number on that. The MLS
19 listing was showing one expired listing after
20 another.

21 Q Did you find any other homes that have sold
22 within the view shed of that wind farm?

23 A I did, in a previous study I did. It was
24 either Stephenson or Ogle County, and again what I

1 was finding time and time again, it's made
2 reference in my report to having reviewed my prior
3 value studies, that's exactly what I was referring
4 to. And that is that the homes in the Paw Paw
5 area, or in the Mendota Hills area, were
6 experiencing extensive market times and lower sale
7 price and, you know, were generally a fair amount
8 lower. Showing market conditions that were
9 inferior to a location that didn't have a wind
10 farm.

11 Q So are you saying that you went there and
12 you looked for other properties that had sold but
13 you couldn't find any?

14 A More recently what I saw was a lot of
15 expired listings. In the past I had found the
16 properties on a broader basis, some within the view
17 shed, some not in the view shed, and you know,
18 again, showing average lower sale prices and longer
19 marketing times, but there -- that was more of a
20 broad approach, not terribly dissimilar to some of
21 the studies that actually use sale information or
22 market information as opposed to opinions.

23 But, the best piece of evidence that I
24 found to date in several of these studies is

1 Bingham Road plot.

2 Q I'm sorry, maybe I misstated, but I didn't
3 get the answer as to whether you ever tried to
4 find, either in connection with this engagement or
5 some prior engagement, did you ever go and try to
6 identify homes that have been sold since that wind
7 farm was built?

8 A I think I did answer it, or I certainly was
9 trying to. Time and time again what I was finding
10 is when they were in close proximity to the Mendota
11 Hills facility, the listings were expired, that
12 they were pulling them off the market, that there
13 were no takers.

14 Q You went and you looked and you found no
15 homes had sold, is what you're saying?

16 A What I had found as far as the MLS listing,
17 yes.

18 Q So you looked for homes that had sold in
19 the view shed of that wind farm since it was built
20 and you couldn't find any, all you found was
21 expired listings?

22 A I found listings that had expired, that had
23 been on the market for --

24 Q How many other homes did you specifically

1 look at the amount of time they spent on the
2 market, where the price was a discount off the list
3 price, where they ultimately have not sold besides
4 the 965 Bingham Road property?

5 A I have not found any other sales within the
6 immediate footprint of the view shed. You have to
7 be a little more specific because I did describe
8 the broader study that covered the area that
9 included Mendota Hills, many of which were in the
10 view shed as I defined it earlier, further out, but
11 not within that, you know, half mile, three/quarter
12 mile, not in the what I would call the more
13 immediate impact area.

14 Q So you think you need to look specific --
15 you would need to look specifically within a half
16 to three/quarters of a mile, you would not find out
17 what you need to know if you looked at property two
18 miles away?

19 A What I said previously, and I still hold as
20 an opinion today, when you are right within the
21 confines of the projects, the footprint, you are
22 surrounded by these turbines or immediately next to
23 them, that the impact is going to be fairly
24 pronounced, and as the distance from the edge of

1 the wind farm increases, that impact decreases. I
2 think about a half a mile, three/quarters of a
3 mile, depending on what it is. And if there are
4 any obstructions, it's not a significant view shed
5 issue, there might be, you know, fairly nominal
6 impact.

7 You get out two miles, there can still be.
8 I think we heard Mr. James testify earlier that
9 that's about the point where the sound issue
10 disappears or becomes almost immeasurable. But
11 when you are right in the project, standing or
12 sitting in a running car with the windows open and
13 those turbines are running, to me it sounded like a
14 very slow helicopter. So the more you are within
15 the immediate project area, the more noise you
16 hear, the more visual impact you are going to have,
17 and the more pronounced the market aversion to
18 buying the properties is going to be.

19 Q Did you do a measurement as to how far the
20 Bingham Road home was from the nearest turbine?

21 A Did not do an exact measurement at all.

22 Q Did you do any measurement at all or any
23 way to estimate that?

24 A The nearest one appeared to be within a

1 quarter of a mile, 12 hundred feet or so, 12, 13
2 hundred feet.

3 Q You're familiar -- I'm sorry, give me a
4 second -- did you appraise for value any of the
5 homes of the objectors that you were talking about
6 earlier?

7 A No. What I used was an example for
8 illustrative purposes of an average value of 275
9 thousand, but I would not stand here and tell you
10 that's a value that you should take to the bank
11 with any one of these houses. It was really just
12 kind of an average value.

13 The Litwiller property, for example, has
14 two residences and a big shop on it, and one of
15 them was a brand new construction, fairly large
16 home. I would expect that property would sell for
17 significantly more than 275 thousand.

18 Q But you're not prepared to give an
19 appraiser's opinion about the value of any of those
20 homes; is that right?

21 A I just told you the extent of my valuation
22 of those homes.

23 Q Would you agree the best method to evaluate
24 whether a wind farm has an affect on property

1 values would be to perform a compared sales
2 analysis based on actual sales of the actual
3 properties in the immediate area of an operating
4 wind farm?

5 A What I would agree with is the best way to
6 determine the impact is see what the market
7 reaction has actually been under any pricing
8 method. When you have a lack of data, as I stated
9 earlier, relevant data of single family homes that
10 have sold that can be measured, as you are
11 describing, compared sales data, that's an
12 indication in their own right there is a market
13 aversion to properties of that nature. So
14 therefore, compared sales analysis does not really
15 lend itself to that particular kind of
16 circumstance.

17 Q Mr. McCann, I don't want to speak out of
18 school here, but we could do this a lot faster if
19 you just answer the question that I ask. I am not
20 going to stop you from talking, but we want to move
21 it along.

22 MR. SPANOS: I would object to counsel
23 instructing the witness under these circumstances,
24 when counsel doesn't get the answer he wants,

1 although the answer is responsive to the question.
2 If counsel would quit asking the question twice we
3 would also move on a lot quicker.

4 MR. HOLLY: I would like it at this time if
5 both parties would move along a little quicker, so
6 I think that's good advice for both.

7 MR. LASCO: I appreciate that. And I will
8 do what I can here.

9 Q I am going to need to ask this question
10 again. Do you agree that the compared method is
11 the accepted appraising methodology for determining
12 whether a particular proposed use of a property
13 will affect surrounding property values?

14 A It depends.

15 Q You mentioned earlier that you were
16 involved in wind farm projects at Stephenson,
17 correct?

18 A Yes.

19 Q You testified at zoning hearings there?

20 A One hearing, yes.

21 Q And you were working with the same lawyer
22 that you are working with for this case, right?

23 A No. Same firm, different lawyers.

24 Q Mr. Porter?

1 A Yes, Mr. Porter.

2 Q Did you agree the compared method is the
3 accepted appraising methodology for doing a
4 compared sales analysis?

5 A I did discuss compared sales analysis and
6 that is the ideal technique when, if I recall
7 correctly, when the situation lends itself to it.

8 Q I recognize the request to move things
9 along, and I apologize if you all want a break. I
10 have a transcript of Mr. McCann's testimony, and it
11 seems he might do with a little refreshing of his
12 recollection as to what he said there. I recognize
13 that this is a time consuming process.

14 MR. HOLLY: You can ask him if some sort of
15 document would refresh his recollection. I don't
16 know that he has indicated that one would.

17 CHAIRMAN TOEVS: I can barely hear you.

18 MR. LASCO: You cannot hear me?

19 CHAIRMAN TOEVS: Now I can.

20 MR. LASCO: I thought I was speaking up.

21 CHAIRMAN TOEVS: No.

22 MR. LASCO: I would like to ask the witness
23 to look at the document here, which is a transcript

24 --

1 CHAIRMAN TOEVS: Come up and show it to
2 him.

3 MR. LASCO: -- of testimony.

4 MR. SPANOS: Can I see it first?

5 MR. LASCO: Of course you can see it
6 first.

7 MR. SPANOS: What page?

8 MR. LASCO: I will give you that when I get
9 back to my desk. How about the zoning chairman?

10 MS. DEININGER: Yes.

11 MR. LASCO: I have one more copy if anyone
12 else needs one. One of the Board members?

13 Q Would you look at page 41, and at line 15
14 on that page there is a question that your lawyer
15 asked you, "How does one go about determining if a
16 particular proposed project or particular easement
17 or a particular use of a property will affect
18 surrounding property values", do you see that
19 question there?

20 A Yes.

21 Q And you gave the answer "The accepted
22 appraisal methodology is essentially defined as
23 compared analysis", right?

24 A That was part of my answer.

1 MR. SPANOS: I object at the attempted
2 impeachment. He hasn't established an inconsistent
3 statement and is now paraphrasing the testimony out
4 of the deposition and testifying while he is doing
5 it.

6 MR. LASCO: I'm just asking him if he gave
7 that answer, that's all.

8 MR. SPANOS: And you are reading an answer
9 and paraphrasing it and it's not the complete
10 answer.

11 MR. HOLLY: You can ask him about what's in
12 the transcript and any questions that's associated
13 with it that you think is appropriate.

14 MR. LASCO: I am going to try to do what I
15 can to move this along.

16 Q You yourself used compared sales analysis
17 many times in engagements where you have been asked
18 about the effects of a project or proposed project,
19 haven't you?

20 A When and where possible, yes.

21 Q And you have used it for a transfer
22 station, garbage transfer station?

23 A Yes, I have.

24 Q And you used it for a landfill project and

1 quarry project?

2 A Yes.

3 Q And for a peeker plant project up in
4 Bartlett, Illinois?

5 A Yes. You have done your research.

6 Q I haven't had a lot of time. I tried.

7 I will try to make this quick. In a
8 compared sales analysis what you are supposed to
9 do, as I understand it, is to try to compare actual
10 sales that are near an existing use that's similar
11 to the proposed use, and you want to compare those
12 sales to the sales of other properties that are
13 similar except that they're not near that use,
14 right?

15 A Correct.

16 Q And so with the wind farm you want to look
17 for properties that are near wind farms and compare
18 their sales to properties that are otherwise
19 similar to those but not near a wind farm?

20 A Yes. If possible, yes.

21 Q And you have the target area that is a wind
22 farm area?

23 A Well, if there was a large enough data
24 base, certainly it would lend itself to that target

1 area and that controlled area methodology in using
2 compared sales as a larger data set, but, as I said
3 there is not a larger data set, there is a limited
4 amount of information.

5 Q I want to make sure we have got the
6 terminology down. The target area is the area
7 around the wind farm?

8 A In the immediate proximity to, yes. If
9 there were more homes, more homes selling, that's
10 what I would use as a target area.

11 Q And a controlled area is some other area
12 that you identify as being similar in other
13 respects, but it's not near the wind farm, right?

14 A Again, the same circumstances, yes.

15 Q And then you gather information on the
16 sales of both properties and compare them to each
17 other?

18 A Basically, yes. The sales prices, the days
19 on market, the percentage of list price sold for,
20 rates of appreciation if properties have sold and
21 resold.

22 In this case there just wasn't the
23 opportunity to do sales and resale analysis, there
24 was the original cost and then sale price

1 information that was the best available
2 information, so that is what I used.

3 Q And when you do compared sales analysis,
4 you want to make sure that the properties you are
5 comparing to each other are similar to each other
6 in the way we talked about before in terms of age
7 and condition and factors like that?

8 A Yes.

9 Q And just to be clear, I think we already
10 know the answer to this, but you have never done
11 comparison sales analysis of the effects of wind
12 farms on property values in the area of the wind
13 farm, right?

14 A In a broader sense I did from the larger
15 data set from Lee County versus Ogle County, which
16 I believe I testified to -- Stephenson or Ogle
17 County, I don't recall which -- but not on a
18 property by property basis as I think you are
19 alluding to.

20 Q By the way, when you work on this kind of
21 assignment, do you also sometimes rely on
22 interviews with assessors in an area that has
23 similar uses?

24 A Well --

1 Q I don't recall if you mentioned that or
2 not.

3 A I do talk to assessors to find out some
4 information, but I certainly don't adopt opinions
5 of professional assessors who have an obligation to
6 uniformly assess properties as well as find the
7 market value.

8 Q So, you would use supervisor of assessors
9 as a way of gathering information for, in order to
10 evaluate potential property value effects?

11 A It might well be useful. It depends on
12 what information the assessor has or what's -- or
13 how complete it is, how relevant it is. All
14 information isn't equal, it depends on what you are
15 --

16 Q In the --

17 A -- valuing and what you are trying to --

18 Q In that transcript I gave you before, and
19 you don't necessarily need to look at it if you
20 remember, you talked about at what distance from
21 the proposed wind farm you would expect to see a
22 negative effect on property values. Do you
23 remember talking about that in your hearing at
24 Stephenson County?

1 A Somewhat, yes.

2 Q And you said once you got out a mile or two
3 you would expect the decreased value to be slight?

4 A I believe that's consistent with what I
5 said tonight, yes.

6 Q You proposed a property value protection
7 plan to the Zoning Board for Stephenson County; is
8 that right?

9 A Yes.

10 Q They did not accept your proposal, right?

11 MR. SPANOS: I object. It's not relevant.

12 MR. HOLLY: Is there some kind of relevance
13 to that?

14 MR. LASCO: I mean I guess that's for you
15 to judge. I thought it was.

16 MR. HOLLY: I don't know what a prior
17 Zoning Board has done has any relevance for this
18 Zoning Board in this matter.

19 MR. LASCO: I take your point and I will
20 move it.

21 MR. HOLLY: I don't see how it's relevant.

22 BY MR. LASCO:

23 Q I want to ask you, you talked earlier when
24 Mr. Spanos was asking you questions about the

1 public perception of how negative trends of the
2 property would affect the values, is that fair, did
3 you say something to that effect?

4 A I think that slightly mischaracterizes it,
5 but public perceptions can translate into less
6 demand for property, more compelling decisions to
7 sell, depending on how somebody perceives a
8 particular dis-amenity, it can definitely affect
9 their decision in selling a property at a lower
10 price or not buying it at all and things of that
11 nature.

12 But it's just not the perceptions
13 themselves, you know, it's not -- I just want to
14 say if so and so down the street said that it's an
15 ugly use that automatically property values are
16 going to drop, it's not that simple.

17 Q Are your comments about the effect of a
18 perception, is that part of your basis for the
19 opinion that the property values of the objectors
20 here would be affected?

21 A I think it ties into it, but it certainly
22 is in large part in the lack of conformity and the
23 dramatic change of the character in the immediate
24 area, in the project area, you know, the views and

1 sound issues and so forth, you know, can and I
2 believe do and will translate into a negative
3 effect on property values, on residential property
4 values in particular.

5 Q I want to ask you some questions here then
6 about the work you did with respect to the power
7 plant and building of one, you mentioned that
8 before?

9 A Yes.

10 Q And that involved a power plant that was
11 going to be built about 32 hundred feet from a
12 residential subdivision, do you remember that?

13 A Yes, I do.

14 Q And there were concerns expressed in the
15 community about whether that was going to have a
16 negative effect on property values?

17 A That's correct.

18 Q And you were retained by the village I
19 believe to give an opinion whether there was to be
20 a negative effect on property values?

21 A That's right.

22 Q And you prepared a report for the village
23 and you gave testimony before the village trustees?

24 A That's correct.

1 Q And one of the things you did in that
2 analysis is you looked for other kinds of
3 industrial uses that were near other residential
4 areas to see if those other industrial projects had
5 affected property values; is that fair?

6 A Well, it's not complete. What I looked for
7 was other combined cycle power plants, and since
8 that was a new particular use in that immediate
9 area, I went to other locations in the country to
10 review operating combined cycle power plants, you
11 know, which again a major difference is the -- two
12 major differences, make it three.

13 The difference in land area occupied, the
14 fact that the power plant, combined cycle power
15 plant, was not surrounding neighboring residences,
16 and there was extensive screening, berming and
17 buffering, between the power plant and the nearest
18 residences. Those residences, by the way, already
19 backed up to a sand and gravel extraction
20 operation, or a quarry, which is exactly where the
21 power plant was being proposed to be built, in a
22 Chicago Elmhurst Stone Company gravel quarry that
23 was being reclaimed.

24 Q Did you look at -- one of the things you

1 looked at when you were doing your analysis for the
2 Village of Bartlett was a quarry in Elmhurst,
3 Illinois, do you remember looking at a quarry in
4 Elmhurst?

5 A I remember appraising the quarry in
6 Elmhurst, Illinois. I don't specifically remember
7 looking at that for that purpose, no.

8 Q I will need to give you another document.
9 I have premarked this as Petitioner's Exhibit 10,
10 Mr. Spanos. And here is one for you, please.

11 Would you look at page eight of that
12 document? I'm sorry, start by the cover page you
13 see. Do you recall giving some testimony to the
14 Village of Bartlett trustees in August of 2000?

15 A Yes.

16 Q And do you see here, if you go to -- I'm
17 sorry -- page seven, there is a reference to
18 yourself and your property value study, and then
19 some description there of things that you said,
20 right, things that you talked about?

21 A This is not my report, this is a staff
22 report or a committee agenda.

23 Q I understand that. I think it says it's
24 the minutes, right? Next page I think it says it's

1 the minutes.

2 A Yes, August 15th, 2000.

3 Q And you did in fact talk to the board on
4 that day, right, about these things?

5 A On or about --

6 Q I would just like you to look at the top of
7 page eight and read a couple -- the fourth line
8 there is a sentence that starts with the word
9 "we". It says, we did a similar analysis of the
10 Weathersfield Subdivision which is located east of
11 the Illinois Elmhurst Quarry. Do you recall the
12 doing that?

13 A I'm still looking for the spot. Would you
14 repeat that to me again?

15 Q On the top of page eight.

16 A Okay.

17 Q And the third -- fourth line from the top
18 of the page. In the middle of that line, the
19 sentence that begins with the word "we". And
20 really all I'm trying to ask you right now is do
21 you remember doing an analysis of the Weathersfield
22 Subdivision which is located near the Elmhurst
23 Quarry?

24 A I believe that was the Elmhurst Quarry in

1 Bartlett. I thought you meant the Elmhurst Chicago
2 Stone Company Quarry, that's what I was not
3 remembering, that studies the property values
4 around that quarry.

5 Q I am going to save everybody some time.
6 You concluded that the quarry did not have, the
7 Elmhurst Quarry that we're looking at here, you
8 concluded that it did not have any adverse effect
9 on the surrounding property values; didn't you?

10 A I think what I said was the real question
11 is what effect would the peeker facility -- and
12 that's what I was referring to. I think I was
13 getting background information on sale prices for
14 homes that were adjacent to that existing
15 industrial use, which was a heavy earthmoving
16 operation out in the open. The reclamation of that
17 quarry, however, has created the land on which that
18 historic industrial district was considering there
19 combined cycle peeker plant.

20 Q You also looked at another power plant in
21 that area called the -- another power plant that
22 was in Aurora, Illinois, right, near a residential
23 area, do you remember that?

24 A Yes, the Leola and Diehl Road and North

1 Aurora Road.

2 Q And you reviewed, I think you testified, a
3 thousand transactions and you determined that there
4 had not been an adverse effect on property values
5 from that power plant in Aurora; is that right?

6 A That's true.

7 And that power plant was also tucked into a
8 heavy industrial area that again pre-existed the
9 establishment of those homes. And it was a
10 relative peaker plant that only was running during
11 peak demand periods. And lying between the peaker
12 plant and those homes, I don't remember how many
13 dozens or hundreds of transformers and a field of
14 transmission lines on the east side of Leola Road
15 where the nearest residential subdivision was west
16 of Leola Road. Stone Bridge I believe was the name
17 of the subdivision, and Cambridge Chase.

18 Q I'm ready to go onto the next question. Do
19 you remember talking there about, to the village
20 trustees, being asked questions whether the height
21 of the smoke stacks for these power plants was
22 going to have any effect on these properties?

23 A Not distinctly, no.

24 Q Look at the top of page nine and see if

1 that refreshes your recollection if one of the
2 trustees asked you how tall the peeker stacks were
3 going to be in Aurora.

4 A Yes.

5 Q And you gave the answer they were 25 or 30
6 feet tall?

7 A Yes, the peeker plant.

8 Q And that's the plant in Aurora that you
9 were using for one of your comparisons in Aurora?

10 A Yes.

11 Q And one of the trustees asked you what was
12 the proposed height of the stacks?

13 A Yes.

14 Q And you said the height was going to be 121
15 to 137 feet, is that right?

16 A That's what it says in the minutes, so
17 that's what I'm assuming I said.

18 Q And so if you turn to the next page, on
19 page 11, at the top of the page, Trustee Nolan then
20 asks you again whether the height of the stacks in
21 your opinion was going to make a difference in the
22 value on the surrounding properties.

23 A Yes.

24 Q Do you remember, did he ask you that?

1 A I don't distinctly remember it, it was
2 eight years ago. Indulge me in my memory a little.

3 Q You gave the answer that, no, it would not,
4 the height of the stacks was not going to affect
5 property values?

6 A That's what the minutes say, yes.

7 Q And then there was a further question from
8 Trustee Nolan, if you look down the third paragraph
9 on that page, Trustee Nolan commented, I don't want
10 to characterize it here, but he asked you about why
11 wouldn't -- why wouldn't there be a difference
12 between a 30 foot stack and a hundred and 30 foot
13 stack, right? And you gave an answer that there
14 was no difference in the perception of the
15 surrounding neighborhood, right?

16 A I'm sorry, that's not what I said. If you
17 read it more careful, it says Mr. McCann responded
18 that he would not say there is no difference
19 between the perception of the surrounding
20 neighborhood.

21 Q And why don't you go on and read the rest.

22 A For some homes there will be a visual
23 impact, they will be able to see it.

24 Q Keep going.

1 A The question is, when they go to sell their
2 home are they going to take any less for that. And
3 the market says they are not. And for that market
4 that is true.

5 Q You also gave examples in the prior
6 paragraph, if you want to track along, of the coal
7 plant in Winetka that had 1 hundred 70 foot stacks
8 and you said that didn't affect property values
9 either, right?

10 A That particular power plant will be, as I
11 recall, out of operation. It was set down at the,
12 essentially at the level of the lake, the homes
13 that were nearest were up on a bluff and maybe
14 only, from memory, half a dozen homes had a view of
15 it. That is one of the highest priced areas and
16 the amenity of the lake definitely offset any
17 presence of that old decommissioned power plant.

18 Q Do you remember in that meeting, and I
19 believe this would be my last point, I understand
20 everyone is getting very impatient with me, there
21 is some comments in that meeting about fears some
22 homeowners might have had about the possible
23 affects of the plant on their property values. Do
24 you remember anything like that coming up?

1 A I remember I had a realtor getting up and
2 making some remarks about --

3 Q If you look at page nine, there is a
4 paragraph that starts with Ed McCann, in the middle
5 of the page, kind of a long paragraph, and if you
6 go down seven lines into that paragraph, there is a
7 sentence that starts with, "I understand". I
8 understand that everyone has some concerns and
9 there has been some panic in relation to the issue
10 about the ABA Facility, did you say something to
11 that effect?

12 A That's what the minutes say, yes.

13 Q And do you remember telling the trustees
14 that the actual factual data shows that -- why
15 don't you look at page eight, paragraph -- lower
16 half of the page, starts with the words "table
17 two". And two-thirds of the way down there is a
18 line that starts with the number 384 and then a
19 sentence that starts with "what", right?

20 A Yes.

21 Q And what you said was, what all this actual
22 factual data shows that some of the fears and the
23 panicing we see with these types of facilities and
24 other facilities don't really prove out in the

1 marketplace when people go to buy and sell their
2 homes, right?

3 A That was true at that location, yes.

4 Q And you said what the market indicates is
5 that they can be expected to get the same price
6 they otherwise would?

7 A That's what the market was showing there,
8 yes.

9 Q And did you also tell the board that, if
10 you would look at page 12, the first -- the second
11 paragraph on page 12 starts with a reference to
12 yourself, Ed McCann, second sentence of that
13 paragraph -- no I'm sorry -- third sentence of that
14 paragraph, did you tell the board that on the basis
15 of your 20 years of experience and looking at a
16 wide variety of different developments, some of
17 which were known as objectionable land uses, that
18 what happens is that the fears that are often
19 portrayed do not come to pass?

20 A That's what the minutes say I said, yes.

21 Q And that's what you said before, before to
22 the village trustees there?

23 A Yes.

24 Q And you told the trustees that your

1 experience and your analysis led you to the
2 conclusion, very bottom of page 11, that property
3 values are a lot more resilient than what some
4 people would lead you to believe?

5 A And that is true in the close in Chicago
6 suburbs. There is such a high demand for homes
7 that that has proven out time and time again.
8 That's why it's all important to look at market
9 data from very comparable locations. In this case
10 the Mendota Hills area is far more comparable than
11 Bartlett, or Palm Springs, or any other location.

12 Q How much market data did you look at? You
13 said one house is the market data you looked at?

14 A No, that's not true. I said that's the
15 best piece of evidence.

16 MR. LASCO: I don't have any other
17 questions. Thank you.

18 CHAIRMAN TOEVIS: Thank you.

19 MR. SPANOS: I would like an opportunity
20 very briefly, I promise, to rehabilitate him on a
21 couple of points, just ask him a couple of
22 questions.

23 Q Bartlett, that's a well-known Illinois
24 agricultural center, right?

1 A Well, maybe once upon a time, but it's not
2 since I took my training wheels off.

3 Q Aurora, that's a well-known agricultural
4 center, isn't it?

5 A No, Aurora has pretty much ploughed down
6 the cornfields.

7 Q What about Winetka?

8 A Well, those homes were built a hundred
9 years ago by some of the wealthiest, the north
10 shore residents that built right next to the lake,
11 like Lake Michigan.

12 Q How many smoke stacks are they going to
13 tear down for this Rail Splitter project and
14 replace with wind towers?

15 A I don't know of any smoke stacks that are
16 getting torn out, but 38 or 39 spinning propellers
17 towers.

18 Q Well, isn't it true then in the Bartlett
19 project that you were talking about before, you
20 testified that if they were taking one eyesore and
21 replacing it with another eyesore; is that right?

22 A That's certainly one way to put it, and it
23 can be a matter of opinion whether or not it's an
24 eyesore, but certainly it's not a moving eyesore.

1 Q Let me change the question then. They're
2 taking one negative trait item and replacing it
3 with another negative trait item in the same
4 location, correct?

5 A Well, they're establishing an industrial
6 use, proposing to establish an industrial use in
7 the biggest block of industrial land in that part
8 of the west suburbs, so, yes, it was to the extent
9 that an industrial use is negative, they were
10 replacing one with another.

11 Q So if we go out to one of the Caterpillar
12 plants and decide to build another Caterpillar
13 plant or similar plant next to it, would you expect
14 that second plant built next to the first one to
15 have an effect on the property values?

16 A No. There is already a pre-existing
17 condition.

18 Q And isn't that what we have here in
19 Bartlett?

20 A In Bartlett, there was a pre-existing
21 condition in Bartlett, yes, several of them.

22 Q I understand your testimony that -- in
23 fact, let's talk about this exhibit that you were
24 given. That's not your testimony, right?

1 A No, this is somebody's recap, I imagine a
2 secretary's.

3 Q There aren't any quotation marks on any of
4 this; is that right?

5 A That's correct.

6 Q This was a secretary at a meeting that is
7 taking down some notes and later on typing up some
8 minutes or do you even know?

9 A Well, I don't really know who took it
10 down. But, clearly somebody was at least
11 attempting to recap, you know, some of the things I
12 said or testified to.

13 Q Mike, if we understand your testimony, the
14 difference between the attempted impeachment that
15 Mr. Lasco has done, and the case here is that in
16 those cases you have one problem that's either
17 being built next to or replacing another problem;
18 is that right?

19 A In the framework of what we're talking
20 about here, yes.

21 Q One thing that may have a potential effect
22 on price or value of property replacing another one
23 that would have a similar effect?

24 A I'm sorry, what did you say again?

1 Q So you have one piece of property -- or I'm
2 sorry -- one proposed facility that may have a
3 similar negative effect to either the other
4 facilities in the same area or the one that it's
5 replacing; is that right?

6 A To the extent that it's negative, yes, but
7 as to a pre-existing condition there was already
8 market acceptance of the presence of not just this
9 industrial use, but a wide variety of industrial
10 uses and, you know, we are talking about one quarry
11 in Bartlett, but actually there were at least
12 three, and there was also the old, you know, the
13 list goes on on how many industrial properties and
14 earthmoving operations there were there.

15 Q Do we have any of those things in Tazewell
16 County where they're proposing this wind site?

17 A No.

18 Q Did we have, in 2000 had they studied any
19 wind projects?

20 A No.

21 Q Were there any around in 2000 in Illinois?

22 A No.

23 MR. SPANOS: I don't have anything else.

24 MR. LASCO: I'm sorry, the only question --

1 I have two requests for the Board, please. First,
2 that Exhibit 10 be placed in the record. And
3 secondly, that would Mr. McCann please give us a
4 copy of his report that he gave to the Village of
5 Bartlett?

6 MR. MCCANN: Oh, well, I'm not sure that I
7 can do that without approval from the client and
8 that was the Village of Bartlett. But to the
9 extent it's public record, you should be able to
10 get it.

11 MR. LASCO: Thank you.

12 MR. SPANOS: I understand we're going to
13 continue and come back another day. While we're
14 here, I would ask the Board to take my exhibit. I
15 have Exhibit 1 in the record as well. I realize
16 there may be some objections to them.

17 CHAIRMAN TOEVS: I want to do one more
18 thing tonight. How many of you want to cross
19 examine Mr. McCann that are on this list?
20 (Indicating). If your name isn't on this list.

21 THE AUDIENCE: I don't know if it is on
22 there or not.

23 MS. DEININGER: It's not.

24 CHAIRMAN TOEVS: Okay, the two that are,

1 you and you, your names are on this list. Okay,
2 come up here and I'll swear you in and you can ask
3 your questions.

4 Christy, all you need to do is come up. I
5 already swore that gentleman in back there.

6 Christy, raise your right hand.

7 (Witness sworn.)

8 CHAIRMAN TOEVS: One of you ask your
9 questions.

10 MR. EGLI: My question was for, is it
11 Mike?

12 MR. MCCANN: Yes.

13 MR. EGLI: You're a good example, you are
14 from Chicago, right?

15 MR. MCCANN: Yes.

16 MR. EGLI: If you were going to go out and
17 look for a house in the country, you were tired of
18 living in Chicago, would you be interested in my
19 house that's going to be surrounded by 15 wind
20 towers, or would you look for a country setting?

21 MR. MCCANN: Well, I can tell you very
22 specifically that my wife and I have done just
23 that. And I drove her down Route 39 by Mendota
24 Hills and she said, no way. And I might be the

1 head of the house, but she's the neck that turns
2 the head.

3 MR. SPANOS: Why are all the guys laughing
4 and the women are not?

5 MR. EGLI: Am I allowed to ask any
6 questions of --

7 CHAIRMAN TOEVS: No, here is the expert
8 witness.

9 MS. DEININGER: These next week.

10 MR. EGLI: Okay, that's the only question I
11 have.

12 CHAIRMAN TOEVS: Okay Christy, you ask your
13 question.

14 MS. PARR: It's not a repeat. It's wording
15 it differently. But I would like to ask Mr.
16 McCann, are you aware today through your
17 professional experience or those of your colleagues
18 of any current buyers seeking a rural location for
19 their personal residence requesting to live within
20 the footprint of a wind farm?

21 MR. MCCANN: No, I have not found anybody
22 that's saying that's an amenity that they want to
23 go live amongst.

24 MS. PARR: As wind farms become more

1 prevalent in Illinois, do you or your colleagues
2 anticipate that future buyers seeking rural
3 property for personal residences will request to
4 purchase a home within the footprint of a wind farm
5 or list it as a desired amenity?

6 MR. MCCANN: I can't imagine anybody
7 thinking of it as a desired amenity to live in, but
8 it's kind of neat to drive by.

9 MS. PARR: Will a home --

10 MS. DEININGER: Christy, would you state
11 your name and address?

12 MS. PARR: Christy Parr. A rural residence
13 at 722 Springfield Road, Delavan, Illinois. I also
14 have an rural residence in Woodford County. We
15 have two residences.

16 Will a home within the footprint of a wind
17 farm most likely receive fewer showings than a
18 comparable property or properties outside the
19 footprint and the view shed?

20 MR. MCCANN: From the realtors I have
21 spoken to that have worked that area around Mendota
22 Hills, it's not even opinion, it's a fact there is
23 either no showings or few showings. And as soon as
24 people see the wind farm, they tend to walk away.

1 MS. PARR: Thank you. One last question,
2 and hopefully I will invoke a little bit of a smile
3 from all of us here tonight, because I know we're
4 all a little tired and anxious to go on with this.
5 But it's a serious question, and I hope it invokes
6 a thought.

7 Since the Statue of Liberty is 240 feet
8 tall, will the average buyer seeking a rural
9 residence want to live in the shadow or near a four
10 hundred foot turbine that is 1 hundred 60 feet
11 taller than the Statue of Liberty?

12 MR. MCCANN: That opens it up to all kinds
13 of commentary, but I don't picture a typical buyer
14 in the marketplace wanting to live in the footprint
15 of the almost four hundred foot tall structures,
16 spinning structures. It's just not an amenity.
17 And I don't know if they're building any houses on
18 Ellis Island, but it certainly would be far more an
19 amenity than a windmill.

20 MS. PARR: I missed one other question that
21 I had that was associated with my previous question
22 regarding the fewer showings. Can fewer showings
23 have a correlation to the length of time on market
24 and the final sales price?

1 MR. MCCANN: Absolutely.

2 MS. PARR: Thank you.

3 CHAIRMAN TOEVS: Okay, the grand scheme, we
4 have a regular ZBA meeting on 5-6, that's next
5 Tuesday. What I would like to do -- I would like
6 you guys to move -- somebody move that we put this
7 one on standby.

8 MS. DEININGER: Now, what we're proposing
9 to do, we have our normal Zoning Board of Appeals
10 meeting next Tuesday. We only have four cases, we
11 should be done within a hour, so then we could go
12 on to the Rail Splitter after that. They will
13 bring back their last expert witness the same night
14 as the normal --

15 MR. SPANOS: Kristal, we're talking about
16 Lynn Westoff, is that who you are talking about?

17 MS. DEININGER: Yes.

18 MR. SPANOS: And Mr. Whitlock.

19 MS. DEININGER: As an adverse witness.

20 MR. SPANOS: I would withdraw the Ms.
21 Westoff as a witness. And the next hearing, if Mr.
22 Miles and Mr. Whitlock are agreeable, at the
23 beginning of that last hearing, I have only a few
24 questions for Mr. Whitlock, I assume you are going

1 to call Mr. Whitlock as a rebuttal witness anyway,
2 I can do it in cross if you tell me that's what you
3 are going to do, if he is going to testify. If he
4 is not going to testify, then I would ask for the
5 opportunity to question him beforehand, in the
6 interest of saving time and not making us do this
7 another day.

8 MS. DEININGER: So, you are saying you
9 would do this on the 15th of May?

10 MR. SPANOS: If you are going to call Mr.
11 Whitlock, I could cross examine Mr. Whitlock, I do
12 not have to call him. If you're going to call Mr.
13 Whitlock. And understanding that my cross will go
14 where I want to go and I am not limited by your
15 questions. Are you okay with that?

16 MR. MILES: We're fine with that.

17 MR. SPANOS: That would save the Board from
18 some more suffering.

19 MR. MILES: Are we going to do the Westoff
20 witness on the 6th?

21 MR. SPANOS: No, I'm withdrawing her.

22 MS. DEININGER: So, we have the regular ZBA
23 meeting at the Justice Center on the 6th. Thank
24 you everyone.

1 CHAIRMAN TOEVS: I need a motion to
2 adjourn.

3 MR. NEWMAN: Motion to continue to May
4 15th.

5 MR. ZIMMERMAN: Second.

6 CHAIRMAN TOEVS: All in favor say aye.

7 (All saying aye).

8 CHAIRMAN TOEVS: All opposed say nay.

9 Adjourned.

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1 I, ARLENE H. NAUMAN, CSR, RMR, a Notary
2 Public in and for the County of Tazewell, State of
3 Illinois, and the Notary Public who reported the
4 proceedings had on said day in this cause, do
5 hereby certify that the foregoing transcript of
6 proceedings is a true, perfect, complete and
7 correct transcript of proceedings had on said day
8 in this cause.

9 IN TESTIMONY WHEREOF, I have hereunto set my
10 hand and affixed my notarial seal this 7th day of
11 May, 2008.

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CSR, RMR

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NOTARY PUBLIC

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License Number: 084-001736

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My commission expires July 18, 2009

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