

In The Matter Of:
LIVINGSTON COUNTY ZONING BOARD OF APPEALS

March 10, 2015

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1 LIVINGSTON COUNTY ZONING BOARD OF APPEALS
 2 CASE SU-7-14
 3 PLEASANT RIDGE WIND ENERGY PROJECT
 4
 5 March 10, 2015
 6 6:30 PM
 7 Walton Centre
 8 100 West Locust Street
 9 Fairbury, Illinois

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 13 Joan Huisman
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1 (Commencing at 6:33 p.m.)

2 **CHAIRMAN CORNALE:** All right. If we can
 3 go ahead and make our way to our seats and get going
 4 this evening. Chuck, roll call please.

5 **MR. SCHOPP:** Okay. This is the March
 6 10th, 2015, continuation hearing of the Livingston
 7 County Zoning Board of Review -- Appeals review of
 8 the Livingston County Zoning Case SU-7-14, Pleasant
 9 Ridge Energy, LLC, Pleasant Ridge Wind Energy
 10 Project.

11 Michael Cornale.

12 **CHAIRMAN CORNALE:** Here.

13 **MR. SCHOPP:** John Vitzthum.

14 **MR. VITZTHUM:** Here.

15 **MR. SCHOPP:** Richard Kiefer. Diana
 16 Iverson. Howard Zimmerman. Joan Huisman.

17 **MS. HUISMAN:** Here.

18 **MR. SCHOPP:** Gibs Nielsen.

19 **CHAIRMAN CORNALE:** I would like to welcome
 20 everybody here this evening. Finally got some
 21 sunlight, kind of bright in here, it's a little
 22 different feel in here tonight with the sun shining.
 23 So there's a few housekeeping items we need to take
 24 care of this evening. Some of it deals with some

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1 exhibits. I guess first and foremost are some
 2 scheduling questions or issues that we need to
 3 solve. And what else have we got? There's a few
 4 statements that we need to clarify or get out there
 5 so that everybody understands.
 6 We're on our 21st night of these hearings,
 7 and we're looking to obviously finish this process
 8 up. As we looked at the calendar last time, we
 9 threw out a few dates toward the end of the month.
 10 We're probably going to look at changing those dates
 11 of the 30th and 31st. At this point, we're probably
 12 going to take them back out of the schedule. It
 13 does conflict with some spring break vacations I
 14 know for -- I guess for myself and a few other
 15 people, so I'll take some of the heat on that one.
 16 But we're going to try to squeeze something in the
 17 third -- or the week of the 23rd through the 27th.
 18 As we go through tonight, after the break,
 19 I'll have a more definitive answer on that, what
 20 night we're looking at. We're looking -- we're
 21 probably looking around about the 25th, but we need
 22 to make sure we have enough people to have a meeting
 23 for that evening. You will see that tonight we're
 24 actually not meeting in quorum per se. Our rules

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1 specifically state in our procedural hearings that
 2 we can operate with less than a quorum for these
 3 hearings just because of the length and the duration
 4 of them.
 5 So I'll take -- I want to -- we're getting
 6 to the point where the public is going to be able
 7 to -- just like as we've seen for the last few
 8 nights, members from the community are able to
 9 address the board. We're really looking at trying
 10 to get everybody signed up that is interested in
 11 addressing the board, so we're going to try to put a
 12 definitive, I guess, deadline on signing up for
 13 that. I can't tell you exactly the evening on that,
 14 but it's coming up soon, and I will -- I definitely
 15 will tell you that what night will be the final
 16 night for that.
 17 Having said that, starting next week, the
 18 16th and the 18th, you really need to make sure that
 19 if you do plan on testifying in front of this board,
 20 that you already know. We will call your name. If
 21 you're not here, you're not ready, we're going to
 22 move through you. We'll come back through, but we
 23 can only pass and move past you so many times. If
 24 we get through the whole list and you aren't ready

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1 to go and we're through the entire list, you will
 2 have missed your opportunity. So if we come back
 3 through that second time and get all the way down
 4 through the list, you're not ready, so -- I don't
 5 like to have that closure, but at the same time, we
 6 do need to keep these moving, these meetings moving
 7 along.
 8 So, let's see, next thing we should do,
 9 Chuck, you have a few things that we need to talk
 10 about.
 11 **MR. SCHOPP:** Okay, we do have a couple of
 12 reports that we've been waiting for. The first one
 13 is referred to as the Pleasant Ridge Wind Farm
 14 Natural Resource Information Report, and this is
 15 from the Livingston County Soil and Water
 16 Conservation District. We're going to -- we'll have
 17 this marked as Livingston County Soil and Water
 18 Conservation District Exhibit 1 and we'll pass
 19 copies of that out.
 20 And then in addition to that, we do have
 21 the short report from the Planning Commission, the
 22 Livingston County Regional Planning Commission, and
 23 I attached a copy of the minutes to that meeting
 24 also, and I believe our next exhibit for the county

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1 is 11, so it will be marked as Livingston County
 2 Exhibit No. 11.
 3 **CHAIRMAN CORNALE:** All right. Just so
 4 that we can keep the record and the exhibit list
 5 clean during this whole procedural hearing, I'm
 6 going to have to go through about probably 25
 7 documents here real quick. Guys, just bear with me
 8 on this. I'll do my best to get through them.
 9 So the county will accept Pleasant Ridge
 10 Exhibit 123 -- all right. The county rejects
 11 exhibit, Pleasant Ridge Exhibit 123 deemed past the
 12 scope of the witness that presented it. All right.
 13 The county rejects Pleasant Ridge Exhibit 124,
 14 Economic Impact, determined past the scope of the
 15 witness asked to testify.
 16 The county will accept Pleasant Ridge
 17 Exhibit 300, a two page article from Energy.gov
 18 titled VP 100: Illinois Wind Farm Breathes New Life
 19 Into Businesses. The county will accept Pleasant
 20 Ridge Exhibit 301 from the Illinois Wind Energy
 21 Group, two page document from American Wind Energy
 22 Association. County will accept Pleasant Ridge
 23 Exhibit 304 as a several page document entitled Ex
 24 Post Analysis of Economic Impacts from Wind Power

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1 Development in U.S. Counties. County will accept
 2 Pleasant Ridge Exhibit 305 as a vitae from Gruen,
 3 Gruen and Associates, example of our work.
 4 County will accept UCLC Exhibit 60 as a
 5 resume of Aaron Nathaniel Gruen, several page vitae.
 6 County will accept UCLC Exhibit 61 as the comments,
 7 findings and conclusions about report by David G.
 8 Loomis, Ph.D., of Strategic Economic Research, LLC,
 9 entitled Economic Impacts of the Pleasant Ridge Wind
 10 Energy Project. County will accept Pleasant -- UCLC
 11 Exhibit 62, a May 2013 document from Goldwind, the
 12 Economic and Fiscal Benefits of the Shady Oaks Wind
 13 Farm.
 14 County will accept Pleasant Ridge Exhibit
 15 242 as several comments from a social media site
 16 about a witness that spoke. County will accept
 17 Pleasant Ridge Exhibit 314 as Illinois Wind Watch
 18 four page correspondence. County will accept
 19 Pleasant Ridge Exhibit 315 as the Official
 20 Proceedings of the County Board of Iroquois County
 21 Illinois, Recessed Session, February 8, 2011.
 22 County will accept UCLC 80 as the
 23 Participation Consideration for the Pleasant Ridge
 24 Wind Farm. Looks like it's a document that followed

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1 the Zehr presentation.
 2 Pleasant Ridge Exhibit 175 is the MAI
 3 designation requirements for general candidates for
 4 designation. Pleasant Ridge Exhibit 176 we'll
 5 accept is the AI designations, Appraisal Institute
 6 nomenclature. County will accept Pleasant Ridge
 7 Exhibit 178 as the Uniform Standards of Professional
 8 Appraisal Practices 2014-2015 edition. Looks like
 9 probably an excerpt from that. It's all the -- it's
 10 several excerpts from that particular manual.
 11 County will accept Pleasant Ridge Exhibit 175 as a
 12 testimony from the proceedings, State of Illinois,
 13 County of DuPage, before the Public Hearing Officer,
 14 Application for Local Siting Approval for Proposed
 15 Fullerton Waste Transfer Station.
 16 **MR. BLAZER:** Mr. Chairman, I think you
 17 might have said 175 and I think it's 179.
 18 **CHAIRMAN CORNALE:** 179. Let the record
 19 indicate 179. County will accept Pleasant Ridge
 20 Exhibit 180 as a transcript from legal proceedings
 21 between McCann Strom. County will accept Pleasant
 22 Ridge Exhibit 186 as the JUWI Wind, Prairie Breeze
 23 Wind Farm, LLC, Tipton County, Indiana, Property
 24 Value Impact and Zoning Compliance Evaluation.

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1 County will accept Pleasant Ridge Exhibit 187 as the
 2 McCann Appraisal, April 15, 2013, letter to the
 3 United States House of Representatives Committee on
 4 Ways and Means. County will accept Pleasant Ridge
 5 Exhibit 189 as the McCann Appraisal submittal dated
 6 September 30th, 2013, to a Ms. Esther Wrightman sent
 7 via email, the Human Species Habitat witness
 8 statement. County will accept Pleasant Ridge
 9 Exhibit 196, the 2013 Illinois Land Values and Lease
 10 Trends, several page document, a hundred in total,
 11 Illinois farmland values. County will accept
 12 Pleasant Ridge Exhibit 197A as the Impact of
 13 Industrial Wind Turbines on Residential Property
 14 Assessment in Ontario, 2012 Assessment Base Year
 15 Study. I'm getting there.
 16 County will accept Pleasant Ridge Exhibit
 17 197 as the Resale Analysis -- 197B, Resale Analysis,
 18 Lansink and MPAC. County will accept Pleasant Ridge
 19 Exhibit 201 as the response to Appraisal One, Wind
 20 Turbine Impact Study and Testimony of Kurt Kielisch.
 21 County will accept Pleasant Ridge Exhibit 202 as the
 22 SRA designation requirements for residential
 23 candidates for designation. County will accept
 24 Pleasant Ridge Exhibit 207 as Illinois Code 225,

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1 ILCS 458/10-10. County will accept Pleasant Ridge
 2 Exhibit 208 as the Illinois Administrative Code 68,
 3 1455.240, Uniform Standards of Professional
 4 Appraisal Practices. County will accept Pleasant
 5 Ridge Exhibit 243 as the submittal from Lee County
 6 Paired Sales Analysis, Lee County, Illinois,
 7 Property Record Card. County will accept Pleasant
 8 Ridge Exhibit 244 as the DeKalb, Illinois, Paired
 9 Sales documentation. County will accept Pleasant
 10 Ridge Exhibit 245 as the Livingston County Paired
 11 Sales Tax Year 2013 Sales Data. County will accept
 12 Pleasant Ridge Exhibit 246 as the Livingston County
 13 Paired Sales Data Parcel 131318-200-005.
 14 The county does not accept Pleasant Ridge
 15 Exhibit 247 as a submittal from Joan Bullard Realty
 16 dated February 16, 2015.
 17 All right, I think we made it through that
 18 stack pretty good.
 19 **MR. BLAZER:** Mr. Chairman, there is one
 20 other writing that's not on your list. Mr. Blakeman
 21 has copies of it. I talked about this with Mr.
 22 Luetkehans before we began. Mr. MaRous, our
 23 appraiser who will be coming once we determine when
 24 we will be putting on our rebuttal case, has

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1 prepared a formal Appraisal Review Report which
 2 we've marked as Pleasant Ridge Exhibit 311, and we
 3 propose to hand that out. I emailed it to all the
 4 attorneys, including Mr. Luetkehans, yesterday,
 5 which is when we received it, so everybody has an
 6 opportunity -- it's a lengthy report. I thought it
 7 made sense for everyone to have it in advance.
 8 And you can rest assured Mr. MaRous will
 9 be coming in to speak about that report when our
 10 rebuttal opportunity presents itself. So it would
 11 be Pleasant Ridge Exhibit 311, MaRous Appraisal
 12 Review Report.
 13 **CHAIRMAN CORNALE:** All right, I guess --
 14 and we've done this in the past and I guess I'll
 15 probably just kind of stick with what we've done.
 16 If you hand out the report, fine, and we'll take it
 17 when he's here.
 18 **MR. BLAZER:** Right.
 19 **CHAIRMAN CORNALE:** Okay.
 20 **MR. BLAZER:** All I wanted to do for today
 21 was just put on the record that we had handed it
 22 out.
 23 **CHAIRMAN CORNALE:** Okay.
 24 **MR. BLAZER:** Obviously we wanted to give

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1 Mr. Luetkehans as much time as possible to answer
 2 rebuttal to the extent he wants to do so.
 3 **CHAIRMAN CORNALE:** Okay, just so long as
 4 you understand that in no way we've accepted it.
 5 Rather, we've taken it, and when he's here --
 6 **MR. BLAZER:** Correct.
 7 **CHAIRMAN CORNALE:** -- to discuss it, we'll
 8 further talk about it.
 9 **MR. BLAZER:** Understood.
 10 **CHAIRMAN CORNALE:** Okay. Mr. Luetkehans,
 11 does that seem agreeable?
 12 **MR. LUETKEHANS:** Yes.
 13 **CHAIRMAN CORNALE:** All right. The next
 14 thing that we needed to discuss, and this is going
 15 to be in brevity, I think that we need to -- we need
 16 to just talk briefly about the Rand, the Rand
 17 report, what the fate of the Rand report is. From
 18 what I see clearly, the applicant is looking to have
 19 that disallowed.
 20 Mr. Luetkehans, I believe in the effort of
 21 this process, we obviously need to give you enough
 22 time to respond to this motion. I believe you have
 23 the motion in hand. Is that something that you'd
 24 like to take the time to further look into?

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1 **MR. LUETKEHANS:** Yes.
 2 **CHAIRMAN CORNALE:** All right.
 3 **MR. BLAZER:** Just for the record, Mr.
 4 Chairman, I did transmit it by email to all the
 5 attorneys, Mr. Luetkehans, Mr. Blakeman and Mr.
 6 Griffin, yesterday. Obviously we have no objection
 7 to Mr. Luetkehans getting some time to -- given the
 8 seriousness of the issue, we obviously don't object
 9 to him taking some time to file a response.
 10 **CHAIRMAN CORNALE:** Okay. So
 11 realistically, though, we can look at -- can we have
 12 something by the 16th of March in regard to that,
 13 your written response to that, Mr. Luetkehans?
 14 **MR. LUETKEHANS:** Yes. I advised Mr.
 15 Blakeman today that we would produce that at the
 16 hearing on the 16th.
 17 **CHAIRMAN CORNALE:** Okay, all right. And
 18 then we'll make a -- we'll make a decision at the
 19 following meeting, we'll consider both sides, and
 20 we'll further discuss that. So with that, I think
 21 that's all our housekeeping items for the night.
 22 All right, I've got a list in front of me
 23 of individuals that I believe would like to testify
 24 this evening, so we'll go ahead and -- we'll go

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1 ahead and call our first witness. Are these your --
 2 either of your side's witnesses or are you
 3 representing either of these or any of these?
 4 **MR. LUETKEHANS:** I believe the only one I
 5 represent on this list for tonight is Don Slagel.
 6 **CHAIRMAN CORNALE:** All right.
 7 **MR. LUETKEHANS:** The rest of the people
 8 are the public testifying.
 9 **CHAIRMAN CORNALE:** Okay, all right. So at
 10 this point, I'll go ahead and call Whitney Bell.
 11 Whitney Bell, are you available this evening?
 12 **MR. BELL:** Do you mind if we all go up or
 13 just Whitney?
 14 **CHAIRMAN CORNALE:** Why don't we do -- why
 15 don't we do one at a time. I believe -- you're
 16 Bryan Bell?
 17 **MR. BELL:** Yes.
 18 **CHAIRMAN CORNALE:** Okay, are you going to
 19 actually testify separately or is this a --
 20 **MR. BELL:** It's kind of a family thing.
 21 Yeah, I was actually going to go first. I mean --
 22 **CHAIRMAN CORNALE:** Okay.
 23 **MR. BELL:** If anybody doesn't object, that
 24 is.

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1 **CHAIRMAN CORNALE:** Come on up. You can go
2 first. We'll swear the whole family in all at once
3 and get it taken care of.
4 **MR. BELL:** Get it over and done with.
5 **CHAIRMAN CORNALE:** Yeah, you bet.
6 **MR. BELL:** And the kids may want to say
7 something, I don't know if that's fine.
8 **CHAIRMAN CORNALE:** All right. Can you
9 guys please raise your right hand. We're doing
10 good, all right.
11 (The Bell family was duly sworn.)
12 **CHAIRMAN CORNALE:** All right, if you two
13 want to state your name and address for the record,
14 and then you can go ahead with your statement, Mr.
15 Bell.
16 **MR. BELL:** My name is Bryan Bell. I live
17 at 27496 East 600 North Road, Forrest, Illinois.
18 **MS. BELL:** I am Whitney Bell and I reside
19 at the same residence.
20 **MR. BELL:** Like I said, my name is Bryan
21 Bell. My wife and I live two miles south of
22 Forrest. I was born and raised in Forrest and I
23 hope to raise my family there too.
24 In October 2013, we bought a home in the

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1 country, thought it would be a great place to raise
2 our growing family. Our neighbor raised hogs and
3 owns a small trucking company, and we were fully
4 aware of this when we moved into the property. When
5 we heard the wind farm was proposed to be in our
6 neighborhood, we were a little disappointed.
7 I worked full-time for the village of
8 Forrest from 2010 to 2014 in the water and sewer and
9 street department.
10 **MR. LUETKEHANS:** Mr. Bell, excuse me,
11 could you get a little closer to the mic? They're
12 not being able to hear you.
13 **MR. BELL:** Okay, sorry about that. Is
14 that better? Let's see, I'll just start over. In
15 October 2013 we bought a home in the country. We
16 thought it would be a nice place to raise our
17 growing family. Our neighbor raised hogs and also
18 has a small trucking company there, and we were
19 fully aware of that when we moved into the property.
20 When we heard that the wind farm was coming, was
21 proposed to be in our neighborhood, we were really
22 disappointed.
23 I worked full-time for the village of
24 Forrest from 2010 to 2014 in the water, sewer and

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1 street department. There was only three of us
2 working there at the time and I knew nothing about
3 the proposed wind farm coming to our area. The
4 secrecy around the project took away my right to
5 make a full formed -- to make an informed decision
6 when I purchased my home 17 months ago. I lived in
7 Forrest and I probably wouldn't have moved to the
8 country knowing we were going to have windmills that
9 close. We would've probably waited and seen what
10 happened and then maybe moved somewhere else.
11 Upon reviewing some of the Standards of
12 Special Use that the ZBA provided, I saw some areas
13 that were not in compliance. First, the application
14 is not consistent in all respects to the Livingston
15 County Comprehensive Plan and Livingston County
16 Zoning Ordinance.
17 Second. With all the health -- with all
18 the health issues that have been brought into
19 evidence with some people testifying here, I thought
20 the project could potentially be detrimental to and
21 endanger public health, safety and the general
22 welfare.
23 Third. The standard says that the project
24 should not be injurious to the use and enjoyment of

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1 other property in the immediate vicinity. If anyone
2 in my household has any health issues caused by the
3 turbines, the whole family will be affected, and we
4 will have to sell our home in order to protect our
5 family should the noise or infrasound be a problem
6 for any one of us, especially the children. And I
7 say if. We would most likely be selling our
8 property for less than we paid for it and this is a
9 huge potential concern.
10 Another concern. I deal with the fact
11 that I am a migraine sufferer. Luckily I don't have
12 many of them, but that could change if the wind farm
13 is put into place. The light flicker caused by the
14 rotation of turbines could easily trigger a
15 migraine, not to mention infrasound could also
16 possibly trigger one too.
17 It is my job to protect my family and to
18 provide a happy, healthy environment for them. When
19 I was in Ethiopia, Africa, for the adoption of my
20 two sons, the judge looked at me and asked me if I
21 would do whatever we needed to do to take care of
22 and protect these children. And my answer was yes
23 then and it is yes today.
24 The wind turbines can disturb our family

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1 peace and injure our health and we could be
 2 permanently hurt by this. And we could be
 3 permanently hurt by this financially also. We are
 4 here to protect our family. And with all due
 5 respect, I hope the zoning board is here to protect
 6 us. Thank you.

7 **MS. BELL:** Okay. Like I said, I'm Whitney
 8 Bell and I am Bryan's wife. I too grew up in
 9 Forrest. As you've already heard, Bryan and I moved
 10 to a nice quiet home in the country recently. It
 11 has just under four acres around it. All five of
 12 our children love our home, from playing board games
 13 inside to riding bikes and playing basketball
 14 outside, from collecting our chickens' eggs to
 15 fleeing from the roosters that are chasing them;
 16 from getting into the pasture and petting the goat
 17 to feeling our jersey's round belly as she prepares
 18 to give birth this spring; to loving on the barn
 19 kitties to horsing around with our giant dog.

20 We homeschool our children, so there is no
 21 limit to the time they spend at home with us
 22 enjoying family life. We are incredibly blessed and
 23 thankful to be living where we live. The quietness,
 24 peace and freedom have been such a wonderful change

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1 from living in town.

2 I was deeply concerned for many reasons
 3 when I heard about the proposed wind farm. The
 4 first reason is not terribly important, but it has
 5 to do with the spectacular views we have. That is
 6 one of the blessings of living in the country.
 7 There is nothing like it. We cringe at the thought
 8 of looking out our bay window and having our
 9 beautiful sunset littered with gigantic wind
 10 turbines, nor do we want to look outside at night
 11 and feel like we live by an airport with all the red
 12 lights. Sorry, I forgot to pass out my exhibits.

13 All right, so if you guys can just look at
 14 Exhibit 1. It's a photograph of the southwest view
 15 from the bay window in our kitchen where we spend
 16 the majority of our time. It is possible that we
 17 could have up to 18 turbines obstructing this view,
 18 and along with those turbines, we'll have red
 19 lights.

20 But the main reason for my concern and the
 21 reason that I'm standing up here tonight is the
 22 possible health impact these turbines could have on
 23 our family. Our home is within the proposed
 24 footprint and there will be a turbine in the

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1 neighboring field roughly 2100 feet from our home.
 2 Exhibit No. 2, I have a -- it's page 34 of
 3 Invenergy's Pleasant Ridge Wind Energy Project
 4 county application and it shows our home in relation
 5 to the nearest turbine.

6 I have read studies and watched
 7 testimonies, specifically public comment from the
 8 August 13, 2013, Vermilion County, Illinois, board
 9 meeting, and I am aware that these turbines will
 10 cause noise issues, possibly impact our sleep, and
 11 maybe even cause headaches and nausea.

12 During my research, I read a letter by
 13 William Mulvaney, the superintendent of schools of
 14 Armstrong, Illinois, written to the chairman of the
 15 Vermilion County board. In this letter, Mr.
 16 Mulvaney stated that he had noticed some of the
 17 children in his district appear to be having some
 18 medical issues related to the wind turbines, listing
 19 headaches, lack of sleep, and jaw issues as the most
 20 common. He also notes that some families were
 21 leaving because they could no longer handle the
 22 flicker and the noise issues. Exhibit No. 3 is a
 23 copy of that letter.

24 We also received a copy of the Letter of

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1 Caution by Robert Rand. Am I allowed -- am I
 2 allowed to talk about that?

3 **MR. BLAZER:** Mr. Chairman, given the
 4 pending motion, I don't think that would be
 5 appropriate.

6 **MR. LUETKEHANS:** Mr. Blazer's motion moves
 7 to strike any reference to it, so I think it's
 8 appropriate, you know, to at least have her talk,
 9 unless you want to have her come back at some later
 10 date. And if Mr. Blazer's motion is granted, then,
 11 you know, you can do whatever you want, but until
 12 that time, I think it's at least appropriate to have
 13 her testify since she's here.

14 **CHAIRMAN CORNALE:** All right. What's
 15 going to happen is you can discuss it. We're going
 16 to allow that at this point. Whatever the
 17 determination, as we go through your transcript,
 18 this transcript may end up being redacted, these
 19 statements may be taken out --

20 **MS. BELL:** Okay.

21 **CHAIRMAN CORNALE:** -- but we'll get
 22 through it tonight.

23 **MS. BELL:** Sounds good, sure. We also
 24 received a copy of the Letter of Caution by Robert

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1 Rand, a well-known acoustician. He has reviewed the
 2 Pleasant Ridge wind farm application. I've marked
 3 our home on one of the maps he created and it is in
 4 a dangerous area. And that is page 8 of Exhibit 4
 5 that I provided you. The noise levels are predicted
 6 to be above the World Health Organization's
 7 recommended sleep disturbance threshold and also
 8 predicting increasing adverse health impacts in the
 9 population. So that tells me there's a good chance
 10 someone in my family may be negatively affected by
 11 the turbines.

12 Since these turbines are permanent and
 13 will not go away, the only solution for us would be
 14 to uproot our family and move elsewhere. We love
 15 our community and we have strong ties here. Our
 16 families are here, our friends are here, and our
 17 children are very happy here.

18 Another study that I have provided, which
 19 is Exhibit 5, is the Cape Bridgewater Pacific
 20 Hydro's study of Australia. It's actually Dr.
 21 Schomer's review of that study. Dr. Schomer is one
 22 of the most highly regarded acousticians, and he has
 23 stated when he reviewed the study that wind farms
 24 will be in a position where they must say "we may

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1 affect some people." And regulators charged with
 2 protecting the health and welfare of the citizenry
 3 will not be able to say they know of no adverse
 4 effects. Rather, if they choose to support the wind
 5 farm, they will do so knowing that they may not be
 6 protecting the health and welfare of all the
 7 citizenry.

8 This appears to be a violation of the
 9 Standards of Special Use, the county's Comprehensive
 10 Plan and even Illinois law. The way I understand
 11 this, that if the county board votes yes on this
 12 issue, they're doing this knowing that they may not
 13 be protecting the health and welfare of the
 14 citizens.

15 In my opinion, there's no financial
 16 interest or gain worth putting our family at risk or
 17 sacrificing the health of anyone else in the
 18 community. On behalf of our family and all the
 19 other families who may be affected, please vote no
 20 on this project. Thank you.

21 **CHAIRMAN CORNALE:** All right. Do we have
 22 any questions for either of the Bells?
 23 **MR. LUETKEHANS:** Mr. Chairman, I think
 24 their little girl wants to speak.

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1 **MR. BELL:** Is that okay?
 2 **CHAIRMAN CORNALE:** Yeah.
 3 **BRENNA BELL:** Hello, my name is Brenna
 4 Bell. I am nine years old and I live with my mom
 5 and dad in the country. I'm opposed to the windmill
 6 project. One reason is that I don't want to see the
 7 lights at night. Another reason is that they make
 8 noise. I went on a tour of the wind farm last
 9 September with another school family. It sounded
 10 like a whooshing noise. I can't imagine having to
 11 hear that noise all the time. The wind turbines are
 12 also known to affect animals, and I am very worried
 13 about the effect the windmills may have on our
 14 animals.

15 Lastly, I don't want to see our beautiful
 16 views be destroyed. I am very blessed that God gave
 17 us our home and I don't want to move because I love
 18 our beautiful home. Please don't approve this
 19 project. Thank you.

20 **CHAIRMAN CORNALE:** Any units of local
 21 government have questions for the Bells? Anybody?
 22 Other interested parties represented by counsel,
 23 applicant or Mr. Luetkehans, do you have any
 24 questions of the Bells?

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1 **MR. LUETKEHANS:** Yeah, just a couple.
 2 Either Mr. or Mrs. Bell, whatever is easiest, do you
 3 actually farm or sell any livestock that you raise
 4 on the farm, on your home?
 5 **MS. BELL:** No.
 6 **MR. LUETKEHANS:** I'm sorry, can you say
 7 how big your property was again?
 8 **MS. BELL:** 3.72 acres.
 9 **MR. LUETKEHANS:** Thank you.
 10 **CHAIRMAN CORNALE:** Mr. Blazer, do you have
 11 anything?
 12 **MR. BLAZER:** No, sir.
 13 **CHAIRMAN CORNALE:** All right. Other
 14 interested parties in the audience, any questions
 15 out there for the Bells from the audience? Anybody?
 16 All right. County staff? No. Did we have anything
 17 come up? No, okay. Thank you very much. Good job
 18 up there.

19 All right, next on the list is Don Slagel.
 20 Don Slagel, are you here this evening?
 21 Mr. Slagel, can you be sworn in?
 22 (Mr. Don Slagel was duly sworn.)
 23 **CHAIRMAN CORNALE:** All right. Can you
 24 state your name and address for the court reporter

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1 and go ahead with your statement.
 2 **MR. DON SLAGEL:** Don Slagel. The address
 3 is 13113 North 2500 East Road, Fairbury.
 4 **QUESTIONS BY**
 5 **MR. LUETKEHANS:**
 6 Q. Mr. Slagel, I have handed you what has
 7 been previously labeled into evidence I think as
 8 Pleasant Ridge Exhibit 16B. Do you know what
 9 receptor number you are in Invenergy's application?
 10 **A. 241.**
 11 Q. Okay. If you go to the first page of 16B,
 12 can you find receptor 241 in there for me?
 13 **A. Yes.**
 14 Q. Okay. And it lists you as a
 15 nonparticipant; is that correct?
 16 **A. That's correct.**
 17 Q. And it also -- can you tell us what the
 18 1000 hertz level is for your property on the first
 19 page which is the 1.79-100 turbine model?
 20 **A. 40.6.**
 21 Q. Okay. And if I go to the G -- the third
 22 -- well, I guess it's page 102 is the third actual
 23 page, that's the GE 1.72-103. Can you tell me what
 24 your listed as at the 1000 hertz there?

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1 **A. 41.1.**
 2 Q. Okay. Now, if you go to -- these aren't
 3 really numbered and I apologize for that, but if you
 4 go to the last two pages, and let's start on the
 5 first of the last two, it doesn't have a page number
 6 and it's not quite as pretty as the prior ones and
 7 it's pretty small so I will apologize for that, but
 8 if you look down, again this is the 100 meter blade,
 9 this is after the LNTE blades have been -- if
 10 they're added, and you're receptor number 241. Do
 11 you see that at the 1000 hertz level you're at 41.0
 12 decibels?
 13 **A. Yes.**
 14 Q. Okay. And if you go to the next page, the
 15 103 meter blade at 1000 hertz, I think you're at
 16 40.9; is that correct? Do you see that?
 17 **A. Is that on the last page?**
 18 Q. Yes.
 19 **A. Yes, that's correct.**
 20 Q. Okay. Who do you live at this property
 21 with?
 22 **A. My wife and one son when he's not off in**
 23 **college.**
 24 Q. Okay. So he's -- and he's in his college

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1 years?
 2 **A. Yes.**
 3 Q. Or he's in college?
 4 **A. When he's home, so he lives with us**
 5 **sometimes, but --**
 6 Q. And how many acres is your property there?
 7 **A. Three.**
 8 Q. Do you know how many turbines are proposed
 9 to be within one mile of your home?
 10 **A. Eight.**
 11 Q. Do you know how many turbines are proposed
 12 to be within a mile and a half of your home?
 13 **A. Yeah, that would be 12.**
 14 Q. Okay. Do you know what directions those
 15 turbines are in?
 16 **A. Be east, northeast, west, northwest,**
 17 **southeast and southwest, everywhere but straight**
 18 **north and straight south, for probably about half a**
 19 **mile or so to the south.**
 20 Q. Showing you what has been marked as UCLC
 21 Exhibit 122, this is an aerial from Google Earth.
 22 Is that your house located on that?
 23 **A. Yes, it is.**
 24 Q. Okay. And it's where the red dot is?

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1 **A. Right.**
 2 Q. And then do you know where Willa Virkler
 3 lives?
 4 **A. Yes, I do.**
 5 Q. Is she very close to you or --
 6 **A. She's within a few miles, but I grew up**
 7 **near where she lives.**
 8 Q. Okay. Do you know how many turbines are
 9 proposed to be within a mile of her home?
 10 **A. I'm thinking it's around seven.**
 11 Q. Okay. The property at 13113 North 2500
 12 East Road where you live, do you farm the land
 13 located at that particular parcel on those three
 14 acres?
 15 **A. No, I don't.**
 16 Q. Okay. Do you farm the land surrounding
 17 the property you live on?
 18 **A. Yes, some of it.**
 19 Q. Okay. You don't actually own the property
 20 you're --
 21 **A. No.**
 22 Q. Okay. So you like share crop it or --
 23 **A. Yes.**
 24 Q. Do you operate any type of business out of

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1 the land at 13113 North 2500 East Road?
 2 **A. Not really. I just use the shed for some**
 3 **machinery.**
 4 Q. Okay. Which shed? What shed is that?
 5 **A. That would be the one to the far west.**
 6 Q. Okay. How far is that shed from your
 7 house?
 8 **A. It's about 200 feet.**
 9 Q. Okay. Can you tell us approximately how
 10 many feet there are between your home and the
 11 property line on the east?
 12 **A. 75.**
 13 Q. Can you tell us how much land there is
 14 between your house and the property line on the
 15 south? Approximately in feet.
 16 **A. Oh, it'd probably be about maybe a**
 17 **hundred.**
 18 Q. A hundred feet?
 19 **A. Probably.**
 20 Q. Okay. What, if anything, is -- okay.
 21 Other than that one shed, are the rest of those
 22 sheds utilized for your own personal use or for --
 23 **A. Yes.**
 24 Q. Okay. So other than the storage in your

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1 one shed of some farm equipment, you utilize the
 2 property at 13113 North 2500 East Road as a
 3 residence for just you and your family, nothing
 4 else.
 5 **A. That's correct.**
 6 **MR. LUETKEHANS:** Nothing further, thank
 7 you.
 8 **CHAIRMAN CORNALE:** Do we have any
 9 questions at this time for Mr. Slagel? All right.
 10 Units of local government, anybody out there?
 11 Applicant, do you have any questions for Mr. Slagel?
 12 **QUESTIONS BY**
 13 **MR. BLAZER:**
 14 Q. Just -- Mr. Slagel, I'm sorry, if you
 15 could just on this picture, it's really not clear
 16 because it's kind of at the 10,000 foot level, the
 17 building to the far west, is that the shed you were
 18 talking about?
 19 **A. Yes, it is.**
 20 Q. What's the white roofed building
 21 immediately to the south?
 22 **A. To the south?**
 23 Q. Yes.
 24 **A. That's just a shop with some storage for**

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1 **some personal items and things like that.**
 2 Q. And then is the one to the north your
 3 house?
 4 **A. That is a barn that we were thinking about**
 5 **on the main floor downstairs making it into like a**
 6 **recreational room and things like that, but, you**
 7 **know, I'm not sure if we're going to now. Probably**
 8 **not.**
 9 Q. All right. So it's a barn?
 10 **A. Yes.**
 11 Q. And then --
 12 **A. But it's empty.**
 13 Q. All right, it's just hard for me to see.
 14 Where is your house on there, your actual residence?
 15 **A. Well, you can see the lane coming in from**
 16 **the road on the east and then it would be right to**
 17 **the south side of that.**
 18 Q. The one with the darker roof?
 19 **A. Yes.**
 20 Q. Okay.
 21 **MR. BLAZER:** That's all I have, Mr.
 22 Chairman. Thank you.
 23 **CHAIRMAN CORNALE:** Anybody from the
 24 audience have a question for Mr. Slagel? Anybody

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1 out there with a question? Mr. Harms, you have a
 2 question? Please state your name for us and then
 3 you can go ahead and ask your question.
 4 **QUESTIONS BY**
 5 **MR. HARMS:**
 6 Q. Hey, Don. Patrick Harms, Forrest. Just a
 7 real quick question. You brought up Ms. Virkler
 8 that lives up there. You brought up your home place
 9 where you grew up. Was that --
 10 **A. Yes.**
 11 Q. Was that -- have you sold that place, your
 12 home place or --
 13 **A. No, it's in the family.**
 14 Q. It's in the family. Is there potential
 15 turbines on that ground?
 16 **A. Yes, there is. When my father signed up,**
 17 **he was told, like other people, that they were going**
 18 **to be -- everybody around him was signed up, and it**
 19 **ends up he's the only one in that section, and the**
 20 **rest of the family would like to get out of the**
 21 **contract now if they could.**
 22 Q. Okay.
 23 **MR. HARMS:** No further questions.
 24 **CHAIRMAN CORNALE:** Any other interested

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1 parties with any questions for Mr. Slagel? Anybody?
 2 County staff? Do we have anything? All right,
 3 thank you.
 4 All right, next on our list this evening
 5 Nancy Homerding, Nancy Homerding. Please be sworn
 6 in.
 7 (Ms. Nancy Homerding was duly sworn.)
 8 **CHAIRMAN CORNALE:** All right, please state
 9 your name and address for our court reporter and you
 10 can go ahead with your statement.
 11 **MS. HOMERDING:** My name is Nancy Homerding
 12 and I live at 27592 East 1100 North Road in Forrest.
 13 My family and I have lived there for 19 years. We
 14 have five acres. We are unfortunately in the
 15 footprint of the wind turbine project. I will have
 16 several turbines around me with the closest to the
 17 southwest and the southeast, with several of the
 18 connecting lines buried in the field south of my
 19 property.
 20 My first concern was, when I heard the
 21 wind turbines were coming in and they wanted to
 22 build such a sizeable and invasive project, why
 23 didn't they inform everyone in the footprint? If
 24 the company wanted to be or to have such good

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1 neighbors, you would first need to be a good
 2 neighbor. A good neighbor would have informed every
 3 neighbor affected, not just those they need to
 4 complete the project.
 5 Secondly, even though I'm not against --
 6 even though I am against the project, I try to
 7 attend these meetings with an open mind. As I
 8 listened to the experts when they were questioned on
 9 the reports, I felt the reports didn't reflect our
 10 area. For example, the real estate facts were drawn
 11 from information closer to the Chicagoland area than
 12 to the central Illinois area.
 13 And for decommissioning, although it may
 14 not be something to worry about now, it can be a
 15 real and costly problem. When the cost is
 16 calculated on disposing of these materials on a 25
 17 to 50 mile radius of our county, this doesn't really
 18 seem realistic to me. Some reports given seemed
 19 more general than containing facts reflecting our
 20 area.
 21 I'm asking the zoning board, the county
 22 board and any other board that's going to be
 23 reviewing this, please take close and careful look
 24 at everything and make an informed decision. Thank

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1 you.
 2 **CHAIRMAN CORNALE:** Thank you. Do we have
 3 anything? All right. Units of local government,
 4 anybody out there? Nope. All right. Applicant?
 5 **MR. BLAZER:** (Shakes head).
 6 **CHAIRMAN CORNALE:** Mr. Luetkehans, do you
 7 have any questions?
 8 **MR. LUETKEHANS:** Ms. Homerding, do you
 9 operate a commercial farm on your property?
 10 **MS. HOMERDING:** No.
 11 **MR. LUETKEHANS:** Thank you.
 12 **CHAIRMAN CORNALE:** Other interested
 13 parties in the audience? Anybody out there in the
 14 audience with a question for Ms. Homerding?
 15 Anybody? All right, county staff? Do we have
 16 anything? All right. Thank you.
 17 All right, I've got 7:24. We understand
 18 that the next individual that is supposed to speak
 19 is over an hour long, so why don't we go ahead and
 20 take ten minutes at this point, so we'll get going
 21 again at 7:35. 7:35, all right?
 22 (Recess at 7:24 p.m. to 7:36 p.m.)
 23 **CHAIRMAN CORNALE:** Okay, we'll go ahead
 24 and get going again. Everyone make it back to their

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1 seats please. All right, as I promised, we were
 2 going to sort through the scheduling, whatever we
 3 could do with the scheduling. So we're for sure --
 4 we're for sure going to do the 16th and the 18th.
 5 We're also scheduling the 25th, the 25th of March,
 6 okay. We're definitely striking the 30th and 31st.
 7 So strike the 30th and 31st, add the 25th of March.
 8 **AUDIENCE VOICE:** Fairbury?
 9 **MR. SCHOPP:** 16th and 18th here.
 10 **CHAIRMAN CORNALE:** 16th and 18th will
 11 definitely be at this location, Walton Centre. And
 12 the 25th is to be determined. We'll try to decide
 13 whether the venue is available or whichever works
 14 out the best, all right? Okay, so 16th and 18th
 15 here. 25th is on the schedule, to be determined
 16 location.
 17 All right. With that, we'll go ahead and
 18 get rolling again. Mr. Boomgarden, looks like
 19 you're ready to go, so we'll go ahead and get you
 20 sworn in and we'll let you have the floor. Mr.
 21 Boomgarden, would you please raise your right hand?
 22 (Mr. David Boomgarden was duly sworn.)
 23 **CHAIRMAN CORNALE:** All right, please state
 24 your name and address for our court reporter and --

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1 **MR. BOOMGARDEN:** David Boomgarden, 35686
2 East 700 North Road, Chatsworth, Illinois.
3 My presentation tonight is mutual aid
4 drainage tile and its protection.
5 **MR. LUETKEHANS:** Dave, you're going to
6 have to get closer to the mic.
7 **MR. BOOMGARDEN:** Is this better? Just a
8 little introduction of who I am. A lot of you
9 people in the audience know me. I've been a
10 long-time resident here of Livingston County and the
11 Chatsworth area. I bought some farm ground in 1972
12 and started with my first crop in 1973. My wife
13 Anita and I have lived on the same place for 40
14 years, raised three children there. My wife Anita,
15 she taught school for 30 years in the area starting
16 in Forrest and then Chatsworth and then finishing in
17 the Prairie Central School District.
18 I was a farmer for about -- for quite a
19 while, and in 1987 I started working for the Natural
20 Resources Conservation Service, which was then the
21 Soil Conservation Service, as a soil conservation
22 technician in Ford County and I was there for three
23 years. And then in 1991 I transferred to Livingston
24 County and I spent 17 years in Pontiac working for

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1 the Natural Resources Conservation Service as a
2 technician. While I was in Livingston County, I was
3 also responsible for providing training to new Soil
4 and Water Conservation District employees, NRCS
5 employees, on a lot of conservation practices,
6 including drainage and terraces and waterways, in
7 ten additional counties besides Livingston.
8 While I worked for NRCS, I had quite a
9 varied experience. I provided a lot of assistance
10 for conservation practices to local landowners. A
11 lot of you, I've been out on your farm, a lot of the
12 farms in the footprint of the wind farm, both people
13 that are getting wind farms and people that didn't.
14 I worked with a lot of you. I worked with drainage
15 districts as far as coordinating the drainage
16 between the landowners and the drainage districts.
17 I worked with the state and county highway
18 departments. I worked with the Livingston County
19 highway engineer on a lot of drainage projects
20 across roads where we had waterways drainage tile
21 that were impacting the highways.
22 Also worked with the state highway
23 maintenance technician in Pontiac and the state
24 highway design engineers in Ottawa, and I worked on

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1 drainage with local landowners that crossed
2 Interstate 55, Highway 24, Route 17, all of the
3 major state highways in the county. Also worked
4 with the county road commissioners. I think over my
5 17 years I've worked with all of the township road
6 commissioners at least once coordinating drainage
7 problems across the road right-of-ways.
8 As far as the skills I had to do my job,
9 within NRCS I did -- we had -- one of the jobs I had
10 was comprehensive planning that involved all the
11 resources on -- in the area, the wildlife, nutrient
12 management, crop rotation, livestock, designed
13 livestock composting facilities, did the soil
14 conservation practices, engineered practices of
15 terraces, grade stabilization structures, grass
16 waterways. I also worked with some of the towns and
17 villages on drainage issues that were related to
18 affecting adjacent properties, landowners and stuff,
19 and coordinating some of those problems. I worked
20 with the village of Dwight and town of Chatsworth
21 putting a fire hydrant in for the town of Chatsworth
22 and also did some drainage work with the town
23 engineer when the junior high was built. So I've
24 got a pretty varied experience with drainage and

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1 with a lot of different situations with a lot of
2 different organizations and units of government.
3 Some of the soil conservation practices.
4 I designed, as I've already said, for terraces,
5 grass waterways, structures. I designed hundreds of
6 those conservation practices. Many of these
7 included tile drainage, especially the terraces and
8 the grass waterways. I actually designed and
9 supervised miles and miles of tile drainage. I'm
10 not a professional engineer, but the way that the
11 NRCS as a USDA government agency worked is that we
12 had ag engineers that were registered professional
13 engineers with the State of Illinois, and they were
14 able to work with the technicians and they gave us
15 authority to design practices on our own all the way
16 from the initial field visit through the survey,
17 design, installation, and then the certification for
18 cost share, and I certified millions of dollars
19 worth of projects here in Livingston County.
20 And kind of before I give an overview of
21 the presentation, I think I need to talk just a
22 little bit of why I'm here and what exactly we're
23 looking at. When Invenergy came to the southern
24 part of Livingston County, there was a lot of

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1 neighbors that were looking at getting contracts,
 2 and some of them signed contracts right away, some
 3 of them got lawyers, some of them never did sign
 4 contracts, and there was a lot of coffee talk and
 5 different things about what was involved and what
 6 kind of concerns you had with that.
 7 And in late 2006 and 2007, I was
 8 approached by a group of concerned neighbors that
 9 had decided not to sign up with Invenergy and had
 10 concerns that some of their issues for their
 11 protection weren't being addressed. And being I
 12 worked in Pontiac, I had a working relationship with
 13 Chuck Schopp, and I requested him to -- to set up a
 14 meeting with some of the members of the county
 15 board, and in January of 2007 I did. And I gave a
 16 presentation to three board members and Chuck Schopp
 17 on some of these issues, including other issues that
 18 I'm not going to talk about tonight, like aerial
 19 spraying and how that impacts nonparticipating
 20 farmers.
 21 When I came to realize that the
 22 application was going to come in, some of the same
 23 group of landowners that had talked to me before
 24 suggested that I give another presentation, and then

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1 I was encouraged by them and also by -- some of
 2 those are in the footprint, some of them are not,
 3 and the -- another group of people that were further
 4 west of there had some concerns about their drainage
 5 and how that was going to be affected by this
 6 project.
 7 I guess about my own farm. I was
 8 contacted by Invenergy and I looked at the pros and
 9 the cons, and, you know, for several reasons I
 10 didn't sign and my farm is not in the footprint
 11 right now. The nearest tower is about between three
 12 and four miles to the northwest. The -- several of
 13 my neighbors had contracts. I don't know the status
 14 of those contracts completely. Invenergy has talked
 15 about expansion with several new phases. I really
 16 don't know the exact situation of where the land
 17 right around my farm is right now.
 18 That's where I'm at, why I'm here, and I
 19 guess I just wanted to remind everybody of what this
 20 -- what these hearings are about. And this is a
 21 special use permit that's not ag use for an ag area.
 22 And I think when you -- you need to really think
 23 about the impacts of the farmer that's trying to
 24 stay in the farming business within the footprint,

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1 and it's on drainage concerns, and that's what the
 2 main goal of my presentation will be tonight.
 3 As you were driving here tonight and no
 4 matter which way you came, you drove by millions of
 5 feet of drain tile worth millions of dollars that
 6 are needed for the ag productivity of this county
 7 and this area, and you didn't see a one of them, not
 8 one foot. You maybe shot over a bridge and you
 9 looked down and you saw tile out there, but those
 10 tile are there, and there's a lot of investment and
 11 a lot of future investment as I'll try to show.
 12 So kind of an overview of my presentation.
 13 I just want to talk about the importance of drainage
 14 to Livingston County. We're going to talk about
 15 what mutual aid drainage tile systems are. We want
 16 to talk about the construction, operation and
 17 decommissioning of the proposed wind farm and how it
 18 can cause damage to these tile. And some of this
 19 damage can go on for several years before you really
 20 know that it's there and it can result in crop
 21 damage.
 22 There's also protection of these mutual
 23 aid drainage tile by Illinois drainage law, and
 24 we'll get into that in a lot more detail. And then,

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1 finally, I was going to show that there's
 2 noncompliance of the current application with
 3 Illinois drainage law that results in the current
 4 application not meeting the county ordinance or the
 5 county comprehensive plan.
 6 And I guess, you know, for the farmers in
 7 the audience, you're going to have to have a little
 8 patience with me because a lot of this stuff I'm
 9 going to talk about in the beginning to lay some
 10 background on drainage and stuff, you all know about
 11 it and -- but for the people that don't, you know, I
 12 need to be -- to start at the beginning. And that's
 13 what I did when I taught the new employees. A lot
 14 of them didn't have farm backgrounds, they really
 15 needed to get an understanding of what drainage was,
 16 and obviously as an NRCS employee, drainage in this
 17 area was probably one of our number one concerns
 18 because it affected the productivity of the land and
 19 the income potential of that farm.
 20 So the first thing I want to talk about is
 21 just the history of Livingston County, a little bit
 22 about what we -- why it was settled so late.
 23 Livingston County was -- and this particular slide
 24 is directly out of the Illinois Soil Survey.

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1 Livingston County was formed in 1837 from parts of
 2 McLean and LaSalle County, and the county was named
 3 for Edward Livingston. And late 1800s were a period
 4 of major growth in the county. Drainage practice
 5 was being utilized to turn swampland into cropland.
 6 Agriculture had become a primary industry.
 7 And, you know, Illinois had been a state
 8 for a long time before Livingston County ever was
 9 made into a county, and one of the reasons was a lot
 10 of it was swampland. And the railroad came through
 11 here in the 1850s, and my farm was deeded from the
 12 railroad in I think 1855, it was one or two miles on
 13 each side of the railroad, and so before that time
 14 there was very little agriculture in this area even
 15 though the state had been in existence for quite a
 16 while.
 17 And I had a landowner that I farmed for
 18 years ago, and his great grandfather settled in the
 19 1850s or the 1860s, and at that time he could buy a
 20 good piece of land for \$15 and a poor piece of land
 21 for \$10 an acre, and so when they were looking at
 22 it, they thought they picked out the best land and
 23 they picked out the land south of Chatsworth where
 24 I'm at because it had a lot of hills, and they could

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1 get on those hills and they could plow them and they
 2 could raise their crop. And the areas north of
 3 Piper City and south of Fairbury and Forrest was
 4 swampland and nobody wanted it. Well, anybody that
 5 farms today knows that they made a bad choice. My
 6 farm is worth about half of what it is here in
 7 Fairbury or Forrest, but at that time no one could
 8 drain it, it wasn't farmable, it was swamp.
 9 In this slide, we -- that I have up there,
 10 that I just had up there, talked about there was a
 11 rapid period of drainage after this was settled.
 12 And I don't think you really can grasp how fast that
 13 was, but this was something I used in a lot of my
 14 presentations, and it was -- it was an article that
 15 was in the 1906 Piper City Journal newspaper. And
 16 in 1901, Livingston County had the most feet of tile
 17 in the state of Illinois. 53 million feet already
 18 of tile in this county. That's 10,000 miles. This
 19 was all laid by hand to drain this area. A
 20 tremendous amount.
 21 And I'd use this as an example when I was
 22 teaching a class because one of the things we did,
 23 we had to identify all these tiles, and these tile,
 24 a lot of these tile are still in existence today,

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1 they're still functioning, they're still in
 2 operation, they're clay tile. We're three
 3 generations away from some of these tile when they
 4 were installed. Nobody knows where they're at.
 5 They're still functioning, they're still providing
 6 the drainage that we need, but they're very hard to
 7 locate. And a lot of times I'd work with a farmer
 8 and he'd say, well, you know, there's no tile in
 9 this area, I know there isn't, my dad lived here,
 10 and yet when we'd put new tile in, we'd hit two or
 11 three tile lengths. And this is a common
 12 experience. Most of the farmers in the area know
 13 this along with the drainage contractors.
 14 There's two types of drainage that we need
 15 to kind of differentiate between. We have surface
 16 water drainage and subsurface drainage or tile
 17 drainage. And the surface drainage is just the
 18 water that flows out of the sky and flows down in
 19 the field and makes ripples and it goes in one
 20 direction. And then it comes into contact with
 21 another pool of water that's coming in another
 22 direction, and of course it gets larger and larger
 23 until it gets to a creek. These could be drainage
 24 ditches, they could be culverts under a road, they

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1 could be grass waterways that you see in a field,
 2 shallow surface drains, they could be structures at
 3 the end of waterways that dump water into a ditch,
 4 and they could be surface inlets. And I want to
 5 talk just a little more about surface inlets.
 6 Surface inlets are simply a way to get
 7 surface water in a pond or a depression into a tile
 8 to take the tile underground and away. And you'll
 9 see more of these in the spring. As you look
 10 around, there will be ponded water in the field and
 11 in a day or two it's gone, and usually there's a
 12 surface inlet there that's taking that water away.
 13 And that's kind of an important thing to remember as
 14 we get into talking about mutual aid tile and some
 15 of the benefits of those.
 16 And then the subsurface drainage is just
 17 that, it's a tile, and in some of the Illinois
 18 drainage laws they call it a covered drain instead
 19 of a tile. So if you -- when I talk about those
 20 things, they're synonymous, they're both the same.
 21 The tiling practices when the county was
 22 first settled were put in by hand. They went in
 23 pretty shallow. Because they were farming with
 24 horses, they didn't have to worry about crushing it.

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1 They didn't have to worry about a heavy tractor or
 2 anything; it was just horses. And they were mostly
 3 random tile lines and they would go up to the wet
 4 spots and they would make those areas so they could
 5 cross them with a team of horses. If the rest of
 6 the field was wet, they would wait until it dried
 7 and -- before they farmed it.

8 Very rapidly, the ponds that were
 9 completely duck ponds until July, they had to get
 10 the surface water off of there and they would dig a
 11 tile through the ridge or the hill and put a surface
 12 inlet in and get that water out.

13 People became more and more conscious of
 14 it, that drainage was really good for productivity,
 15 and so in the past, oh, maybe 30 or 40 years or
 16 maybe a little longer, more and more tile systems
 17 got more intense and they went to 90 to 100 foot
 18 tile spacing in between tile, and at that kind of
 19 spacing, you know, on a section of land, 640 acres,
 20 there would be 52 miles of tile, 52 miles in that
 21 one section.

22 The current spacing now, and I'll show you
 23 some references to this, the current spacing for
 24 tile for optimal level management is 40 foot spacing

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1 between tiles. So a section of land, that's 130
 2 miles of tile. Tremendous amount of resource out
 3 there and you'll see a tremendous investment.

4 This is a -- this is a pattern tile system
 5 on 40 foot spacings that was put in in 2013. It
 6 covers 65 acres. There's 70,000 feet of tile for a
 7 \$65,000 investment. This yellow line here -- this
 8 yellow line here is the outlet tile for this system.
 9 Without that outlet tile -- it's a 12-inch tile.
 10 There was an existing tile. This other piece here,
 11 it's a railroad right-of-way. Without that yellow
 12 outlet tile, that \$65,000 investment is totally
 13 worthless. There is no outlet, there is no ditch,
 14 there's nowhere for that water to go.

15 This is on a different property, so
 16 without that. And that's what we'll get into.
 17 That's a mutual aid tile. That's a tile that's
 18 providing an outlet for another farm and it has
 19 protections under Illinois drainage law.

20 As people looked at making decisions on
 21 whether or not to sign up for a wind farm, a lot of
 22 the considerations were exactly what we're looking
 23 at here today for these drainage tile. Now, if this
 24 particular piece had a wind farm planned for it in

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1 the middle of it, they're going to come in and
 2 they're going to excavate that, tear up that tile,
 3 pour concrete. They're going to build an access
 4 road somewhere, they're going to tear that area up,
 5 going to put fabric down, put gravel on it,
 6 basically pretty much destroy this tile system.

7 Now, the people that signed up for the
 8 wind farms, they have a right to do that, and
 9 obviously they evaluated the economic risks and
 10 economic benefits, and in their mind they have
 11 decided that it made sense to do that economically
 12 on their farm and that's their right. And I
 13 wholeheartedly endorse that and support that.
 14 That's their right. Other people saw the same
 15 opportunity and they decided not to do it. That was
 16 their right. They made an economic decision.

17 When you want to talk about damage, I want
 18 to just quote a few things from some of the
 19 testimony we've already heard just to give you an
 20 idea, and when I talk about this testimony, you can
 21 kind of visualize what would happen on this
 22 particular drainage system. And the testimony I'm
 23 going to quote was Mr. Engelhart, and he was from
 24 Compton, Illinois. He was a -- he was a farmer. He

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1 had signed up to have wind farms, five of them, on
 2 his property. He was also the township road
 3 commissioner.

4 And just to remind people, some of you
 5 weren't maybe here for his testimony of what he
 6 said, and I'm going to quote this. This is on page
 7 1704 of the record. And the first quote I'm going
 8 to have will start, quote, also the company
 9 started -- or started construction after Labor Day.
 10 Well, you can imagine northern Illinois after Labor
 11 Day starting to dig up and tear through fields, and
 12 by the time you get to November and December, we've
 13 got rainy weather, snow. I mean it was a total
 14 disaster. They had one crane buried. It took them
 15 a month to get it out, unquote. And those cranes
 16 weigh about a million pounds over these tile
 17 systems.

18 The next quote is from Mr. Engelhart,
 19 quote -- and this is on page 1706 -- if you have
 20 been one of these wind farm projects and you have a
 21 farm, can you imagine a million pound crane with a
 22 track six feet wide going through your fields? If
 23 you think your tractor has compaction, guess what?
 24 You're in for a new surprise. For the next few

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1 years you'll see -- if you have GPS or a yield map
 2 on your combines, you'll see a big difference when
 3 you go through these paths. Although they tried to
 4 dig it up, it didn't work, end quote.
 5 And I have one final quote from him and
 6 this is his final statement of the testimony. And
 7 this is on page 1709 of the record. Quote, I --
 8 just to clarify, I have five towers. I wish I had
 9 never did it. I get about 17 -- I get about 37,000
 10 a year. It's not worth the hassle. I wish I would
 11 have never done it. Thank you.
 12 And I guess my point here is that there
 13 was economic decisions either way, but the
 14 consequences are a lot greater than that, because if
 15 it was just as simple that one farmer decided to not
 16 participate and the other farmer decided to
 17 participate and all the tile never crossed property
 18 lines and weren't interconnected and didn't have
 19 protection by Illinois drainage law, it wouldn't be
 20 a big deal, but that's simply not the case.
 21 We talked a little bit about the
 22 investment and the investment is staggering.
 23 Pattern tiling on 40 foot spacing is 900 to \$1,000
 24 an acre, so a section of land could have \$64,000

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1 worth of investment. And this is just for the
 2 pattern tile system. This doesn't give you an
 3 outlet. This doesn't give you the mains and the
 4 sub-mains to get hooked up to get you an outlet.
 5 This is just the pattern tiling system.
 6 Obviously whether you have this system or
 7 you don't have this system changes the value of that
 8 farmland when you sell. So if you have a tile
 9 system, it's obviously going to be worth more. If
 10 you have a tile system that isn't functioning or you
 11 don't have that tile system at all, it's going to
 12 affect the value of that property.
 13 The next slide is just talking about the
 14 importance of drainage to agricultural production,
 15 and, you know, if you're not a farmer and, you know,
 16 like I said, when you drove in here, you didn't
 17 really see all the drainage system, you really
 18 didn't understand how valuable this was or why would
 19 somebody spend a thousand dollars an acre, you know,
 20 to drain some land.
 21 In this area, a significant amount of
 22 Livingston County soils are not feasibly farmed
 23 without drainage. You just couldn't even do it.
 24 Modern technology has given us more tools to

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1 evaluate the effects of tile drainage on crop
 2 yields. And this is a study from Ohio State
 3 University, a 25 year study on the effects of
 4 pattern tile drainage, and it's showing a 29 to 34
 5 percent increase in corn yields and a 13 to 46
 6 percent increase in soybean yields.
 7 Drainage will also give you increased
 8 efficiency and more timely field work. Farms are
 9 getting bigger and bigger. They have less days to
 10 get the crop in. Drainage gives them that extra
 11 advantage, two, maybe three days earlier in the
 12 spring, especially in a wet spring. You get better
 13 crop rooting and more drought resistance and
 14 increase nutrient uptake. It also alleviates
 15 compaction for better aeration. When you move heavy
 16 equipment through a field, a combine or something,
 17 you don't get near the soil compaction that would
 18 limit root growth.
 19 The next slide is a slide -- it's a
 20 University of Illinois Extension bulletin called
 21 811, and this is optimum crop productivity ratings
 22 for Illinois soils. This is a supplement to
 23 Bulletin 810, and Bulletin 810 is the document that
 24 the -- all the county assessors use in the state by

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1 law to determine the soil productivity levels for
 2 assessment. And the Bulletin 810 that they use uses
 3 average levels of management for all the soil types.
 4 All the soil types are rated, and this is what the
 5 assessor uses here in Livingston County.
 6 This is something that was done after
 7 that, and it looks at the optimum level, and
 8 there's -- on the -- on this column here, there's a
 9 whole list of things that are needed for optimum
 10 productivity, and the top one is drainage, soil pH,
 11 obviously nutrients, the type of hybrid, on and on,
 12 but the number one thing on the top is drainage.
 13 And for optimum productivity what is their
 14 recommendation? Parallel or herringbone pattern
 15 tile systems with closer than recommended spacing
 16 with an adequate outlet. And the key word there is
 17 an adequate outlet. We're talking about mutual aid
 18 tile, tile that's on somebody else's property that's
 19 used for an outlet.
 20 In the bottom left-hand corner, it says
 21 intensive drainage systems with adequate outlets are
 22 needed for crops grown on naturally very poorly or
 23 poorly drained soils. And we're going to see that a
 24 lot of the soils in this area of the county and also

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1 in the footprint of the wind farm are these soils.
 2 They're very poorly or poorly drained.
 3 The information on this slide is about
 4 prime agricultural soils, and this came from the
 5 copy of the Livingston County Soil Survey. I used
 6 this a lot in my job and it was a very good tool.
 7 And these numbers came right out of the soil survey.
 8 There's about 6,000 -- 621,000 or a little more
 9 acres of soils in Livingston County, 93 percent
 10 which are classified as prime soils, and prime soils
 11 are the best soils in Illinois. They're probably
 12 some of the best soils in the world. But of that
 13 number, over 330,000 acres, or 54 percent of those
 14 prime soils, they're required to be drained to be
 15 classified as prime farmland. In other words, if
 16 they don't have tile drainage systems in them or
 17 those tile drainage systems aren't working, they're
 18 not even considered prime farmland.
 19 Last week I went into the assessor's
 20 office and I talked to Duane Kiesewetter and I asked
 21 him, I said: Of all the soils in Livingston County
 22 that require drainage to be considered prime, how
 23 many of them do you consider prime? And he said:
 24 All of them. They're all drained. So the county,

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1 they understand that these soils need drainage and
 2 that the tile is in them or they wouldn't be prime
 3 farmland.
 4 The next slide is Table 5 from the soil
 5 survey, and this is just a list of all the soils in
 6 Livingston County, and not all of these prime
 7 farmland soils are in the wind farm footprint, but
 8 you can see from this table the soils that are prime
 9 because they have drainage.
 10 The next is just a sample soil map from
 11 the Illinois -- from the Livingston County Soil
 12 Survey, and this particular location is a quarter
 13 section of land in Township 26 North, Range 7 East,
 14 South 23 -- Section 23, Northeast one-quarter, and
 15 this is Section 23 in Forrest Township. And the
 16 little -- the little propellers here, those are
 17 actually proposed wind farm sites. One is 084 and
 18 the other is 085. The kind of circle-ish dumps of
 19 soil here are the soils that are a little higher.
 20 Those are the soils that are prime without being
 21 drained or without as extensive a drainage system in
 22 them. And the -- they're Elliott, Andres and Lisbon
 23 soils, and the soil in the drainage ways are all
 24 Ashkum soils. This is the soil that needs to be

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1 drained for to be considered prime farmland, and it
 2 amounts to about 70 percent of that particular
 3 tract, and that's pretty typical, I think, for the
 4 area of the wind farm.
 5 When we talk about tile, we've got to talk
 6 a little bit about tile construction materials. And
 7 before 1970, almost all the tile were clay. Clay
 8 tiles were made from natural clay. Anybody that's
 9 been on the north edge of Chatsworth, there's huge
 10 tile ponds there where the clay was extracted to
 11 make tile before 1900. Prinsco has a factory there
 12 now that makes plastic drain tile. Millions and
 13 millions of feet of tile in both clay and plastic
 14 have been made out of that factory to service the
 15 needs of the Midwest.
 16 The present -- most of the present tile
 17 are corrugated plastic, and we're going to -- there
 18 again, the farmers in the audience have to bear with
 19 me a little bit, but we're going to have to talk a
 20 little bit, I'm going to show you a little bit about
 21 what we're looking at with those materials and what
 22 kind of damage you can get from them because each
 23 one of them has its own type of damage.
 24 This is an old piece of clay tile and this

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1 is probably 4 or 5-inch. They make clay tile up
 2 into larger sizes obviously, 16 or 18, 24-inch, but
 3 this is a smaller piece. And a lot of these tile
 4 are way over a hundred years old. On this
 5 particular tile, you can see that there was one
 6 fracture crack on it already. And if I turn it
 7 around the other way, you'll see that in this
 8 particular case this fracture has given way and it
 9 fell in. And this would be -- this would be very
 10 typical of what you would expect with a crushed
 11 tile. Enough of a weight load would go over the top
 12 of this tile and this fractured piece here would
 13 give way and it would collapse in on itself.
 14 The dirt that was covering over the top of
 15 this tile may or may not fall in, but this piece of
 16 clay tile in here, it immediately changed the
 17 drainage flow characteristics of that tile. It
 18 changed it a lot. And tile flow is based on the
 19 size of the tile and on the grade, how steep it is
 20 going down to -- down the field, and also the
 21 material.
 22 A tile like this would be smooth on the
 23 inside, it would have a better flow characteristic
 24 than the plastic tile for the same size, but this is

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1 a problem. It's hard to identify. You don't know
 2 when it happens. As soon as this happens, it slows
 3 the flow of water down. There's clay sediment in
 4 this tile and it starts to sediment out behind this
 5 and fills this tile up. That clay is sticky. It
 6 sticks to the bottom of these tile. You can remove
 7 this obstruction after a year or so, and that
 8 material that's plugging that tile, it won't come
 9 out. It's going to stay there.

10 So you've got this type of problem. And
 11 you can see that as we talk a little later, when we
 12 start talking about huge traffic patterns that are
 13 not typical ag, these tile have never seen a million
 14 pound crane on them, the damage that you're going to
 15 get can be quite severe, as we've already seen Mr.
 16 Engelhart testify.

17 This looks like about a piece of 6-inch
 18 plastic. As it's being made and extruded, there's a
 19 cutter that punches holes in it, small holes in it.
 20 You can't see them, but that's where the water
 21 infiltration comes into. This has a little
 22 different flow characteristic than smooth concrete
 23 or clay because of the corrugation that's in here.
 24 And the same size tile, the same grade plastic,

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1 would have a little less flow characteristic than
 2 clay, but the ease of laying it, the ease of
 3 manufacturing, this is the standard today for almost
 4 all tile installations.

5 Plastic has a little different
 6 characteristic when you put stress on it, weight on
 7 it, and this is -- this is a piece of plastic. You
 8 can see it's egg-shaped. Plastic tile manufacturers
 9 suggest that this oblong shape can get to about 20
 10 percent, 18 to 20 percent without damaging the
 11 integrity of the tile. If you crush this much
 12 further, this will split and the thing will cave in
 13 just like the clay tile will. There again, if
 14 you're doing this with weight, it's very hard to
 15 tell. If you don't dig it up and look, you really
 16 don't know whether you've damaged it or not. But
 17 with the constriction, the reduction in tile
 18 capacity, slower drainage is real.

19 Let's look just a minute on what kind of
 20 damage we can expect from construction activities.
 21 The first one would be from trenching or plowing in
 22 cables from this wind farm. And I think most wind
 23 farms today won't plow in cables anymore, because if
 24 you plow in a cable, it's just a knife that slits in

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1 the ground and puts the cable in the ground, you cut
 2 tile and you don't know that it happened. And I
 3 don't think any of the wind farms are using that
 4 method.

5 I think all of them are using trenching.
 6 It would be an open trench to lay the cable. With
 7 diligence, you should be able to see the tile you're
 8 cutting, you should be able to make timely repairs.
 9 With a qualified tiling contractor, those repairs
 10 should be permanent and they should be acceptable.

11 But the biggest problem is the crushing.
 12 First of all, as we testified -- as I testified
 13 earlier, nobody really knows where these tile are.
 14 And I'll go into a little more detail on that on my
 15 own farm and my own experiences, but there's some
 16 tile maps. You know, when I worked for a farmer,
 17 the first thing -- and we were going to do drainage,
 18 the first thing I'd say is where is your tile map,
 19 what do you know. And he would sometimes have a
 20 sketch or something on a piece of paper from a long
 21 time ago that his dad or grandfather gave him.
 22 Sometimes he didn't know.

23 Today, now we have GPS, all the drainage
 24 contractors, GPS on all the tile lines. You can

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1 find them, you can locate them, that's not a
 2 problem. It's the ones that were laid 50, 75, 100,
 3 125 years ago. They're still functioning, they
 4 still have protection under mutual aid drainage law,
 5 they're still needed for an outlet; they're just
 6 very hard to know where they're at. They go through
 7 other people's property, they go across township
 8 roads, they go across the county line roads, they go
 9 across the major roads, Interstate 55, 24, 17.

10 The likelihood of this crushing damage
 11 increases with weight and it also increases with
 12 soil saturation. When you have -- when you have a
 13 spring that's wet or fall that's wet and soil loses
 14 all of its structure, you're going to get more
 15 damage. Obviously if it's July or August and the
 16 ground is as hard as a piece of concrete, you can
 17 take a million pound crane over it and you're not
 18 probably going to do any damage.

19 The wind farms, though, have on their
 20 easement contracts that they signed with the
 21 landowners, they have an unlimited right of ingress
 22 and egress any time of the year, seven days a week,
 23 all year long. The landowner can't stop them. They
 24 can come in at any time under any conditions and

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1 operate construction. The participating farmers,
 2 they gave away that right when they signed the
 3 contract. There again, that was their decision. I
 4 support them if that's what they wanted to do.
 5 Other landowners and neighbors, they decided not to.
 6 It was too risky on their drainage systems.
 7 There's basically three times in this wind
 8 farm operation that's going to last 35 years when
 9 you're going to expose these tiles to serious
 10 damage, and the first one is in construction. And
 11 you're going to be -- you're going to be cutting a
 12 lot of these tile lines and putting cables in, and
 13 those should be able to be fixed and repaired fairly
 14 easily.
 15 You're also going to be building the
 16 access road. You're also going to be able to --
 17 you're also going to have this crane come in and
 18 move across this property, and so you're going to
 19 have the potential for a lot of crushing. And I
 20 think we're going to see that there's no plan to
 21 identify crushed tile period. If -- if there is,
 22 I'm not aware of it in any of the documents I've
 23 been able to look at.
 24 The second one is during operation and

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1 maintenance. The wind farm has testified that the
 2 life span of these wind turbines is about 20 years,
 3 and at the end of that time, if there's a potential
 4 to re-power, they're going to re-power. They have
 5 an option to go to 35 years. And so it will
 6 probably make sense that they would re-power, and
 7 you're going to get the same type of exposure to
 8 compaction again and crushing tile by these million
 9 pound cranes coming in to set the new tower blades.
 10 You're also going to have towers that for
 11 some reason have mechanical problems and they go
 12 down and you're also going to have to have a crane
 13 come in. And how often that is, I suppose, depends
 14 on how well the turbines last.
 15 And the second time you're going to have
 16 this problem is during decommissioning because
 17 you're going to be tearing up the roadways. You're
 18 going to be bringing in heavy trucks, heavy
 19 equipment to either blast or to jackhammer out the
 20 concrete footings under these turbines. You're
 21 going to have heavy trucks in the field to haul out
 22 the concrete, the gravel from the roadways, the
 23 steel and turbine heads, components, and all of this
 24 is going to expose these tile to potential damage.

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1 As I testified, you get tile damage by
 2 crushing, it's very hard to identify, and usually
 3 you identify it by crop damage. The tile stops or
 4 it slows down enough that it causes damage in the
 5 crop field. So you're going to lose some crop
 6 before you really know what has happened. This crop
 7 damage can be a distance from the tile, and these
 8 soils and landscapes, go out south of town here,
 9 south of Forrest, it's very flat. When you damage a
 10 tile and back water up, it can back up for a long
 11 ways. It can affect drainage for a long distance.
 12 That distance will put it over onto
 13 another property that may not happen to be
 14 participating. And this damage, as I testified, can
 15 show up months or even years later. If you had that
 16 clay tile I showed you and it quartered and some of
 17 the bigger tiles quartered, it might go for several
 18 years with just slowed down, and then eventually it
 19 gets enough so that it causes a major problem.
 20 The other -- the other potential problem
 21 is that the dirt column above that crushed tile will
 22 start taking surface water down through it, and
 23 you'll end up with all this dirt going down in the
 24 tile and plugging it further, and then you'll have a

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1 large hole in your field and you'll be able to
 2 identify where the problem was, but until those
 3 things happen, the damage has occurred and slowing
 4 down the tile flow.
 5 The next slide. We're just going to look
 6 at what are these weights and what are we talking
 7 about? And again, I want to refresh everybody or
 8 make -- you know, remind everybody what we're here
 9 for. This is a special use permit, nonagricultural
 10 use in an ag area. These construction weights are
 11 not typical. You know, these are not weights that
 12 you would see in an ag situation.
 13 For example, a loaded combine, this
 14 happens to be a John Deere 9770 with a 300 bushel
 15 capacity, and the loaded combine weight is 51,000
 16 pounds. And I picked one of the bigger loaded auger
 17 carts, 1100 bushel capacity, this has more capacity
 18 than a semi, and it has a weight loaded of about
 19 82,000 pounds. And in the fall you could probably
 20 see some -- if it's dry enough, you could see some
 21 loaded farm semis in the field, and a five axle semi
 22 would have a loaded weight of 80,000 pounds.
 23 The maximum axle weight for county and
 24 township roads during the spring weight restrictions

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1 is 7,000 pounds an axle with a five axle semi weight
 2 limit of 35,000 pounds instead of 80,000 pounds.
 3 And I called the Livingston County highway
 4 department today and they put the road restrictions
 5 on the county highways yesterday, these
 6 restrictions, and I think most of the townships
 7 followed. So to protect the roads from damage from
 8 80,000 pound loads, they limit them to 35,000 pounds
 9 because they know there's going to be damage. The
 10 tiles that are underneath these county and township
 11 roads, they're receiving protection by -- from those
 12 weights. During the spring thaw when the roads and
 13 the soils are soft, they're receiving that
 14 protection with these weight restrictions.
 15 What kind of loads can we expect from the
 16 wind farm construction? And they're going to be in
 17 excess of 80,000 pounds. I've seen some proposals
 18 and some different things from other areas that the
 19 loaded semis that are coming in are 200,000, 220,
 20 maybe 280 for some of the components, and these are
 21 multiple axles, they're more than five axles.
 22 They're spreading the load out over a bigger
 23 footprint which helps, but on these soggy county --
 24 not so much county but township roads, you get kind

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1 of a rolling pin effect where you're rolling the --
 2 actually rolling the force in front of all of this
 3 weight, and that's when you're going to get tile
 4 damage and crushing on the township roads,
 5 right-of-ways. And we'll talk a little bit more
 6 about that in the future.
 7 The erection and decommissioning crane
 8 that we were talking about, over 900,000 pounds.
 9 Most of the things I viewed and looked at would
 10 weigh up all the components at about a million
 11 pounds. I'm not exactly sure what Invenergy is
 12 planning for construction cranes, but it probably
 13 would be in that neighborhood.
 14 Now, I'm going to get in -- after I've
 15 given you some background on drainage and why it's
 16 important and where some of the problems are with
 17 crushed tile, I want to start talking about -- the
 18 main theme of my presentation is mutual aid tile.
 19 And we'll get into the definition, but it's
 20 basically the mechanism for providing an outlet for
 21 acreage that has no natural drain outlet.
 22 And this was identified very early in
 23 Livingston, and not only in Livingston County but in
 24 the state of Illinois history. And they realized

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1 that one farm could stop the drainage on a whole lot
 2 of cropland. And so there was a mechanism put in
 3 place to be able to force that landowner and to
 4 also -- to provide mutual aid drainage, and this was
 5 codified in the Illinois drainage law, and it was
 6 for the protection of all the residents, all the
 7 landowners in Illinois, and it's still in place
 8 today. We're going to look at that in a little more
 9 detail.
 10 This is -- I think it's Boomgarden Exhibit
 11 1. This is a publication called Illinois Drainage
 12 Law. This is something that most of the Soil and
 13 Water Conservation Districts carry, this
 14 publication. It's an Extension publication. It
 15 gives a pretty good background on Illinois drainage
 16 laws and how to protect yourself and to identify
 17 your rights and maybe where you're in the wrong, and
 18 so it's kind of a down-to-earth summary of what
 19 drainage law is and how it affects the drainage in
 20 Illinois. And I think -- I'm not a drainage lawyer,
 21 so I'm going to use this document quite a bit. It's
 22 kind of in down-to-earth language, and it also has
 23 footnotes that actually take you back to the code
 24 law in the State of Illinois books.

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1 This circular was written by Donald
 2 Uchtmann, he's a professor of agricultural law and
 3 an Extension specialist, and Bernard Gehris who is a
 4 research assistant in agricultural law. It's a
 5 College of Agricultural, Consumer and Environmental
 6 Sciences publication from the University of Illinois
 7 Urbana-Champaign. It's Cooperative Extension
 8 Service Circular 1355.
 9 In the contents of it, there's four
 10 sections. The first section deals with Illinois
 11 rules of drainage, and this is the only section that
 12 I'm going to go into in any detail. This is the one
 13 that affects private landowners and the rules that
 14 they're mandated to follow.
 15 The second part deals with Illinois laws
 16 on drainage districts. There are three drainage
 17 districts in the area of the wind farm. I believe
 18 the Belle Prairie drainage district is the large
 19 district that drains land in Livingston, Ford and
 20 McLean County, and it's just outside of the
 21 footprint today I believe. It may be in some of the
 22 expansion. And then there's Avoca and Indian Grove
 23 drainage districts and I think they're within the
 24 footprint.

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1 I'm not going to talk a lot about those.
 2 Those are units of government and they have taxing
 3 authority. They're appointed commissioners. They
 4 have permanent easements on those tile and ditches.
 5 And that law is -- although different than what
 6 applies to nondrainage districts, they have a lot
 7 more protection than -- and a lot more duties to
 8 observe those protections.
 9 The Belle Prairie district, I did just a
 10 little history on it. In 1915 they already had
 11 seven miles, seven miles of big tile. And the
 12 reason for drainage districts was that there was
 13 some areas that were so large, Belle Prairie is
 14 6,000 acres all draining to one spot, all being
 15 drained by tile, and the cost of draining all that
 16 was too much for individual landowners. And so the
 17 state allowed these drainage laws -- districts to be
 18 put in place so that they could form districts they
 19 could tax for benefits and raise money to provide an
 20 outlet for a lot of -- a lot more acreage than
 21 individuals could do.
 22 The third part is drainage and the
 23 regulation of wetlands. A lot of this has to do
 24 with the 1985 Farm Bill which most of the farmers

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1 are familiar with, swamp busting. I was involved in
 2 that with my job with NRCS, but that is outside of
 3 the scope of what we're talking about tonight.
 4 And the last section is the Illinois soil
 5 erosion and sedimentation control guidelines, and I
 6 think Chuck brought this up, the soil and water
 7 district on -- for the wind farm.
 8 This is the preface of the Illinois
 9 drainage guide and I'll just read it quickly. "Its
 10 purpose is to inform landowners, drainage district
 11 commissioners, land improvement contractors and
 12 other interested people of general legal principles
 13 related to drainage and the construction of drainage
 14 improvements. With this general information, they
 15 are better able to recognize opportunities for
 16 improving drainage or situations where their
 17 drainage rights have been unlawfully impaired."
 18 And that's exactly what we're going to do
 19 tonight. We're just going to use it as a guide and
 20 be able to show where some of the drainage problems
 21 have led to violation of some of the -- potential
 22 violations of some of the drainage law.
 23 This is a glossary, and I guess I'll just
 24 go through it very quickly, there's just a few

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1 things I have highlighted there, so that when we
 2 talk about this, you'll have some idea of what we're
 3 talking about. We have a basin. It's a natural
 4 depression that holds water. Water cannot flow out
 5 of a basin without an artificial aid. This is
 6 basically these ponds I was talking about where you
 7 have surface inlets.
 8 A ditch is just simply that. It's an
 9 artificially constructed open drain or a natural
 10 drain that has been artificially improved.
 11 Dominant land. We'll be talking about
 12 dominant and servient land. It's just one is in a
 13 higher position than the other.
 14 A drain is a ditch and any watercourse or
 15 conduit, whether it's open, covered or closed. So a
 16 drain could be a tile, and when we talk about
 17 covered drains, it could also be tile.
 18 Drainage structures. The reason I want to
 19 mention those is a lot of the surface water is
 20 carried underneath the township and county roadways
 21 by culverts and bridges, and these will be important
 22 later in my discussion.
 23 An easement is an acquired right to cross
 24 or use another's property, and this is an important

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1 part of mutual aid drain tile. They become -- have
 2 a permanent easement across the property.
 3 A landowner is just that, he's the owner
 4 of the land.
 5 A mutual drain. And I interchange mutual
 6 aid tile and mutual drainage in my presentation
 7 tonight. Those are exactly the same. I always use
 8 mutual aid because I think it better -- when I was
 9 teaching it to the new students, it better showed
 10 what it really meant, so -- but they're the same
 11 definition for my presentation. And we'll get into
 12 that in a little more detail, what exactly that is.
 13 And then the last one is servient land.
 14 That's just the land or the lower person in the
 15 drainage way.
 16 This is page 1 in the Illinois Rules of
 17 Drainage, and basically this section says that water
 18 runs downhill. It's pretty basic. And what is
 19 codified in law is that if you have the higher
 20 ground, you have the right to run water down onto
 21 your neighbor, and you have to run the water down on
 22 your neighbor in the same way that nature would have
 23 done it. In other words, you can't change where you
 24 run the water off onto your neighbor. It has to go

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1 in a certain place.
 2 And that's very important when we start
 3 looking at some of these wind farm structures and
 4 the cables and stuff. The tile can only go one
 5 place and it can only go one place because of the
 6 lay of the land and also because of Illinois
 7 drainage law. You can't change the outlet. You
 8 can't go somewhere else and take the water off of
 9 your farm onto another neighbor if the natural
 10 drainage is in a different way.
 11 And basically it says basic law recognizes
 12 natural differences in levels of land. The basic
 13 principle of the law of natural drainage is that
 14 landowners take whatever advantages or
 15 inconveniences of drainage nature places upon their
 16 land. What these advantages or inconsistencies are
 17 ultimately depends on the level of one's property in
 18 relation to land around it. Basically water runs
 19 downhill.
 20 A landowner must receive surface water
 21 flowing naturally from higher ground. One of the
 22 most important principles of Illinois drainage law
 23 is that the owners of lower ground, known as a
 24 servient tenement, are bound to receive surface

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1 water that naturally flows onto it from higher
 2 ground, known as the dominant tenement. And there's
 3 a -- just a little diagram here showing the flow of
 4 the water.
 5 Where the natural flow is from one tract
 6 across another tract, the higher land is the
 7 dominant tenement, and the lower land is the
 8 servient tenement. Owners of dominant tenements
 9 have legal rights to have their water drain off of
 10 their lands. Owners of servient tenements have the
 11 duty of not obstructing the natural flow. You can't
 12 obstruct the natural flow. This rule means that
 13 owners of farms that are lower than adjoining farms
 14 must take the water that flows through natural
 15 depressions onto their own land.
 16 This is page 2 and the -- I have a
 17 highlighted section on the bottom, and this is
 18 basically what I was just talking about where you
 19 don't have any choice where you take your water. It
 20 says all lands lying within a natural basin,
 21 therefore, may be drained into a watercourse,
 22 whether a stream or a mere depression, that drains
 23 the basin, and the owners of lower lands cannot
 24 object to this increased flow. The water must be

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1 carried by or can be carried by artificial ditches
 2 or by tile lines, but either must drain only the
 3 natural basin and the water must enter the lower
 4 land where it would have been in a state of nature.
 5 The courts have also held that the substitution of
 6 tile for surface drainage does not amount to
 7 abandonment of the natural drainage rights on the
 8 part of the owner. You only have one outlet; you
 9 can only go one place.
 10 The next slide shows page 7 kind of on the
 11 bottom, and this is the statutory enlargement of
 12 rules of natural drainage, and this says the right
 13 to extend a tile drain across the land of others.
 14 Besides codifying the rules of natural drainage, the
 15 Illinois Drainage Code provides that owners may
 16 extend their tile drain across the land of others
 17 when this extension is necessary to perfect their
 18 drainage and when it meets certain conditions
 19 imposed by law. It also sets up the court procedure
 20 for securing this drainage.
 21 Now this is a part of the law that I very
 22 seldom ever saw used in my experience with drainage
 23 for years with NRCS and working with other units of
 24 government. Everybody realizes that water is a

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1 problem and you need to provide an outlet for it,
 2 and I don't remember a single case that actually
 3 went to court to force somebody to provide them an
 4 outlet. The law is there and I'm sure it's been
 5 used, but everybody realizes that if you don't
 6 provide an outlet for your neighbor, when it comes
 7 time for you to provide an outlet and you need one
 8 in return, you don't get the favor returned. So
 9 water is kind of a common enemy in farming and
 10 agriculture.
 11 But the courts decided that -- you know,
 12 Illinois law decided that it was an important enough
 13 issue that they provided a mechanism for forcing
 14 someone to provide an outlet on their land for
 15 another landowner.
 16 We're finally getting to the definition of
 17 a mutual drain tile. In this slide, it basically is
 18 showing tile line going through three different
 19 properties and going into a creek. There's hundreds
 20 of thousands of these in Livingston County. And
 21 that is exactly what a mutual aid drain tile is.
 22 This piece of property here, A and B, they
 23 have no outlet. The only way they can get an outlet
 24 to this creek is through land C. And the courts and

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1 Illinois drainage laws give these dominant
 2 landowners the right to this outlet and it's
 3 protected by drainage law.
 4 Drains constructed by mutual license or
 5 agreement, that's exactly what we're talking about.
 6 The second early law enlarging a landowner's
 7 drainage rights legalized drains constructed by
 8 mutual license, consent or agreement. Because each
 9 drain must be a mutual drain constructed for the
 10 mutual benefit of all the lands affected by it, and
 11 it says Figure 2, the code specifies a ditch, a
 12 covered drain, which is a tile, or a levee has been
 13 constructed by mutual license, consent or agreement,
 14 either separately or jointly, by the owners of
 15 adjoining land when it makes -- and this is the key
 16 right here -- makes a continuous line across the
 17 lands of such owner or when the owner of adjoining
 18 land is permitted to connect a ditch, covered drain
 19 or levee with another already so constructed, or
 20 when the owner of the lower land connects a ditch or
 21 covered drain to a ditch or covered drain
 22 constructed by the owner or owners of upperlands, or
 23 when the owner of land protected by a levee has
 24 contributed to the cost of the construction,

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1 enlargement and reconstruction of a levee upon other
 2 land.
 3 And basically the part that we're
 4 concerned about here tonight is just tile. It's
 5 tile across the property lines and provides an
 6 outlet. And we're going to look at that in a little
 7 more detail on the next page.
 8 **CHAIRMAN CORNALE:** Mr. Boomgarden, can I
 9 stop you right there? Everybody is getting a little
 10 restless. Why don't we take five minutes, take a
 11 five minute break. I've got 8:47. Come back at
 12 8:52. Hit the bathroom real quick, whatever you
 13 need to do, and we'll get going again. I hate to
 14 break in the middle but --
 15 **MR. BOOMGARDEN:** That's fine.
 16 **CHAIRMAN CORNALE:** -- at the same time
 17 we're all restless.
 18 **MR. BOOMGARDEN:** That's fine.
 19 (Recess at 8:47 p.m. to 8:53 p.m.)
 20 **CHAIRMAN CORNALE:** All right, everybody.
 21 Mr. Boomgarden, you may continue.
 22 **MR. BOOMGARDEN:** Thank you, Mr. Chairman.
 23 On this slide we have up here, there's just a couple
 24 items that are important that I just wanted -- that

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1 I'd like to clarify a little bit.
 2 For a mutual aid tile, it would be
 3 important for it to be covered by law, it doesn't
 4 have to have a written agreement, so just the mere
 5 existence is all you need. And if the tile is a
 6 mutual aid tile, you can't have damage to it unless
 7 everybody consents to it. So all the landowners
 8 that are upstream, they have to agree to allow
 9 damage to that mutual aid tile.
 10 I want to talk about how the mutual aid
 11 tile can be damaged on participating lands, and I
 12 think I've already covered a lot of this. You know,
 13 you have the potential for damage when you have
 14 saturated soils, large weights that are not typical,
 15 the crushed tile can result in crop damage off-site.
 16 The participating landowners are eligible for
 17 reimbursement of crop and drainage tile damage, but
 18 the nonparticipating farmers are not. This tile has
 19 a potential easement under it that's protected by
 20 Illinois drainage law.
 21 The same type of problems can happen with
 22 the county township roads. They're being analyzed
 23 now by Invenegy for damage of the surface
 24 structures under the right-of-ways. These

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1 right-of-ways also contain mutual age drainage tile,
 2 and if no one is looking at those, no one is going
 3 to monitor their damage. If the townships do away
 4 with their spring weight limits, the damage will
 5 increase. There again, the nonparticipating
 6 landowners have no protection.
 7 For a quick example of what we're looking
 8 at with for damages, this happens to be the 700 acre
 9 drainage area and it happens to be my farm and it
 10 has a very good example within the last two years of
 11 what we're talking about with mutual age drainage
 12 tile and their impact.
 13 Parcel number 4 is my 80 acres that I own.
 14 The yellow line are just some of the -- it has
 15 existing 12-inch tile that's probably 120 years old.
 16 There's actually 14 parcels that drain through that
 17 outlet. That tile, 12-inch tile through my 80 acres
 18 there provides all of the drainage for that whole
 19 700 acres. There's only one outlet. It's at the
 20 north end of my property where the -- where you see
 21 the drainage is starting.
 22 This whole tile is in poor condition and
 23 it's not large enough to completely drain all of
 24 this area with mutual aid -- or with a pattern tile

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1 system, and I was approached by my neighbor on
 2 parcel number 3 two years ago to put a mutual aid
 3 tile through my farm. It's 2400 feet. It was
 4 15-inch tile. He wanted to put a complete tile
 5 pattern system in on 150 acres. He paid \$50,000 to
 6 put that tile through my farm. I paid nothing. It
 7 was an outlet that he needed. We stood on the fence
 8 and shook hands. I said you should record that
 9 \$50,000 tile on my deed on the farm. He said we
 10 don't need to do that, we're friends, but one of the
 11 main reasons that he didn't have to do it is because
 12 that outlet is protected by Illinois drainage laws,
 13 by mutual aid tile.

14 He was approached by two neighbors, parcel
 15 number 8 and 6, and they paid to have that tile
 16 extended from my property line to the road, this
 17 section right here, and they paid for that section.
 18 They plan on putting a 40 foot tile spacing system
 19 in in the future.

20 If you look at the potential damage, if I
 21 was to put a wind farm turbine on my parcel on tract
 22 number 4, there's a 12-inch tile there, there's this
 23 15-inch tile there. If they were damaged, they
 24 would affect drainage on a large area of this 700

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1 acres, and I'm prevented from doing that by Illinois
 2 drainage law. That tile, both of those tile, are
 3 protected by a permanent easement, and I cannot
 4 damage those without the consent of all the people
 5 upstream.

6 I -- and so it doesn't have -- there's no
 7 way that when they come in with these cranes that
 8 they're going to come back and look and see whether
 9 they crush these tile. They could get a quarter,
 10 they could get a partially crushed with plastic, and
 11 there's no real way of knowing that, but they do
 12 impact the drainage.

13 I've also identified some tiles that cross
 14 underneath road 3500 East and 600 North. These are
 15 four more tiles. These all connect into the
 16 existing 12-inch tile. They're all on
 17 right-of-ways. They all have protection, perpetual
 18 easement under Illinois drainage law for protection
 19 from being crushed. If this was a haul road for the
 20 wind farm, Invenergy isn't going to look for those
 21 tile and those damaged tile won't be found.

22 This is a small example of one of the
 23 problems that come up with where these cables are
 24 going. Invenergy is looking at putting a cable in

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1 at five feet. And if you look at the 15-inch tile
 2 that I just talked about, 15-inch plastic tile, with
 3 a three foot cover on it, which is what Illinois
 4 Drainage Guide is looking at, especially for mains,
 5 from two and a half to three, probably three foot
 6 for mains, you're going to have the 15-inch tile
 7 only six inches away from Invenergy's cable.

8 The green is where the foot difference
 9 will be. Invenergy is looking at only maintaining a
 10 foot difference between the bottom of their tile and
 11 the cable. The drainage districts have tile at 36
 12 and 42 inches, and you can see the cable goes right
 13 through the middle of it. So at a five foot depth,
 14 we're going to be limited to 10-inch tile.

15 The next slide I want to talk about is
 16 Pleasant Ridge Exhibit 9, the proposed agriculture
 17 impact mitigation agreement. This is the same, some
 18 of the same -- the same proposal that's also in
 19 Pleasant Ridge Exhibit 125. Pleasant Ridge 125 is a
 20 response to a letter from the Belle Prairie drainage
 21 district commissioners, and the response that
 22 Invenergy gave is basically the agriculture impact
 23 mitigation agreement that's the same as Exhibit No.
 24 9.

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1 I've also entered in as Boomgarden Exhibit
 2 4 the original letter from Belle Prairie drainage
 3 district. This wasn't included in Pleasant Ridge
 4 Exhibit 125 originally. They just gave the
 5 response. The drainage commissioners asked that I
 6 put this into the testimony. I'm not a spokesman
 7 for the drainage district, but I was just asked to
 8 include that so you'd have a reference of what the
 9 concerns were. A lot of their concerns are the same
 10 as what I'm proposing for private land.

11 **CHAIRMAN CORNALE:** Mr. Boomgarden, with
 12 regard to that Boomgarden 4, did you hand that out?
 13 Do we have that?

14 **MR. BOOMGARDEN:** You should have it.

15 **MS. DASSOW:** Yes. It was on top of the
 16 stack of papers. I showed it to Jeff.

17 **MR. BLAZER:** Mr. Chairman, it's also
 18 already a county exhibit.

19 **CHAIRMAN CORNALE:** It is a county exhibit?

20 **MR. BLAZER:** I don't recall which one it
 21 is, but the Belle Prairie letter is a county
 22 exhibit.

23 **CHAIRMAN CORNALE:** Okay.

24 **MR. BOOMGARDEN:** Yes, I said it was

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1 Exhibit 125.
 2 **MS. FEHR:** And there's an additional
 3 letter.
 4 **MR. BOOMGARDEN:** But the original letter
 5 is not in the --
 6 **MR. LUETKEHANS:** Do you have a copy of --
 7 **MR. BLAZER:** It is in the county exhibit.
 8 **MR. LUETKEHANS:** Do I have Boomgarden No.
 9 4? Yeah, I got it.
 10 **MR. BLAKEMAN:** Is there a Boomgarden 3?
 11 **MR. BOOMGARDEN:** Yes.
 12 **MR. LUETKEHANS:** I have 4.
 13 **MR. BLAKEMAN:** Okay.
 14 **MR. BOOMGARDEN:** I reviewed the proposed
 15 mitigation plan proposed by Invenergy. This has
 16 been supported by Illinois Farm Bureau and the
 17 Illinois Department of Ag, and a lot of the
 18 recommendations and the standards in here are the
 19 same as that I used with -- when I worked for NRCS.
 20 The standards there are industry standards and it
 21 goes -- as far as it goes, it's a very good
 22 document, but there are some limitations to it that
 23 I would like to point out.
 24 And on page 5, there's -- it basically

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1 says that the developer will work with the landowner
 2 to identify these tile lines, that they're going to
 3 stake them and flag them, but that's only if they're
 4 known. So we're back to the problem of not knowing
 5 where these tile are.
 6 In the second bullet, they say that they
 7 are going to repair the damaged tile that are cut by
 8 trenching and they'll be staked and there's a
 9 procedure for repair. There again, there's no way
 10 to look for crushed tile or damaged tile by these
 11 weights.
 12 Bullet 4 is basically the same thing. It
 13 sets up the repair for cut tile, but there is
 14 nothing in there for tile that are crushed by these
 15 weights.
 16 And then number 5 is basically there's one
 17 foot of separation between tile and cable and a five
 18 foot depth for the buried cable, which in the slide
 19 before shows that that's not really adequate for
 20 anything more than a 10-inch tile.
 21 In the recitals which are a part of --
 22 first part of the mitigation agreement, there's one
 23 that says whereas the developer and the county wish
 24 to set forth their own standing agreement as to

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1 issues relating to the construction and operation of
 2 the project, but there's no mention of
 3 decommissioning and any of the damage that would be
 4 caused there.
 5 Also, I would like to look at the
 6 definition section of this agreement. Under the
 7 landowner definition, it's a person that has an
 8 ownership interest in property that is used for
 9 agricultural purposes and that is party to an
 10 underlying agreement. When you go to an underlying
 11 agreement, it basically says you have a contract
 12 with Invenergy. Well, that's fine except that the
 13 drainage district that was asking about this,
 14 they're a unit of government, they're not party to
 15 any agreement with Invenergy, and so they're
 16 excluded. And none of the nonparticipating farmers
 17 that are having their tile damage, their mutual aid
 18 tile damaged, which is protected under Illinois law,
 19 they don't have an underlying agreement. So a large
 20 part of the people that are receiving damage within
 21 the wind farm are excluded from this proposal.
 22 And if you look at the acreages that
 23 Invenergy has put forth, 62 percent of the
 24 landowners within the footprint are participating

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1 and 38 percent are nonparticipating, but there's a
 2 large portion just outside of the footprint that
 3 have tile that drain into the footprint, and all
 4 those people are nonparticipating and they have
 5 potential drainage problems, and so the actual
 6 percentage of people that are affected is much
 7 closer to 50/50.
 8 And I -- this slide just shows you about
 9 how much drains back into the wind farm footprint.
 10 There's about 60 miles of perimeter around this, and
 11 all that acreage, some of it being both Indian Creek
 12 and the South Fork of the Vermilion, are inside of
 13 the footprint, and a lot of the drainage is towards
 14 that, so the drainage from the outside is in, and
 15 those people are also going to be exposed to damage.
 16 As I said, that there's no provisions for
 17 identifying and repairing crushed tile on
 18 participating landowners or on county highway
 19 right-of-ways, so there's no protection for
 20 nonparticipants from crop damage resulting from that
 21 crushed tile, and this is protected under mutual aid
 22 drainage law.
 23 These are the conclusions I've drawn from
 24 the presentation. Drainage is a valuable asset to

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1 agriculture in Livingston County. We saw the huge
 2 investment. Mutual aid drainage tiles are all
 3 interconnected benefitting multiple landowners
 4 providing drainage outlet for land that has no
 5 natural outlet. And the current application
 6 provides no protection from tile damage resulting in
 7 crop damage that affects nonparticipating
 8 landowners, either on participating landowners' land
 9 or on county highway right-of-ways where the tile
 10 crosses underneath those. And Illinois drainage law
 11 provides a permanent easement for these outlets.
 12 The current application doesn't comply with the
 13 county ordinance or the comprehensive plan.
 14 And looking at noncompliance with the
 15 county ordinance. Chapter 56 of the zoning wind
 16 energy, Section 56.618, design and installation.
 17 Item (i), compliance with additional regulations.
 18 Nothing in this article is intended to preempt other
 19 applicable state and federal laws and regulations.
 20 And I have shown where Illinois drainage law, the
 21 actual codes where we talk about the potential
 22 violation.
 23 This is the decommissioning plan in the
 24 county ordinance, Section 56-624. Number 3,

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1 provisions for the restoration of soil and
 2 vegetation. And then financial assurance secured by
 3 the owner for decommissioning. This is part of the
 4 ordinance.
 5 Want to look at Pleasant Ridge Exhibit 28,
 6 the decommissioning plan. Under topsoil restoration
 7 and revegetation, there's no mention in there of any
 8 cost for damaged tile. Not only on participating
 9 but nonparticipating farms, there's no mention of it
 10 whatsoever.
 11 Continuing on Pleasant Ridge 28, under the
 12 decommissioning plan, on the bottom of the page
 13 there, it explains that they had an obligation with
 14 the landowners with their original contract to
 15 provide decommissioning and a fund would be set
 16 aside. And in the second part of it, it says that
 17 this will be superceded by whatever is agreed to
 18 with the county. So we're going to look at what
 19 Invenergy proposed, then, for the county application
 20 because that supercedes the original contract with
 21 the landowner.
 22 In the decommissioning cost estimate
 23 summary, which is a continuation of Exhibit 28 under
 24 decommissioning, under topsoil replacement and

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1 rehabilitation, there's a lump sum for \$1 million.
 2 I can find no amount in the decommissioning costs
 3 for any tile repair, tile damage by crushing. We've
 4 got the same cranes coming over the same land, we've
 5 got the roads being tore up, but I see no dollar
 6 amount in there. It was kind of surprising that I
 7 didn't see anything in there for crop damage during
 8 decommissioning for the participating landowners.
 9 Some quick calculations of some potential
 10 estimates for acres around the wind turbines, for
 11 the roads on each side, for driving the crane, you
 12 come up with over a thousand acres of crop damage
 13 during decommissioning, some were 800,000, \$900,000
 14 crop damage, which is not accounted for in the
 15 decommissioning at all. There's no -- there's no
 16 mention of it.
 17 And basically this next slide is just
 18 going to talk a little bit more about it in a little
 19 more detail. We talked about all this extra
 20 drainage that's going in, 40 foot tile space, so
 21 when this crane comes back 35 years from now, it's
 22 not going to be going over the tile that's there
 23 today, it's going over tile that are going to be 35
 24 years from now. And we're seeing a huge amount of

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1 more tile going in, so there will be more damage,
 2 and yet there's no provisions for any damage in the
 3 decommissioning and there's no provision preventing
 4 crop damages resulting from these crushed tile.
 5 Looking at noncompliance with the
 6 comprehensive plan. The only part of the
 7 comprehensive plan that I'm looking at is the
 8 agricultural portion of it under the initial part.
 9 They're looking at preserving prime farmland, and
 10 obviously we've shown that prime farmland in this
 11 area needs to have drainage on it, and the
 12 deconstruction of that tile drainage is going to
 13 affect prime farmland.
 14 If you go down a little further, there's
 15 an area where it says that ensuring that agriculture
 16 in that area is going to be able to be maintained
 17 and preserved, and by not protecting the tile
 18 drainage that's necessary for crop production, it's
 19 simply not going to be maintained.
 20 If you look at the plan purpose in 3.2,
 21 it's preserve prime farmland. If you don't protect
 22 the drainage, both the participating and the
 23 nonparticipating farmers are not going to have prime
 24 farmland.

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1 In the updated version under agricultural
 2 land use, there's more discussion there about
 3 preserving the prime farmland. It's -- they're
 4 using modern technology, obviously all this new tile
 5 drainage and the cost involved in it, and we're
 6 looking at this 35 years from now during the
 7 decommissioning too.

8 And my final slide is just -- is from the
 9 foreword of the Livingston County Comprehensive
 10 Plan, and I'll take the liberty just to read this.
 11 It says most of the land in Livingston County is
 12 privately owned. Although we have a strong
 13 tradition of private property rights in the country,
 14 we also recognize that there must be limits to the
 15 use of an individual piece of property, and they
 16 give some examples here.

17 And I guess the whole part of my
 18 presentation really comes down to this is a special
 19 use permit in an ag area. And obviously the
 20 landowners that want to have a tower, get the income
 21 and county government taxes to the county and
 22 schools is important, but in an ag area, the
 23 drainage of it, and the drainage is protected by
 24 Illinois drainage law, is also a right that needs to

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1 be respected. And I think that the present
 2 application of Invenenergy fails in a lot of those
 3 regards to take care of the drainage needs of the
 4 nonparticipating landowners.

5 Mr. Cornale, I thank you for allowing me
 6 to have the opportunity to present this
 7 presentation.

8 **CHAIRMAN CORNALE:** Thank you. All right,
 9 we may have some questions for you. Units of local
 10 government with questions for Mr. Boomgarden? Local
 11 government? All right. Mr. Blazer, Mr. Luetkehans,
 12 do you guys have any questions for Mr. Boomgarden?

13 **MR. BLAZER:** I do, sir.

14 **QUESTIONS BY**
 15 **MR. BLAZER:**

16 Q. Mr. Boomgarden, it was just put into the
 17 record today, so I'm assuming -- I think I know what
 18 the answer to the question is, but have you had any
 19 chance at all to read Livingston County Soil and
 20 Water Conservation District Exhibit 1, the financial
 21 resource inventory report that was prepared by the
 22 SWCD?

23 **A. No, I did not.**

24 Q. Okay. Your slide number 20 which is the

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1 one that talks about weights across tiles from
 2 different types of vehicles --

3 **A. Would you like me to get that back up**
 4 **or --**

5 Q. You can just -- I mean we don't have to.

6 **A. Okay.**

7 Q. I just want to refer to it for you.

8 **A. All right.**

9 Q. And you've got weights for various types
 10 of vehicles.

11 **A. Yes.**

12 Q. All right. Those are gross vehicle
 13 weights, right?

14 **A. Yes.**

15 Q. All right. So, for example, a loaded
 16 combine 51,000 pounds, what's the weight per square
 17 inch of that --

18 **A. I'm not sure. And I think I testified**
 19 **that there were different amounts of axles and so**
 20 **that definitely would impact the weight per square**
 21 **inch. I think I mentioned that.**

22 Q. All right. So I assume your answer would
 23 be the same, then, for one of the cranes, the
 24 900,000 pound crane, you have no idea what the

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1 weight per square inch is.

2 **A. No.**

3 Q. The combine, is it on -- is that on tracks
 4 or on wheels?

5 **A. It could be either one.**

6 Q. How about the crane, is that on tracks or
 7 wheels?

8 **MR. HAYES:** Talk into the microphone.

9 **A. Yes, I believe that the crane is on**
 10 **tracks.**

11 Q. Okay. How many drain tiles were damaged
 12 in the construction of the Cayuga Ridge project in
 13 Livingston County?

14 **A. I don't think anyone knows. You know,**
 15 **they're not identified yet and the damage will still**
 16 **be coming.**

17 Q. How long has -- when was the construction
 18 of that project completed?

19 **A. I'm not sure. Three or four years ago.**

20 Q. Do you know when it went into operation?

21 **A. No, I do not.**

22 Q. Do you know if any claims of violation of
 23 Illinois drainage law were asserted against the
 24 owner or operator of that project after it was

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1 constructed?

2 **A. I do not.**

3 Q. Same questions with respect to the White

4 Oak project in McLean County, do you know how many

5 drain tiles were damaged in that project?

6 **A. I do not.**

7 Q. All right. Would your answer be the same

8 for the Grand Ridge project in LaSalle County?

9 **A. Yes, it would.**

10 Q. The California Ridge project in Vermilion

11 and Champaign Counties?

12 **A. Yes.**

13 Q. The Bishop Hill project in Henry and Stark

14 Counties?

15 **A. Yes.**

16 Q. And do you know of any claims of violation

17 of Illinois drainage law that were asserted by

18 anyone against the owner and operator of any of

19 those projects?

20 **A. No, I do not. And I also do not know what**

21 **their policy was on this either. I have no way of**

22 **knowing that.**

23 Q. Do you know who the owner and operator of

24 Grand Ridge, California Ridge and Bishop Hill is?

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1 **A. I believe it's Invenergy.**

2 Q. Do you have any knowledge of what

3 discussions have been ongoing regarding drain tile

4 repair in the context of negotiations for the road

5 agreement between Invenergy and the nine townships?

6 **A. Limited only to what I know as being a**

7 **resident of Chatsworth Township.**

8 Q. All right, so -- but you obviously haven't

9 been privy to or a party to --

10 **A. No, I have not.**

11 Q. -- those conversations. Okay. And the

12 agricultural impact mitigation agreement, part of

13 Pleasant Ridge Exhibit 9, you're aware that that's a

14 draft that has been presented to the county, right?

15 **A. Yes, I understand that. I was just**

16 **pointing out the deficiencies in it.**

17 Q. All right. And one final thing. You had

18 said that your residence is three to four miles from

19 the nearest turbine to the northwest?

20 **A. I believe so, yes.**

21 Q. You're aware that's turbine 79?

22 **A. I'm not sure what turbine number it is.**

23 Q. And if I told you that you're actually

24 over five miles from that, would that come as a

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1 surprise to you?

2 **A. No. No, not at all.**

3 Q. Have you spoken to any farmers in the area

4 of the Cayuga Ridge project who have ongoing

5 complaints about damaged tile that wasn't repaired?

6 **A. Could you repeat that? I didn't catch the**

7 **first part of it.**

8 Q. Sure. Have you spoken to any farmers in

9 the area of the Cayuga Ridge project who have claims

10 regarding --

11 **A. Which project, I'm sorry?**

12 Q. Cayuga Ridge.

13 **A. Oh, no, I did not.**

14 Q. Okay.

15 **MR. BLAZER:** That's all I have, Mr.

16 Chairman.

17 **CHAIRMAN CORNALE:** Thank you. Mr.

18 Luetkehans, any questions?

19 **MR. LUETKEHANS:** Yeah, just a couple.

20 **QUESTIONS BY**

21 **MR. LUETKEHANS:**

22 Q. Obviously the wind turbines are not very

23 close to your particular house, correct?

24 **A. No, they're not.**

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1 Q. Okay, but you still came here to testify

2 as to this issue of drain tiles, correct?

3 **A. Yes. The original MET tower for Invenergy**

4 **was a mile from my farm, so obviously that land was**

5 **signed up originally. I believe other landowners**

6 **within a half a mile were signed up around me. I**

7 **have no knowledge of the expansion, whether they're**

8 **going to come into my property or not. That was --**

9 Q. But I guess my point is, even though these

10 wind turbines are five plus miles maybe away from

11 you, we don't know if they're three or five, doesn't

12 really matter to you. You came here to testify not

13 because of the effect on your personal property but

14 because of the effect on the county as a whole. Is

15 that what I understand?

16 **A. That's exactly right, and I'm here at the**

17 **request of quite a few of the landowners that are**

18 **within the footprint. They asked me to speak on**

19 **their behalf.**

20 Q. So you really don't have much of a

21 personal issue from a financial position in this.

22 **A. Not at this time, no.**

23 **MR. LUETKEHANS:** Thank you.

24 **CHAIRMAN CORNALE:** Anybody in the audience

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1 have a question for Mr. Boomgarden? Got two in one
 2 here. Mr. Hayes, have you got several or just one
 3 or two? You can jump up there and grab the mic real
 4 quick. Hold on, Carolyn.
 5 **QUESTIONS BY**
 6 **MR. HAYES:**
 7 Q. Do you think this information would be
 8 something that the road commissioners ought to
 9 consider within your presentation tonight?
 10 **A. I think they are considering it.**
 11 Q. Have you discussed any of this material
 12 with any of the road commissioners?
 13 **A. I have.**
 14 Q. Are any of those road commissioners here
 15 tonight?
 16 **A. I'm not sure.**
 17 Q. Would you mind just taking a quick look
 18 around, see if you see anybody?
 19 **A. I'm not sure. You know, the ongoing**
 20 **negotiations between the townships, the county and**
 21 **Invenergy is a private matter. I'm not party to it.**
 22 **Like Mr. Blazer said, I'm not sure. I would hope**
 23 **they would be considering these issues.**
 24 Q. Well, are you aware whether or not they

Page 2754

1 have been advised not to listen to your presentation
 2 tonight?
 3 **A. No, I do not.**
 4 **MR. HAYES:** Thank you.
 5 **CHAIRMAN CORNALE:** Carolyn.
 6 **QUESTIONS BY**
 7 **MS. GERWIN:**
 8 Q. Hello, my name is Carolyn Gerwin. I have
 9 a couple quick questions. One is, just for the
 10 record, are you being compensated for your testimony
 11 tonight or for making a report?
 12 **A. No, I'm not. No, I'm not.**
 13 Q. Okay. And you didn't do it as part of
 14 your job or anything like that?
 15 **A. No, I've been retired for eight years.**
 16 Q. Okay. When there is a problem with
 17 drainage tile, is that recorded somewhere? Is there
 18 a database? How would you know? How would you look
 19 it up?
 20 **A. Not that I know of. You mean -- as far as**
 21 **it relates to a wind project you mean?**
 22 Q. Or any project.
 23 **A. No, there --**
 24 Q. I mean is there any record?

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1 **A. No, there is no record. No, none that I**
 2 **know of. I -- in my 20 years working with drainage,**
 3 **I know of no record that's being kept.**
 4 Q. So the drainage districts don't track
 5 that.
 6 **A. Well, a drainage district is a unit of**
 7 **government. They are operating under different laws**
 8 **and they're a unit of government, and I'm not**
 9 **familiar with their operation.**
 10 Q. Okay. How soon would problems be likely
 11 to show up from the time that there is a crushed
 12 tile in your experience, if you know?
 13 **A. You really don't know, because the damage**
 14 **could be minor, it could be severe. Repeated damage**
 15 **would speed up the process, multiple trucks. You**
 16 **know, it's -- that's the big unknown that causes**
 17 **concern.**
 18 Q. Well, I'm totally ignorant, so would it be
 19 more than six months, less than six months, more
 20 than a year? Just any ball park idea.
 21 **MR. BLAZER:** Mr. Chairman, the witness has
 22 already testified that he doesn't know.
 23 **MR. LUETKEHANS:** No, no, he didn't. Let's
 24 -- that's not what the testimony is. For once I

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1 wish Mr. Blazer would quit --
 2 **CHAIRMAN CORNALE:** Just let him answer,
 3 just let him answer the question.
 4 **A. Could you repeat that?**
 5 Q. The question is how soon would we know if
 6 a tile that is crushed -- let me back up, sorry.
 7 Do you have any experience, do you know
 8 how long it would take in a range, even a range or
 9 an average time?
 10 **A. Okay.**
 11 Q. Just a ball park.
 12 **A. I can answer that question. If you**
 13 **completely crush a tile and it's operating at full**
 14 **capacity, the damage is going to show up very soon,**
 15 **probably within hours, days, if it's running full.**
 16 **If it's dry, the damage isn't going to show up at**
 17 **all. And so from there on, the answer to your**
 18 **question is it would depend on too many variables.**
 19 **It could -- it could be many years, especially if**
 20 **we're looking at sedimentation.**
 21 Q. All right. Do you know whether ag
 22 insurance covers damage to tile?
 23 **A. The only ag insurance -- the only way I**
 24 **think that ag insurance would be -- that would cover**

1 that would be like a drainage contractor that would
 2 damage a tile or do an inadequate repair or
 3 something and that would fall under their liability
 4 insurance, but I don't think that there isn't any --
 5 there isn't anything that would fall under that
 6 category.
 7 Q. So a nonparticipant, even if they have
 8 regular insurance, would not be protected by that
 9 insurance.
 10 A. Not for tile damage, no.
 11 Q. Okay. Do you have any information on how
 12 often wind companies come in to do repairs and
 13 maintenance during the course of the operation of
 14 the wind farm?
 15 A. I don't have any firsthand knowledge on
 16 that. I just went by what Invenergy proposed in
 17 their decommissioning, that the life of the turbines
 18 was 20 years. There would be -- there would be a
 19 complete re-power, which would require bringing in
 20 all the equipment I guess, but other than that, the
 21 maintenance in between time, I'm not familiar with
 22 that. Obviously there's -- on other wind farms I
 23 see that going on.
 24 Q. Does the AIMA apply to residential

1 looking at different -- a different tile profile out
 2 there than we are today.
 3 Q. Okay. And I guess that's kind of where
 4 the question came from, that in one of your slides
 5 you had shown I think it was 3200 North Road East,
 6 it looked like it was a very highly tiled parcel,
 7 and I didn't know if that was a participating parcel
 8 or was that just an example of what it could be.
 9 A. I'm not sure which slide you're referring
 10 to there.
 11 Q. You had a slide in your presentation that
 12 showed a tile, a typical tile.
 13 A. Oh, the 70 acre one initially?
 14 Q. Yes.
 15 A. That was 40 foot tile spacing.
 16 Q. Okay. Is that actually an existing one?
 17 A. Yes, that was installed in 2013.
 18 Q. Is that one of the -- one of the pieces of
 19 property that is proposed to have a wind turbine on
 20 it?
 21 A. No, it's not.
 22 Q. Okay, I just wondered about that. Also,
 23 does tile naturally deteriorate? I mean it's not
 24 just where a wind farm is going to be or where

1 property?
 2 A. I think it's agricultural land.
 3 Q. Okay.
 4 MS. GERWIN: And that is all I have.
 5 Thank you.
 6 CHAIRMAN CORNALE: Anybody else in the
 7 audience with questions? Anybody else out there?
 8 Got one in the back. Oh, got a couple it looks
 9 like. Grab the mic over there and state your name
 10 for us real quick.
 11 MR. YEDNOCK: Lance Yednock.
 12 QUESTIONS BY
 13 MR. YEDNOCK:
 14 Q. I'm curious. Do all the farms have the 40
 15 foot tile? Are they all put in in 40 foot
 16 increments? Is there a lot that might have almost
 17 no tile in it or a hundred foot apart?
 18 A. I think you'll find that -- the whole
 19 range of spectrum, although in this area where the
 20 wind farm footprint is, this is fairly flat, there's
 21 a lot more tile in that than other parts of the
 22 county, and the trend is to go to 40 foot tile
 23 spacing in the future. That was my testimony that
 24 when decommissioning comes, we're going to be

1 equipment might go over it. It can happen
 2 naturally, right? I mean there's a lot of tile
 3 companies that go out and just fix tile all the
 4 time.
 5 A. Absolutely, and my -- I guess my
 6 discussion on that was is that we're not talking
 7 about typical ag operations. We're talking about a
 8 special use permit that's allowing other heavy
 9 equipment in here. Obviously if it wasn't a
 10 concern, the county board wouldn't require the
 11 township roads and stuff to enter into these special
 12 use permits, because they know there's going to be
 13 damage.
 14 Q. Okay, and I guess it's still towards your
 15 testimony, but just for instance and I think for
 16 information, I don't know what the pounds per square
 17 inch is on, you know, a loaded grain truck or a
 18 combine. Just like a 16,000 crane, which is one of
 19 the ones that some of our, you know, guys that are
 20 in my trade operate, I believe it's like 25 pounds
 21 per square inch is what it ends up being. That's
 22 almost a million pound crane, so it's spread out
 23 pretty evenly.
 24 And being I was on a few wind projects, we

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1 really didn't have a lot of tiles that were damaged
 2 and that, and we did have crews out there right away
 3 to go on with the farmer when we were going through
 4 his field, and he would say put a stake in it, and
 5 if there was a wet spot that came a few days later,
 6 you know, it would get fixed by a local tile
 7 company. So I mean --
 8 **MR. LUETKEHANS:** Objection, move to
 9 strike. If you're going to have a question, let's
 10 have a question.
 11 **CHAIRMAN CORNALE:** Yeah, can we avoid the
 12 testimony and --
 13 **MR. YEDNOCK:** Okay, I was commenting on
 14 the weight of the machines and --
 15 **CHAIRMAN CORNALE:** Sure, but question
 16 form.
 17 **MR. BOOMGARDEN:** Can I respond to that?
 18 **CHAIRMAN CORNALE:** We're not actually
 19 allowing any of that.
 20 **MR. BOOMGARDEN:** Okay.
 21 **CHAIRMAN CORNALE:** So no.
 22 **MR. YEDNOCK:** Okay, sorry about that.
 23 **CHAIRMAN CORNALE:** Question? Do you have
 24 a question?

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1 **MR. YEDNOCK:** Sure.
 2 **BY MR. YEDNOCK:**
 3 Q. And then the damage to a nonparticipating,
 4 nonparticipating farm, would that be -- would the
 5 damage be just the possibility of a backup of a tile
 6 downstream that was crushed or do you -- are you
 7 saying that tile upstream might actually explode or
 8 something based on a wind turbine going downstream?
 9 **A. No, no. What I was talking about was a**
 10 **real-life situation would be is once the tile is**
 11 **damaged on a participating farm that's providing an**
 12 **outlet for an upstream landowner, especially if that**
 13 **was draining a basin, a pothole full of water, you**
 14 **know, you have about two days to get all of that**
 15 **water out of there. It's surface water. That's**
 16 **where the real damage comes in. It can be a fairly**
 17 **large acreage and it can happen very quickly.**
 18 Q. Okay, thanks for your clarification.
 19 **MR. YEDNOCK:** Nothing more for me.
 20 **CHAIRMAN CORNALE:** Thank you. I believe
 21 we had another -- yes, you had some questions?
 22 Please state your name for us.
 23 **MS. SEVERSON:** Amber Severson.
 24 **QUESTIONS BY**

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1 **MS. SEVERSON:**
 2 Q. I have a question pertaining to your slide
 3 where you showed the different sizes of drainage
 4 tile. I believe it was, if my memory serves me
 5 correctly, a 10-inch, 12-inch, 15-inch and 36-inch
 6 tile?
 7 **MR. LUETKEHANS:** Here (handing document.)
 8 Q. Okay, my memory served me correct. Okay.
 9 I was in -- as someone who doesn't know about tile
 10 depth, it was interesting to me that the surface of
 11 the tile is at a three foot depth, so underneath --
 12 so underneath the top of the soil, and that
 13 Invenergy said that they were going to be one foot
 14 away from tile. I found that interesting that you
 15 said that a five foot depth, they would go right
 16 through the 36-tile, so they wouldn't be one foot
 17 underneath it or above it.
 18 And I think in the actual agreement or the
 19 application they put in, they said that they're only
 20 going to -- the application says they're going to
 21 put it in at a four foot depth, but they're having
 22 continued negotiations and said they're going to put
 23 it in at a five foot depth.
 24 So technically to go -- to be in that one

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1 foot range, they would have to put -- they would
 2 have to put their cables at seven and a half feet to
 3 be underneath that 36-inch tile, right?
 4 **A. Well, that's correct, and that's one of**
 5 **the concerns I think that the drainage districts**
 6 **expressed, and the one that I expressed here is that**
 7 **there's -- if you're going -- if you're a**
 8 **nonparticipant and you're having to get a mutual aid**
 9 **tile through a participant and you're paying for**
 10 **that tile and there's 147 miles of this cable strung**
 11 **all over this wind farm and it's at a five foot**
 12 **level, who's going to pay to move this cable?**
 13 **There's no -- there's no document that shows what**
 14 **Invenergy's going to cost -- or charge you to move**
 15 **that cable, if it can be moved, or if you're just**
 16 **going to have to do without a drainage outlet**
 17 **altogether. And of course drainage law provides you**
 18 **to have that drainage and force the issue, but I**
 19 **don't know at what cost and I don't know the**
 20 **procedure. These are things that need to be**
 21 **discussed and addressed.**
 22 **MS. SEVERSON:** Okay, thank you.
 23 **CHAIRMAN CORNALE:** Any other questions
 24 from the audience? Got a question back there.

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1 QUESTIONS BY
 2 **MR. METZ:**
 3 Q. Hi, Mr. Boomgarden. Roger Metz. You
 4 mentioned and referred to the decommissioning set
 5 aside of about a million dollars and my question --
 6 I just lost it. My question is that in reference to
 7 that, is that indexed for inflation or is that a
 8 fixed amount? And in your estimation, would costs
 9 be greater in 35 years or less?
 10 **A. I believe that from what I've read that**
 11 **this will be indexed for three years.**
 12 Q. So it will accommodate.
 13 **A. It will go up. The only problem is is**
 14 **that if you have zero in the decommissioning fund**
 15 **for tile damage or crop damage, you index zero and**
 16 **you get zero.**
 17 **CHAIRMAN CORNALE:** Any other questions
 18 from the audience?
 19 QUESTIONS BY
 20 **MR. MILLER:**
 21 Q. I'm Rick Miller from Wing. We've been
 22 talking about tile repair. Okay, you know, we've
 23 been talking a lot about tile repair as if it was
 24 automatic. Is it all that easy to correctly repair

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1 a tile?
 2 **A. Well, as I testified, that the**
 3 **agricultural mitigation impact agreement has some**
 4 **pretty good standards in there for repairing tile**
 5 **that has been cut or severed, there's provisions for**
 6 **bridging across with channel iron and stuff, and if**
 7 **that is done correctly and -- it can be a very**
 8 **efficient way of doing it. My concern is that all**
 9 **the crushed tile, none of it is being looked at, and**
 10 **especially during decommissioning there's no --**
 11 **there's not even a plan in there for anything for**
 12 **tile repair or crop damage, and so those are amounts**
 13 **that -- and issues that need to be addressed.**
 14 Q. Is it possible to tell how far back the
 15 tile has been damaged? If a tile is quartered,
 16 maybe the next one is quartered, the next one?
 17 **A. Well, you know, without digging up and**
 18 **looking at it, you're not going to know. I mean**
 19 **that's basically the bottom line. And, you know,**
 20 **when you're, when you're -- in the future, when**
 21 **you're talking about decommissioning or coming in to**
 22 **re-power and somebody in the last 20 years since the**
 23 **wind farm has been constructed has put in these 40**
 24 **foot tile spaces, you're going to be going over a**

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1 **tile every 40 feet.**
 2 **MR. MILLER:** Thank you.
 3 **CHAIRMAN CORNALE:** Any other questions
 4 from the audience?
 5 QUESTIONS BY
 6 **MR. CAVAZOS:**
 7 Q. Ambiro Cavazos. I just had two questions.
 8 There was a Local 150 operator had testified about
 9 helping a farmer I think he said up to six weeks
 10 trying to help make him happy I think he said. I
 11 think one of those things was fixing tile. I don't
 12 know -- I don't know if you know, but are Local 150
 13 operators certified to fix tile?
 14 **A. I'm not sure. No, I don't know. I**
 15 **think -- I think some of the agreements are looking**
 16 **at trying to have local tile contractors do the**
 17 **repair and -- but I don't know where that, I don't**
 18 **know where that negotiation is at.**
 19 Q. Okay. I think he said up to six weeks
 20 trying to make him happy, one farmer. And that road
 21 commissioner that you quoted up north, I can't
 22 remember where he's from, I think he also testified
 23 that they dug up a tile where he was having
 24 problems. And they fixed it, but they fixed it with

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1 I think he said a six foot piece of white PVC?
 2 **A. Yes, I remember that.**
 3 Q. In your opinion, is that a proper way to
 4 fix tile? Or white PVC, I guess I only know that to
 5 be used for household drainage.
 6 **A. Yes, I think probably the material was the**
 7 **wrong material, and probably a bigger issue was that**
 8 **it didn't have an adequate connection, and so the**
 9 **connection probably was separated because it wasn't**
 10 **like material. I don't know that, but that would be**
 11 **my -- if I was going to speculate.**
 12 **MR. CAVAZOS:** Okay, that was all. Thank
 13 you.
 14 **CHAIRMAN CORNALE:** Any other questions
 15 from the audience?
 16 QUESTIONS BY
 17 **MR. KRAMER:**
 18 Q. Hello, my name is Jerry Kramer. I want to
 19 know if all this 40 foot spacing and all this excess
 20 tiling, will it cause elevated river levels and
 21 flooding for people further downstream, you know, in
 22 the future? Will this cause other people problems
 23 by this excess tile and the farmers benefitting by,
 24 you know, increased yields and things like that?

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1 Aren't they affecting others?
 2 **A. That would be beyond my expertise to**
 3 **answer.**
 4 Q. And mine too, but it's a good question.
 5 That's one thing I have. Also, I was wondering,
 6 prior to all the farm ground being tiled, wasn't
 7 there wildlife living in these swamps and these
 8 wetlands, and we're all worried about constructing
 9 wind towers due to we're going to harm the wildlife,
 10 and I mean you guys started to tile everything
 11 taking care of, you know, the wildlife itself.
 12 **CHAIRMAN CORNALE:** What's the question?
 13 Q. And my question is by draining the farm
 14 ground, did that affect the wildlife that used to
 15 exist there?
 16 **A. Well, if you're talking about what existed**
 17 **in the 1850s, I'm sure it did.**
 18 Q. Sure. So when did the problem start, you
 19 know, now that we're installing these wind farms or
 20 when we started to drain the ground to begin with?
 21 You know, so it's kind of a double-edged sword, you
 22 know, what we're all talking about. Would you
 23 agree?
 24 **A. I didn't know what the question was, I'm**

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1 **sorry?**
 2 Q. My question is draining the farm ground,
 3 you know, in the early days, did that affect
 4 wildlife?
 5 **A. I think I testified that it did.**
 6 Q. There you go. So like I say, we can look
 7 at this from two different sides.
 8 **MR. KRAMER:** Thank you.
 9 **CHAIRMAN CORNALE:** Anybody else with
 10 questions. Questions anybody else? Do we have
 11 anything? County staff, do you have anything? All
 12 right. All right, Mr. Boomgarden, I appreciate you
 13 coming and speaking with us.
 14 **MR. BOOMGARDEN:** Thank you.
 15 **CHAIRMAN CORNALE:** All right. All right,
 16 we're meeting again the 16th, 18th, 25th, 6:30 here.
 17 I'm going to go through about ten names. Certainly
 18 if you're one of these ten, be prepared to go on the
 19 16th. Linda Ambrose, Jerome Kurtenbach, Duane
 20 Schider -- Duane Schneider, Rick Miller, Rebecca
 21 Fehr, Julie Fosdick, Suzanne Bell, Karen Branz,
 22 Larry Fosdick, Roger Brown, Carol Waibel, Julie
 23 Newhouse, Robert Lenz. And David Boomgarden we just
 24 had. So those are the first order that we're going

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1 to take on the 16th.
 2 So with that, I need a motion to recess.
 3 Vitzthum motions; Huisman seconds. All in favor.
 4 **ALL MEMBERS:** Aye.
 5 **CHAIRMAN CORNALE:** Opposed?
 6 (Adjourned at 9:47 p.m.)
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1 STATE OF ILLINOIS)
 2 COUNTY OF FORD)SS
 3)
 4 I, June Haeme, a Notary Public in and for
 5 the County of Ford, State of Illinois, do hereby
 6 certify that the following Livingston County Zoning
 7 Board of Appeals Case SU-7-14 hearing was taken at
 8 the Walton Centre, 100 West Locust Street, Fairbury,
 9 Illinois, on March 10, 2015.
 10 That the said testimony was taken down in
 11 stenograph notes and afterwards reduced to
 12 typewriting under my instruction and that the
 13 transcript is a true record of the testimony given.
 14 I do further certify that I am a
 15 disinterested person in this cause of action; that I
 16 am not a relative, or otherwise interested in the
 17 event of this action, and am not in the employ of
 18 the attorneys for either party.
 19 IN WITNESS WHEREOF, I have hereunto set my
 20 hand and affixed my notarial seal this 23rd day of
 21 March, 2015.
 22
 23
 24

JUNE HAEME, CSR
 NOTARY PUBLIC

"OFFICIAL SEAL"
 June Haeme
 Notary Public, State of Illinois
 My Commission Expires:
 September 27, 2016

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