

PERMIT APPLICATION FOR HERITAGE PRAIRIE WIND

JUNE 16, 2024

APPEARANCES: MR. SETH UPHOFF
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On behalf of the Applicant

MR. TOM DLUSKI
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On behalf of the Zoning Board of Appeals

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Attorneys at Law
On behalf of Livingston County

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1 MS. HUISMAN: Good evening. Welcome to
2 the Livingston County Zoning Board of Appeals hearing
3 for the Heritage Prairie Wind Project. We'll call the
4 meeting to order and we'll start with the role call.

5 MS. MILLER: Scott. Flott.

6 MR. FLOTT: Here.

7 MS. MILLER: Kiefer.

8 MR. KIEFER: Here.

9 MS. MILLER: Runyan. Randolph.

10 MR. RANDOLPH: Here.

11 MS. MILLER: Turner. Huisman.

12 MS. HUISMAN: Here. Okay. Before we
13 address our agenda, the agenda lists the variance case
14 first and the special use case second. We are going
15 to take those out of order due to the Applicant not
16 having a witness here. So with that can I get motion
17 to approve the agenda.

18 MR. RANDOLPH: Motion to approve.

19 MR. KIEFER: I'll second.

20 MS. HUISMAN: Second. Any discussion?

21 MR. RANDOLPH: Call for question.

22 MS. MILLER: Flott.

23 MR. FLOTT: Yes.

24 MS. MILLER: Kiefer.

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MR. KIEFER: Yes.

MS. MILLER: Randolph.

MR. RANDOLPH: Yes.

MS. MILLER: Huisman.

MS. HUISMAN: Yes. Okay. We'll begin tonight's meeting with the pledge allegiance. I believe the flag is to my back.

(Whereupon, the pledge of allegiance was held.)

MS. HUISMAN: All right. Welcome to today's meeting. My name is Joan Huisman. I'm the Chair of the Livingston County Zoning Board of Appeals. Tonight is the first night of what likely will be several evenings of the public hearing regarding case numbers SU-5-24, an application for a special use permit, MV-3-24 an application for variance by Illinois Generation, LLC, the construction and operation of a commercial wind energy facility, located in portions of the Townships of Broughton, Dwight and Round Grove.

With that I'm going to turn it over to Scott Kains our hearing facilitator.

MR. KAINS: Very good. Thank you, Madam Chair. Good evening, folks. My name is Scott Kains

1 and I'm the hearing facilitator for this public
2 hearing. I work around the State doing public
3 hearings in counties just like yours. I've been a
4 licensed attorney for more than 32 years and have --
5 one of my areas of concentration in my law practice in
6 Springfield is zoning and government.

7 The special use application that has been
8 filed by Heritage Prairie Wind requests the
9 construction and operation of a wind farm consisting
10 of a maximum of 71 wind turbines, a substation, an
11 operation and maintenance center, ADLS and
12 metrological towers, a temporary construction laydown
13 area, below and above ground electric lines and
14 because the variant in application is requesting a
15 variance from the methodology from the shadow flicker
16 study required by the Livingston County Ordinance.

17 The Applicant has paid the application fee as
18 required by the County Ordinance and notice of this
19 public hearing has been published and mailed in
20 accordance with applicable law.

21 For the record this public hearing is taking
22 place at Livingston County Historical Courthouse
23 located at 112 West Madison Street, Pontiac, Illinois.
24 The purpose of this hearing is for the Livingston

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1 County Zoning Board of Appeals to hear evidence, make
2 findings of facts and then make a recommendation on
3 the proposed project to the Livingston County Board
4 which will have the final say on the special use
5 permit.

6 As to the variance request the Zoning Board
7 will hear evidence and make a final determination.

8 The applications for special use and variance
9 are available on the Livingston County Zoning Office
10 website.

11 This hearing is currently scheduled to occur
12 tonight and tomorrow night at the same location and
13 time. If additional hearing nights are necessary we
14 will schedule those nights and announce the hearing
15 dates at the close of tomorrow night's session of this
16 public hearing.

17 As far as the procedure for this public
18 hearing, first, all witnesses, including those of the
19 Applicant and any other interested parties wishing to
20 address the Zoning Board of Appeals shall be sworn,
21 all witnesses shall testify under oath. The Applicant
22 first will present testimony and evidence, each of the
23 Applicant's witnesses shall remain present for
24 questioning by the Zoning Board of Appeals or other

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1 interested parties until such time as the witness is
2 excused by myself or the Chairperson of this Board.
3 Members of the ZBA shall have the opportunity to cross
4 any Applicant's witnesses providing testimony. ZBA
5 members may at the discretion of myself or the
6 Chairperson may ask questions at any time during the
7 hearing. Now, other interested parties, members of
8 the public will have the opportunity to question the
9 Applicant's witnesses and evidence. Interested
10 parties wishing to address the ZBA shall identify
11 themselves by name and address on the record at this
12 hearing. Interested parties shall be invited to
13 address the ZBA in the following order: First,
14 members of units of local government, including school
15 districts, then interested parties represented by
16 licensed attorneys, then other interested parties in
17 the members of the public, and finally Livingston
18 County Staff and Consultants. After each interested
19 party has presented testimony and evidence, such
20 interested party may be questioned by members of the
21 ZBA, the Applicant's counsel and by the interested
22 parties, that is, persons in the general public. Then
23 there will be presentation of any county staff reports
24 or comments. Then there will be a closing statement

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1 by the Applicant. But during that closing statement
2 the Applicant shall not introduce new information in
3 the closing statement. Closing statement by
4 interested parties in the same order as listed in
5 section 7 as I just read. Interested parties must
6 have previously testified to be eligible to make a
7 closing statement. Interested parties shall not
8 introduce new information in the closing statement.
9 Then there will be an opportunity for a rebuttal
10 closing statement by the Applicant's attorney. Then
11 ZBA will close the evidence in the hearing to be
12 followed by the Zoning Board deliberations and vote on
13 the application and the variance petition as well.
14 The ZBA may in its discretion set a future meeting
15 made for deliberations and vote on the application.
16 The vote of the ZBA is not a final decision but it is
17 a recommendation of the Livingston County Board. The
18 ZBA shall transmit its findings and recommendations to
19 the County Board.

20 Now, briefly some guidelines for the conduct
21 of this hearing. These rules are supplementary to the
22 provisions of the Livingston County Code and
23 Ordinances Zoning Chapter in part regulates the siting
24 of wind energy conversion systems in Livingston

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1 County. These provisions shall govern procedures of
2 the public hearing before the Livingston County Zoning
3 Board of Appeals concerning wind energy conversion
4 systems. The Chair and the ZBA may modify procedures
5 in their reasonable discretion.

6 A court reporter will be present at every
7 hearing and voting meeting in order to provide a
8 transcript of the proceedings. Transcripts will be
9 prepared by the court reporter and sent to the ZBA.
10 Costs for all transcripts of hearings or voting
11 meeting before the ZBA shall be born by the Applicant
12 and the cost of the transcript shall be paid directly
13 to the court reporting service.

14 This hearing shall occur on the dates and
15 times set forth in the published notice. All
16 necessary additional hearing dates shall be scheduled
17 at the discretion of the ZBA. The Chairperson or
18 myself shall preside at the public hearings of the
19 ZBA. The Chair shall have the authority to control
20 the hearing proceedings and may set time limits,
21 schedule the appearance of witnesses and require their
22 appearance on dates set forth in the scheduling order,
23 restrict witnesses from testifying for failure to
24 appear on dates scheduled for that witness's

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1 testimony. We may adopt reasonable limits on the
2 questioning by the Applicant and interested parties
3 and we may take other actions deemed reasonably
4 necessary by the Chair or myself in order to conduct
5 the hearing in an orderly, efficient and professional
6 manner.

7 The hearing before this Zoning Board of
8 Appeals shall not be governed by and the ZBA shall not
9 be bound by these strict rules of evidence. The ZBA
10 may exclude irrelevant material and unduly repetitious
11 testimony and any other testimony or evidence that in
12 the discretion of the hearing facilitator or Chairman
13 and the ZBA is not pertinent to the proceedings. At
14 the discretion of the Chair or myself the ZBA members
15 shall be permitted to question witnesses at any time
16 during the hearing and ZBA members may request that
17 additional information or evidence be presented to
18 them during the hearing. And it is important to note
19 that public hearings may be held by less than a quorum
20 of the ZBA.

21 All right. Folks, just so we know who's who
22 I introduced myself. Ms. Huisman is Chairperson of
23 this Zoning Board has introduced herself. We have
24 Mr. Dave Randolph on the far, it would be your right

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1 side to my left. Then Mr. Keifer, Mr. Richard Kiefer
2 is here. Next to Ms. Huisman is Attorney Tom Dluski.
3 Mr. Dluski is counsel for the Zoning Board of Appeals
4 and will be assisting the ZBA with the preparation of
5 findings of facts and other information pertinent to
6 their vote at the conclusion of the hearing.

7 Mr. Dluski is an attorney in Peoria, Illinois. And
8 then on the far right hand is Bill Flott another
9 member of the Zoning Board of Appeals. Mr. Andy Keyt
10 is an attorney, he is here seated to my left your
11 right down in front. He is the attorney retained by
12 the Livingston County Board. So we have two
13 governmental entities, the Zoning Board of Appeals,
14 their attorney is Mr. Dluski. The County Board is
15 represented by Mr. Keyt. And then at this table is a
16 gentleman who represents the Applicant Heritage
17 Prairie Wind Mr. Seth Uphoff and he is an attorney
18 practicing in Peoria as well.

19 All right. With that said, Mr. Uphoff, you
20 may if you wish present an opening statement to
21 members of the Zoning Board of Appeals. Oh, okay.

22 Ms. Miller, do you have an overview prepared
23 of this project?

24 MS. MILLER: I do.

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1 MR. KAINS: Okay. Very good. You may
2 go right ahead.

3 MS. MILLER: The two Livingston County
4 cases on the agenda this evening are case SU-5-24 and
5 case V-3-24. Livingston County Zoning case SU-5-24
6 pertains to a request by the Illinois Generation, LLC,
7 also known as Heritage Prairie Wind for the approval
8 of a special use permit for a commercial wind energy
9 facility to be located in Broughton, Dwight and Round
10 Grove Townships.

11 Livingston County Zoning case V-3-24 is a
12 variance request from the same applicant for a
13 variance from Section 56-619(e) as to the methodology
14 used of shadow flicker for the proposed wind farm.

15 Finding of information regarding this
16 application has been made available to the Zoning
17 Board of Appeals members.

18 The Livingston County Commission reviewed
19 case SU-5-24 on May 29th, 2024, pertaining to special
20 use case in relation to the Livingston County
21 Comprehensive Plan. The Livingston County Planning
22 Commission has recommended the approval of a special
23 use.

24 A legal notice pertaining to this Livingston

1 County Zoning Board of Appeals public hearing was
2 published on May 22nd, 2024. Property owners in the
3 area of the zoning cases have been properly notified
4 of this public hearing.

5 The Applicant has paid the requisite fees.
6 Representatives of these applicants are present and
7 are prepared to present information regarding these
8 two zoning cases.

9 MR. KAINS: Thank you, Ms. Miller. All
10 right. Time for opening statement. You're up,
11 Mr. Uphoff.

12 MR. UPHOFF: Thank you. First of all,
13 to begin, my name's Seth Uphoff. I'm here with a team
14 from Illinois Generation, LLC which is developing the
15 Heritage Prairie Renewable Project which is a
16 multipart project, and part of that project is the
17 Heritage Prairie Wind Project which we're here for on
18 the application tonight. So I'm here working with
19 that team to present to you that information. We have
20 members of the team here tonight who will be
21 supporting as we go along. We also have landowners
22 here and other supporters in the room in support of
23 the overall project.

24 As we go through this we're going to try as

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1 always to be as efficient as we can but ask you to
2 understand that this is our one opportunity to present
3 all the evidence we have on this application. We want
4 to give to you as much information as we can so that
5 you can make an informed decision when making the
6 recommendation to the County Board and also as you
7 know, the County Board relies upon this testimony and
8 the evidence presented here to make their decision so
9 we have to be as complete as we can, but we will
10 attempt to be as complete and efficient as possible as
11 we go through this.

12 Tonight we will have four witnesses, we hope.
13 The first is Graeme Agate, then Allen Wynn, Jia Ye and
14 Jeffrey Nemeth. We'll give you all their information
15 as they come up here, but these individuals will
16 provide you testimony about the general project and
17 the overview, site plans, setbacks, construction,
18 decommissioning, those types of things, and then our
19 next section we'll have additional witnesses. We'll
20 talk about various topics including sound, shadow
21 flicker, economic impact, things like that.

22 We've given to you binders that have the
23 information related to tonight's testimony. So we'll
24 go in order of the binders that you have there. So

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1 for each tab you see you have a table of contents and
2 you've got a tab that's our presentation that you'll
3 see on the screen as well as you'll have that in
4 written format there. In addition, on the inside
5 pocket of the binder there are also a couple of
6 inserts. We'll be utilizing those inserts as we go
7 through the setback maps when we cover that
8 information. So I just wanted to lay that out for you
9 as we begin tonight.

10 Again, our goal here is to provide you with
11 the evidence to make your decision. We believe that
12 after we've presented all of our witnesses we'll
13 present you with sufficient information demonstrated
14 in compliance with the ordinance and all of the
15 requirements both ordinance and state law and we
16 believe that the project in meeting those requirements
17 will also bring substantial economic benefits to
18 Livingston County.

19 So we believe at the end of this when you
20 view all of the evidence in the light that you view it
21 in in consideration that you make that you should find
22 that this is a project that deserves recommendation
23 for approval to the County Board and that's what we'll
24 be asking you to recommend at the end of this.

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1 So with that we'll call our first witness and
2 that's Graeme Agate.

3 MR. KAINS: Good evening, Mr. Agate.
4 Could you please raise your right hand to be sworn.

5 G R A E M E A G A T E,
6 was called as a witness on behalf of the Applicant
7 and, having been first duly sworn, testified as
8 follows:

9 MR. KAINS: Very good. Sir, could you
10 please state your first and last name spelling each of
11 them.

12 THE WITNESS: Graeme Agate, G-R-A-E-M-E,
13 last name Agate, A-G-A-T-E.

14 MR. KAINS: All right. Mr. Uphoff, your
15 witness.

16 **DIRECT EXAMINATION,**
17 **QUESTIONS BY MR. SETH UPHOFF:**

18 Q. Mr. Agate, would you please introduce
19 yourself.

20 A. Sure. So my name is Graeme Agate I'm a
21 Director of Business Development at Pattern Energy
22 Group and the project today we're here to discuss this
23 evening is the Heritage Prairie Wind Project which is
24 being developed by Illinois Generation, LLC, and

1 Illinois Generation, LLC is a joint venture in two
2 different development companies that have come
3 together to jointly develop this project. So that the
4 company that I work for is Pattern Energy Group LP.
5 We've come together with ConnectGen which was recently
6 acquired by Repsol Renewables North America and these
7 two companies have come together to co-develop this
8 project, and what you have with this joint venture
9 group is one of the nation's leading renewable energy
10 buffers coming together and what that means is we have
11 a strong team of professionals that have the ability
12 to execute our project, we have a successful track
13 record of bringing projects through development into
14 construction and into operations. So this is
15 something we've done before and have the ability to
16 follow through on our commitments.

17 So a bit about the development process.
18 We'll start by identifying the location that will be
19 suitable to build a wind farm.

20 Desktop feasibility analysis to confirm if,
21 in fact, that location is viable to build a project
22 and operate a project. We're looking at things like
23 the general wind speeds in the region, we're looking
24 at the local transmission grids, we understand the

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1 transmission capacity that may be available, we're
2 looking at various constraints such as environmental
3 constraints, real estate constraints, as well as
4 opportunity, opportunities to sell the power into the
5 market ultimately. So we're looking at all these high
6 level aspects of a project and then we're making a
7 determination as to whether that project is actually
8 vital. Once we've made that determination we'll move
9 into the actual on-site development phase of the
10 project and that's really focused on a few main
11 activities but primarily land acquisition. So we're
12 active in the community and working with landowners to
13 establish the real estate rights to ultimately build
14 and operate the facility. We're also starting an
15 interconnection process at this point, so that's a
16 multi-year, multi-study process. So we're submitting
17 our application at that point and going through that
18 process. So we're also starting on-site due
19 diligence, so building off feasibility studies that we
20 started with. We're continuing to expand upon that
21 with environmental studies, biological surveys, we're
22 putting up equipment to measure wind speed, the data
23 to get a good sense of how much energy the project can
24 produce and then we're taking all that information and

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1 inclusive of the land that establish the right to the
2 use as part of the project and from there we started
3 working on a site design. So during the site design
4 process we're really focused on a few different
5 things. We're trying to optimize the energy
6 production from the facility, we're also trying to
7 minimize the costs of the facility, so we're balancing
8 energy production relative to cost and then,
9 furthermore, we're also working our landowners to
10 ensure that the proposed design fits within the
11 current operations, the farming operations on the
12 land. So we're taking feedback from our landowners,
13 incorporating that into the design for the facility
14 and we're integrating through that process to get to a
15 final design. Once we have the design we can submit
16 our permit application and we can prepare that
17 application and submit it to the county and you'll go
18 through the permitting process at the county level.
19 Once we get through the permitting process then we're
20 moving into construction and ultimately into
21 operations which we plan to operate these facilities
22 from 30 to 40 years.

23 Q. And so, Graeme, you've mentioned that
24 the general process that you go through in relation to

1 the site specific process, tell us just briefly about
2 the timeline that led us to where we are tonight.

3 A. Sure. So we started with the
4 feasibility study quite a while ago, we confirmed that
5 the project is, in fact, viable, we started with the
6 on-site development activity back in 2017, so we've
7 been developing this project active in the community
8 working with landowners for over 7 years at this
9 point.

10 Q. And have you acquired all the land
11 necessary to move forward with the project?

12 A. We have. We have in 2023 we completed
13 real estate activity, so we've secured all the rights
14 that are necessary to own, build and operate the
15 project.

16 Q. And you were referencing before the
17 interconnection process, have you established the
18 interconnection at this point?

19 A. Correct, we have. So we secured the
20 rights to interconnect our project to the grid, a huge
21 milestone relating to the project. We went through
22 the multi-study process to confirm that we can safely,
23 reliably and economically interconnect our project to
24 the grid. So those rights have been secured and that

1 will allow us to move to construction quickly after
2 being through the permitting process.

3 Q. And obviously the permitting is where we
4 are now. In order to get the permit process started
5 an application was filed with the county, correct?

6 A. That's correct. We filed the
7 application in February of 2024.

8 Q. And then there was an addendum that was
9 then filed in March or a little later; is that
10 correct?

11 A. Correct.

12 Q. All right. Now, in relation to that
13 application were you involved in the drafting and
14 compiling of that extensive application?

15 A. I was, yes.

16 Q. And also the addendum that was later
17 filed?

18 A. Yes.

19 Q. And so would it be fair to say that
20 you're familiar with the content that's contained in
21 the documents?

22 A. Correct.

23 Q. And have you reviewed that content to
24 prepare for the testimony that you're going to give

1 this evening?

2 A. I have, yes.

3 Q. All right. And as far as you know both
4 you and other witnesses that are going to be
5 testifying from the team are relying in large part
6 upon the materials that are supplied with the
7 application?

8 A. Yes.

9 Q. And will they likely be referencing
10 those with the application materials throughout their
11 testimony?

12 A. Yes, they will.

13 MR. UPHOFF: At this point in time then
14 I would ask that the application and addendum that
15 were filed with Livingston County be admitted into
16 evidence so that they can be referenced as we go
17 through the testimony.

18 MR. KAINS: Mr. Dluski, on behalf of the
19 Zoning Board of Appeals do you have any objection to
20 the application coming in?

21 MR. DLUSKI: No objection.

22 MR. KAINS: Mr. Keyt, on behalf of
23 Livingston County Board do you have any objection?

24 MR. KEYT: No objection.

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1 MR. KAINS: Madam Chair.

2 MS. HUISMAN: No objection as long as we
3 address everything that's in these binders because we
4 were just provided them tonight, so that's just my
5 standard rule. We don't look at it then I won't
6 accept it.

7 MR. UPHOFF: So just to clarify, I'm
8 referencing not the binders that were handed out
9 tonight but the application.

10 MS. HUISMAN: So that's separate, it's
11 not included in any of this?

12 MR. UPHOFF: Correct.

13 MS. HUISMAN: Okay. I haven't seen it
14 so I'll defer to everyone else and so no objection.

15 MR. KAINS: Mr. Uphoff, has the
16 application been -- it's been filed, that's why we're
17 here.

18 MR. UPHOFF: Correct. Yes.

19 MR. KAINS: Okay. All right. I just
20 wanted to make sure that this document that we're
21 referring to has been filed and it's been made
22 available; is that correct?

23 MR. UPHOFF: Yes. I understand it's
24 been publically available and it's been posted and

1 online as well for the public.

2 MR. KAINS: All right. Very good. All
3 right. The application -- are you marking it as group
4 exhibit --

5 MR. UPHOFF: Group Exhibit 1 and that
6 would include the application and the subsequent.

7 MR. KAINS: All right. It will be
8 admitted into evidence and to be considered by this
9 Zoning Board of Appeals and then to be transmitted to
10 the full Livingston County Board for its
11 consideration.

12 Go right ahead, Mr. Uphoff.

13 MR. UPHOFF: Thank you.

14 **QUESTIONS BY MR. UPHOFF:**

15 Q. So, Graeme, let's continue on then. The
16 application was filed and that's how we began moving
17 into the process, but tell us a little bit about the
18 overall project.

19 A. Sure. So at a high level the project
20 footprint is comprised of 135 participating parcels,
21 that represents over 12,000 acres of land in
22 Livingston County that we plan to lease as part of
23 this project. Importantly we only actually plan to
24 build the infrastructure on 238 acres of that total.

1 So vast majority of the land that will participate in
2 the project will actually be preserved for
3 agricultural uses and only a small fraction will be
4 used to house the infrastructure that we plan to
5 build. So you can see based on the generalized map
6 here and we'll get into more detail later and
7 testimony about the infrastructure and where it's
8 located and how that relates to the setbacks and
9 detailed in the ordinance, but as you can see from the
10 high level map here the project is located in the
11 townships of Dwight, Round Grove and Broughton
12 Townships. We're in close proximity to the Villages
13 of Dwight and Campus. So effectively both Dwight and
14 Campus have approved the project and have strong
15 support of the project and have signed letters of
16 support. The project extends east into Kankakee
17 County which is not represented on the map here but
18 there are an additional 66 turbines in Kankakee
19 County, it's within Kankakee County that will
20 interconnect to the electrical grid at our point of
21 interconnection under our interconnection service
22 agreement.

23 Q. And, Graeme, this type of information,
24 was this the type of general overview information that

1 was provided to the public when you were first getting
2 the word out there about this project?

3 A. That's correct.

4 Q. And did you have an open house on June 6
5 of 2023 to present this type of information to the
6 general public?

7 A. Yes, we did.

8 Q. And that was published and noticed and
9 people were able to show up to that event to learn
10 about the project; is that right?

11 A. Correct.

12 Q. And since that time you then had
13 additional follow up with landowners and had an
14 additional community meeting in April of this year,
15 2024, where you also had public information available
16 to the local -- not only local landowners but also
17 general public; is that right?

18 A. That's correct.

19 Q. So then let's talk a little bit about
20 some of the sites that you have marked on the project
21 overview.

22 A. Sure. So in terms of proposed
23 infrastructures, we've proposed 71 turbines in
24 Livingston County. You can see those in the black

1 dots on the map here. Also proposed is a project
2 substation, as well an operations and maintenance
3 building, here again represented on the map. Those
4 will be located -- as I mentioned there's an
5 additional portion of the project in Kankakee County
6 which is not, you know, represented here on the map.

7 Q. Now, Graeme, talking about some of those
8 turbines, you indicated there was 71 of them, are
9 those going to come from what are referred to as Tier
10 1 suppliers?

11 A. That's correct.

12 Q. And what generally is a Tier 1 supplier?

13 A. Sure. So a Tier 1 supplier is the best
14 in the class technology supplier, so these are folks
15 that manufacture the turbines and they are the most
16 prevalent in the industry and the most reliable in
17 technology that you can procure in the industry.

18 Q. And there's two models for the project
19 that you're looking at to utilize for these turbine
20 locations; is that correct?

21 A. That's correct.

22 Q. And whichever model you select will come
23 from one of those Tier 1 providers?

24 A. That's correct.

1 Q. And additionally then those are the
2 types of providers that you will need to market would
3 come along with a design certification that would
4 indicate by a third party that they've been
5 independently recognized and are certified; is that
6 correct?

7 A. That's correct.

8 Q. And so the intention of the Applicant is
9 to purchase only those types of certified materials
10 for this project; is that correct?

11 A. That is correct.

12 Q. And, in fact, that was submitted along
13 with the application for this project?

14 A. That's correct.

15 Q. Okay. So let's talk about the first of
16 those potential turbines that you're going to be
17 potentially utilizing. The Vestas Turbine. What can
18 you tell us about that.

19 A. So the first turbine that we're
20 considering for the project, again, we're deciding
21 between the two different turbine technology providers
22 and that's a very standard place to be at at this
23 point in the development as we move through the
24 permitting process and before construction we will

1 actually make a decision as to which turbine we will
2 select, but for the time being we're continuing to
3 negotiate terms and conditions with those providers.

4 So the first turbine that we're considering
5 is the Vestas V163-4.5MW turbine. So this turbine
6 built at the maximum height of right around 640 feet.
7 That's going to be comprised of the two components,
8 the hub height which is right around 370 feet and at
9 the blade length on top of that which is practically
10 265 feet. So each turbine would be capable of
11 generating a maximum 4.5 MW and would account for 71
12 turbines in Livingston County, that represents right
13 around 320 MW of capacity in Livingston County, that's
14 inclusive of the portion of the project in Kankakee
15 County, that's roughly 615 MW of total capacity for
16 the project.

17 Q. All right. And the next turbine.

18 A. The other turbine that we're considering
19 for the project is the GE 3.8 MW 154 turbine. So this
20 turbine's maximum height of 575 feet. Again, that's
21 comprised of the hub height which is approximately 320
22 feet and then the blade length on top of that which is
23 an additional 250 feet. So each turbine will be
24 capable of generating a maximum of 3.8 MW, that's

1 roughly 270 MW of capacity in Livingston County and
2 inclusive of the portion of the project in Kankakee,
3 so that's approximately 520 MW.

4 Q. And as relation to either one of the
5 models that you would choose when you're operating
6 those are those going to be operating that are setup
7 with reduced plan operating conditions that are
8 preplanned or constructed or electronically
9 programming that goes into how those operate every
10 day?

11 A. That's correct.

12 Q. And tell us a little bit about the types
13 of planned operating conditions that will be put in
14 place for these types of models.

15 A. Sure. So how that actually works, we
16 have an operations control center what we call the OCC
17 in Houston, Texas, and this is where we monitor and
18 manage the operating fleet across the country. So
19 Pattern has over 30 projects in operations that are
20 from 6 MW of remote power generation producing power
21 as we speak and so there's really a two-way
22 communication street between the OCC and the
23 facilities themselves where we're able to gather data
24 from the technology as its operating so we're looking

1 at things like realtime weather data on-site, the
2 performance of the turbines, there's sensors in the
3 turbines that relay information back to the OCC, their
4 operation staff can actually, you know, relay that
5 information back to the facilities that manage the
6 operations going that direction as well. So they're
7 analyzing data and doing things like shutting down the
8 turbine if a component has failed, they're starting
9 that turbine back up once the component has been
10 fixed. So they have the ability to manage the
11 operations remotely and implement things like
12 curtailment orders which are as Seth mentioned written
13 into the software packages for the turbines themselves
14 to automatically curtail, for example, at specific
15 times of the year for specific times of the day.

16 Q. And, Graeme, just describe very briefly
17 what is curtailment.

18 A. Sure. So curtailment is when you shut
19 down a turbine for a certain period of time.

20 Q. And what would be some examples of
21 reasons why you would curtail the operations of a
22 turbine.

23 A. So two obviously for things like bat
24 curtailment. So if migratory bats are coming through

1 and we're required to shut down the turbines that
2 would be a curtailment order that's written into
3 software packages of those turbines. Shadow flicker
4 would be another good example of that.

5 Q. Now, as you referenced shadow flicker,
6 in relation to the ordinance and the state law there's
7 a requirement that there's no more than 30 hours of
8 shadow flicker can be cast at a receptor location
9 unless of course there's an agreement with that
10 location otherwise, but it would be the intention of
11 the Applicant in this situation to comply with that 30
12 hour requirement; is that correct?

13 A. That's correct.

14 Q. So obviously there's the certification
15 of every generating power that's on the market and
16 provide an economic opportunity so what are some of
17 the economic impacts that may come from that.

18 A. Sure. So it's estimated that the total
19 facility will require 4.5 million dollars from capital
20 investment. A portion of the project in Livingston
21 County which is approximately 50 percent of the
22 project we're talking about an investment of over 750
23 million dollars and that investment of capital will go
24 towards building new infrastructure in Livingston

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1 County. That new infrastructure will really have two
2 main positive economic impacts here in Livingston
3 County. So we're talking about property tax revenue
4 as well as job creation. So property tax based on an
5 economic impact report that was performed for the
6 project and for Livingston County specifically was
7 estimated at close to 100 million dollars of tax
8 revenue will be generated by the project over the life
9 of the project in Livingston County specifically. It
10 was also estimated that close to 70 percent of that,
11 so close to 70 million dollars will go directly to
12 local schools. So if you are the parents of a child
13 that goes to school here in this community you will
14 see the direct economic benefit on this project.

15 Q. And specifically those schools for this
16 project would be Dwight, the Tri-Point School District
17 and Herscher; is that right?

18 A. That's correct.

19 Q. Okay.

20 A. The economic report that was performed
21 it was estimated that 168 new on-site construction
22 jobs would be created as a result of the project.
23 Important there we have established a really positive
24 relationship with the local unions and we've actually

1 signed an agreement that commits the project and
2 commits any contractors that utilize the project to
3 use local union labor. So, you know, we're going to
4 be putting folks in this community to work to build
5 this infrastructure. Then in terms of the long-term
6 operation and, again, based on the economic report it
7 was estimated that over 26 new long-term jobs would be
8 created in Livingston County. Importantly there, you
9 know, there is a need for our local workforce in
10 Livingston County. We're going to need folks to
11 operate and maintain this facility. So we actually
12 invested in a scholarship at Kankakee Community
13 College specifically geared towards workforce
14 development in renewable energy, so that was in
15 anticipation of when we actually get through
16 construction into operations we're going to need to
17 hire folks to operate and maintain this facility and
18 we want to hire those folks locally.

19 Q. And what additional community benefits
20 might you see from a project like this?

21 A. Sure. So the joint venture really takes
22 our community very seriously, you know, we come to
23 this with the recognition that we are essentially
24 outsiders in this community, we're essentially, you

1 know, guests in your home and so we approach community
2 engagements with a level of humility and respect that
3 we hope to bring to our engagements with the members
4 of this community. So there's a few things on the
5 screen here that we've tried to implement as a way to
6 create positive relationships with the community.
7 We've established community benefits agreements with
8 the Villages of Dwight and Campus. We've also been
9 very active in sponsoring events and organizations in
10 Livingston County with active members of the Dwight
11 Economic Alliance so, you know, that organization is
12 doing great work to promote economic development in
13 this community so we can help support them in those
14 efforts. And then with respect to our community
15 benefits plan is putting a long-term program in place
16 to set aside funds for the long-term operations of the
17 facility. We recommend that when construction starts
18 our impacts and our engagements with the community
19 doesn't stop at that point, it really continues for
20 the life of the project. So we're putting funds in
21 place to support local causes and organizations over
22 the life of the project, and I think what's most
23 compelling about that is that we're going to actually
24 create a government structure to put members of this

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1 community on a board to decide and administer those
2 funds over the life of the project. So that's -- I
3 think that's in the spirit of how we treat client
4 engagement and really hope to make positive impacts
5 through that.

6 Q. Graeme, there's also the economic
7 benefits for the landowners; is that correct?

8 A. That's correct.

9 Q. And additionally there's potential
10 for -- or it's generally referred to as good neighbor
11 agreements, there may be the need for use of some of
12 those as the project goes along; is that accurate?

13 A. That's correct.

14 Q. And those are agreements with neighbors
15 to deal with various types of issues and there's an
16 example of one of those potential agreements that was
17 included in the application; is that correct?

18 A. That's correct.

19 Q. So you've brought us to where we are
20 now. Where do things look going forward in terms of
21 time frame?

22 A. So we've obviously been through the
23 development process, we've walked you through -- we've
24 completed the site design, we've submitted our permit

1 application. The plan from here is to ultimately
2 start construction in the first half of 2025. That's
3 what we call notice to proceed and mobilization on the
4 timeline here. We'll go through construction
5 activities which will generally take somewhere between
6 18 to 24 months and the plan is to be in operation,
7 what we call commercial operation, date on the
8 timeline here and that's anticipated to happen at the
9 end of 2026 or early 2027, cause that's when we're
10 transmissioning from the construction into operations
11 and actually generating electricity from the project
12 and taking that onto the grid.

13 Q. Okay. Thank you.

14 MR. UPHOFF: Any questions for this
15 witness?

16 MR. KAINS: All right. Thank you,
17 Mr. Agate.

18 All right. The first questions for this
19 witness come from members of the Livingston County
20 Zoning Board of Appeals. Any questions?

21 MS. HUISMAN: Since this was an overview
22 are you going to have other witnesses that are going
23 to get more specific into these issues?

24 MR. UPHOFF: Yes.

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1 MS. HUISMAN: All right.

2 MR. KAINS: Anything else?

3 All right. Questions then for Mr. Agate from
4 members of units of local government, including school
5 districts?

6 Questions from interested parties represented
7 by licensed attorneys? Let's see a show of hands.
8 Any other licensed attorneys in the room? All right.
9 Seeing none. I'll skip that as we go through these
10 lists of questions for each witness.

11 All right. Then questions for this witness
12 from other interested parties, that is members of the
13 public? Any questions from members of the public?

14 Yes, sir. Could you please step forward.
15 And is there a microphone on this podium back yonder?
16 There is now.

17 Sir, if you could please step over to that
18 podium. All right. Sir, what is your name?

19 MR. KULASIK: Good evening. Tom Kulasik
20 and that's spelled K-U-L-A-S-I-K. I reside at 27575
21 East 3000 North Road in Dwight Township.

22 MR. KAINS: Okay. Mr. Kulasik, is it?

23 MR KULASIK: Yes, ma'am -- yes, sir.

24 MR. KAINS: Okay. Very good. You may

1 address questions to this witness about any of the
2 topics he covered in his -- and, again, this is an
3 overview.

4 MR. KULASIK: Okay. I understand that,
5 but first, notification of landowners and people
6 affected by it. Did not happen until I received this
7 approximately two weeks ago registered mail. So for
8 the May 29th meeting, no notification was given in
9 time.

10 As far as the gentleman said June of '23 he
11 went out to the community to talk to people that would
12 be affected by this, that was not true. And that
13 was -- in fact, I was never told.

14 Now, I'm going to have one of these within, I
15 don't know how many feet of my property, and the big
16 question is the shadow. What is that law or rule and
17 also what is this 30 hour agreement?

18 MR. KAINS: Okay. Those are two
19 questions. His first question is what is the law with
20 respect to the 30 hour rule; is that correct?

21 MR. KULASIK: Yeah. What does that
22 mean?

23 MR. KAINS: Okay. Mr. Agate, if you
24 know the answer you may answer the question.

1 THE WITNESS: I can't answer it in
2 general, I don't know the law by heart but I can tell
3 you that there's -- essentially a lot of the states
4 that we can only project shadow flicker on receptors
5 at certain number of hours per year so that's what the
6 law states and that's what we intend to comply with,
7 although we're requesting a variance as part of our
8 application which changes the methodology by which the
9 shadow flicker is actually measured.

10 MR. KAINS: Okay. Now, Mr. --

11 MR. KULASIK: Just say Tom, that would
12 be fine.

13 MR. KAINS: Okay. Tom, you had a second
14 part to your question for Mr. Agate.

15 MR. KULASIK: Well, okay, I'm not sure
16 exactly how far it is, I know you changed some of
17 these variances and the other questions are going to
18 be such as how are you going to deal with -- I know
19 this is with the wind turbines, the leakage that comes
20 out of the lubricants and what not, how is that going
21 to be dealt with as far as being spread through the
22 community and surrounding areas?

23 MR. KAINS: Okay. Do you have an answer
24 to that question, Mr. Agate?

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1 THE WITNESS: I do. So leaks are
2 actually very rare in turbines and if there is a leak,
3 as I mentioned before, we have sensors in the turbines
4 that will notify our operations control center if
5 anything like that happens so that on-site staff can
6 respond to those events immediately if and when they
7 happen. As I said, it's a very rare event so to make
8 its way all the way down a turbine.

9 MR. KULASIK: Okay. Cause I -- looking
10 at the ones that are already in the county, most of
11 them are heavily stained, they're leaking their grease
12 and oil and other at the top of those wind turbines
13 inside that cubical up there.

14 All those projections you gave with the
15 taxes, over what period of time do you anticipate that
16 kind of revenue in taxes being seen by the county and
17 other taxing boards and districts within the county?

18 THE WITNESS: So that's projected over
19 the life of the project which is over 30 years.

20 MR. KULASIK: Okay. So it's not going
21 to happen all at once? We can divide that out over 30
22 years?

23 THE WITNESS: Correct.

24 MR. KULASIK: And you also were talking

1 about local people, how many local people will be
2 working on this project? By local I mean people that
3 reside within the county. I know you mentioned you
4 got ahold of the unions, but are they using union
5 people that live within the county? Are they going to
6 put county people to work?

7 THE WITNESS: That's certainly our
8 intention. I can't speak to the exact number of folks
9 that will be employed but our intention is to hire
10 those locally.

11 MR. KULASIK: Is that going to be the
12 same for those 26 other jobs?

13 THE WITNESS: That's correct, that is
14 our intention.

15 MR. KULASIK: And when somebody has a
16 problem with these who do they get ahold of?

17 THE WITNESS: There's a 911 emergency
18 number that you can always call and there will be our
19 contact information located at our substation which
20 you can reach people at and there's a project hotline
21 you can call today.

22 MR. KULASIK: Okay. I was just curious.
23 And the last question is more of a hobby of mine. How
24 much radio frequency noise does your wind turbines

1 generate as well as your electrical transmission and
2 all other electronics involve in the conversion of DC
3 to AC and vice versa?

4 THE WITNESS: I cannot speak to that.

5 MR. KULASIK: Okay.

6 THE WITNESS: I don't have that
7 information.

8 MR. KAINS: Mr. Uphoff, do you have
9 somebody on your team who could speak to that?

10 MR. UPHOFF: If I understood his
11 question correctly he's wanting to know what the radio
12 frequency interference is?

13 MR. KAINS: Yes.

14 MR. UPHOFF: Okay. Yes. We've got
15 studies that were submitted as part of the application
16 that are in reference to radio frequencies.

17 MR. KAINS: Very good.

18 MR. KULASIK: Thank you.

19 MR. KAINS: All right. Tom, thank you.

20 Anybody else from the public with questions
21 for this witness?

22 Yes, sir. Please come forward.

23 All right. Sir, what is your name?

24 MR. SMOTHERS: My name is Joe Smothers.

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1 MR. KAINS: And how do you spell your
2 last name, sir?

3 MR. SMOTHERS: Smothers,
4 S-M-O-T-H-E-R-S.

5 MR. KAINS: And where do you reside?

6 MR. SMOTHERS: I live at 31415 East 2800
7 North Road, Dwight, Illinois, which is Round Grove
8 Township.

9 MR. KAINS: All right. Very good.
10 Thank you.

11 MR. SMOTHERS: Just outside of Campus.

12 MR. KAINS: Okay. Very good. All
13 right. Mr. Smothers, you may ask questions of this
14 witness.

15 MR. SMOTHERS: Like the gentleman
16 stated, we live around this -- around all these
17 windmills that's going to be going in. We did not get
18 anything either of any public meetings or anything.
19 The same thing with them, we got a mailing from the
20 Livingston County Regional Planning Commission and we
21 received it on 5/30/2024 and the meeting was 5/27 or
22 5/29, whatever it is, 2 or 3 days later we got this
23 notice that a meeting was going to be held 3 days ago
24 before that day. So we weren't privy to coming here

1 which we could have and talk about this. So I ask
2 these questions that's not really pertaining to this
3 but stuff's that's voted on last week if I'm allowed
4 to.

5 MR. KAINS: Well, you may ask questions
6 of this witness pertaining to what he testified to.
7 But I'll give you some latitude, Mr. Smothers --

8 MR. SMOOTHERS: I think you need to
9 cause --

10 MR. KAINS: I think so too.

11 MR. SMOOTHERS: I'm not here to knock the
12 project or anything like that, but we do have a little
13 bit of a problem. We happen to live on an airstrip
14 and it's been around since the 70's and we moved here
15 about 10 years ago from the Shorewood area for that
16 sole purpose to build something and being able to fly
17 in and out of that airport safely. The FAA has given
18 us certain boundaries that we're allowed to keep no
19 matter what right now, and I -- I can't tell by
20 looking at the maps what -- where these -- where these
21 windmills are going. If I could see the longitude and
22 latitude. You can't tell cause they're kind of -- you
23 know, look at that -- can you tell me how many feet
24 that is from the end of my runway? Anybody? Anybody?

1 MR. KAINS: Well, Mr. Smothers, the
2 question needs to go this witness.

3 MR. SMOTHERS: I'm sorry. I'm getting a
4 little exited. But anyway --

5 MR. KAINS: And hang on. Mr. Agate, do
6 you know the answer to the question about the distance
7 from a turbine to his runway?

8 THE WITNESS: I don't know where your
9 runway is or which turbine you're referring to, but I
10 can tell you that we set back appropriately from all
11 airstrips in the area, and we will get into a lot of
12 our detail as to the location of these turbines and
13 the setbacks that are required as part of that in
14 further testimony.

15 MR. SMOTHERS: Tonight? That's the
16 plan?

17 THE WITNESS: That's the plan.

18 MR. SMOTHERS: Okay. Cause I did read
19 the thing that's on the internet for Livingston County
20 and I didn't even know about that until I got this,
21 this letter from you guys. So I got on there and I
22 looked and all that represents is the bigger airports
23 like Morris, Dwight, Joliet, Kankakee, it doesn't
24 reference our private use airports which is a public

1 private use airport. So under the guidelines of that
2 we've got like 5,000 feet from the center of our
3 runway from the north -- north to south and we've got
4 certain footages off the ends. So a big thing with us
5 is we've had meetings with you guys and we were told
6 that we could have 5,000 feet off the east side of the
7 runway. So looking at the -- looking at the turbines
8 that you guys have in there, now I think it's going to
9 fall within that 5,000 feet, and if that's the case
10 all around that -- all around that airport there might
11 be -- it might be a question. So that's why we were
12 asking, can you get a survey that shows not footage,
13 not latitude longitude, nothing like that, footage
14 from the ends of our runway and from the center of our
15 runway to where all the turbines are going around
16 this.

17 MR. KAINS: Mr. Agate, do you have an
18 answer to that question?

19 MR. SMOTHERS: I don't think it should
20 be incumbent on us to go out and hire a surveyor to do
21 this.

22 MR. KAINS: Okay. Hang on --

23 MR. UPHOFF: Objection.

24 MR. KAINS: Hang on a second.

1 Mr. Uphoff.

2 MR. UPHOFF: And, respectfully, I'm not
3 sure exactly what the question is. Can it be phrased
4 as a question as opposed to a narrative.

5 MR. KAINS: Sure. But I think the gist
6 of Mr. Smothers' question is is there a survey that
7 would show him and any other people similarly situated
8 where the turbines are in relation to their runways.
9 Do you have a witness on this particular issue?

10 MR. UPHOFF: We're going to be covering
11 all the setback locations, setback maps, the setback
12 distances and turbine locations with our next witness.

13 MR. KAINS: With your next witness?

14 MR. UPHOFF: That's correct.

15 MR. KAINS: Okay. Mr. Smothers, would
16 it be fair to -- okay. Because Mr. Agate provided an
17 overview of a number of areas and so there will be
18 other witnesses who will be more specific with respect
19 to each issue that the Zoning Board must address and I
20 think the issues that you're concerned with so.

21 MR. SMOTHERS: I'm good with that.

22 MR. KAINS: Okay. Very good.

23 MR. SMOTHERS: Like I said, I'm not here
24 to knock the project. We just want to be able to keep

1 our area safe and within FAA's guidelines of our
2 airplane.

3 MR. KAINS: Absolutely, yes, sir. Now,
4 Mr. Smothers, do you have any other questions for this
5 witness on what he's testified to?

6 MR. SMOTHERS: Well, no.

7 MR. KAINS: Okay. Very good.

8 MR. SMOTHERS: That's it.

9 MR. KAINS: All right. Thank you.

10 All right. Any other questions for
11 Mr. Agate? I'm going to stand up to see. Yes, ma'am.

12 MR. KEYT: Mr. Kains, can I address this
13 notice issue.

14 MR. KAINS: Why don't we wait and let's
15 have questions and then we'll address that after we're
16 done with Mr. Agate's testimony. Thank you though.

17 Okay. Ma'am, step forward, please. What is
18 your name?

19 MS. GRAEFEN: Barbara Graefen.

20 MR. KAINS: How do you spell your last
21 name?

22 MS. GRAEFEN: G-R-A-E-F-E-N.

23 MR. KAINS: Graefen?

24 MS. GRAEFEN: Graefen.

1 MR. KAINS: Okay. And what is your
2 address, Ms. Graefen.

3 MS. GRAEFEN: 33583 East 3100 North Road
4 Dwight, Illinois. We're in Round Grove Township.

5 MR. KAINS: All right. Very good.
6 Questions for Mr. Agate about his testimony.

7 MS. GRAEFEN: Did you go to the
8 landowners personally or did you just send out notice?
9 We only got one and that's for tonight. So -- and it
10 came certified. Other than that we didn't get
11 anything -- notice that this project was even going
12 on. So how did you contact, just by certified mail
13 just this one time?

14 THE WITNESS: So does it make sense to
15 address the question now that --

16 MR. KAINS: If you know the answer you
17 can give the answer, otherwise we'll wait for Mr. Keyt
18 to explain.

19 THE WITNESS: I would prefer to wait for
20 Mr. Keyt to do that.

21 MR. KAINS: Okay. Very good.

22 THE WITNESS: I appreciate the question.
23 Thank you, ma'am.

24 MS. GRAEFEN: Thank you.

1 MR. KAINS: Okay. Thank you, ma'am.
2 Any other questions for Mr. Agate? Yes. Come on
3 forward, please.

4 MS. EATON: My name's Julie Eaton and I
5 live at 415 South Washington Street in Dwight.

6 MR. KAINS: And could you spell your
7 last name.

8 MS. EATON: E-A-T-O-N.

9 MR. KAINS: E-A-T-O-N, okay. Go right
10 ahead, Ms. Eaton.

11 MS. EATON: We had property that is
12 owned by my brother that is in this area, okay, so
13 that's why I'm asking questions. Now you are talking
14 about this, you -- so much property and I have it
15 written down but I forgot, so you have so much
16 property that you have acquired and there's only going
17 to be so many acres used and you had mentioned that
18 the other parts of the property are going to be
19 leased. Now, what's that going to be leased for? Is
20 that just farming or is that going to have the
21 community in mind also?

22 THE WITNESS: So technically we'll be
23 leasing the property and building infrastructure on
24 238 acres of the total. So the rest of the property

1 that is technically leased as part of the project it
2 will be preserved for whatever use it is currently
3 being used for so. So if it's being farmed it will
4 continue to be farmed, but that's up to the ultimate
5 landowner to decide.

6 MS. EATON: Okay.

7 MR. KAINS: Thank you, Ms. Eaton for
8 your question.

9 All right. Anybody else with questions for
10 Mr. Agate? Okay. Come on up, ma'am. And just a
11 reminder, everything is being taken down by a court
12 reporter over here and so a couple of basic rules,
13 speak a little bit slower than you normally would, and
14 I need to always be advised of that too, and the other
15 thing is if one person is talking and asking a
16 question wait for the question to be asked before you
17 start to answer, and, similarly, while an answer is
18 being given wait for the answer to be completed before
19 you ask a question. In other words, don't step on
20 each other because Jamie is going to have a heck of a
21 time trying to take all of this down.

22 Okay. Ma'am, would you please state your
23 name.

24 MS. BOBER: Hi. My name is Linda Bober

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Vermilion County

1 and I live at 32433 North 3300 East Road and it's
2 technically considered Reddick but it is in Round
3 Grove Township.

4 MR. KAINS: And how do you spell you
5 last name?

6 MS. BOBER: B-O-B-E-R.

7 MR. KAINS: Okay. Very good, Ms. Bober.
8 Go right ahead with your questions.

9 MS. BOBER: We own property out there
10 and I'm going to tell you right now the notice we got
11 on the 30th is the only notice we have ever received.
12 No one has come to our house, no one has mailed us, no
13 one has contacted us in any way whatsoever. So I just
14 wanted to put that out there. We got our notice the
15 day after the hearing, it was postmarked the 28th, and
16 when I called the zoning office she pretty much,
17 Angie, I don't know if you're here, I apologize if you
18 are, because I couldn't hear the introductions, but
19 she pretty much blew it off saying, oh, we had a lot
20 to do and a lot of people have complained. That's
21 completely inadequate, but whatever.

22 I apologize if my question may be repetitious
23 because it's very hard to hear, the microphones must
24 be very low.

1 As far as the revenue generated by this, was
2 there something spoken about in reference to property
3 taxes? Again, I couldn't -- it was very hard to hear.
4 So if it was I apologize because I do have a follow-up
5 question.

6 THE WITNESS: Yes. So the project will
7 generate property tax revenue as part of the economic
8 benefit for Livingston County. So the economic impact
9 report that was performed, it was estimated that close
10 to 100 million dollars in tax revenue will be
11 generated in Livingston County for over of the life of
12 the project.

13 MS. BOBER: Okay. So that's the tax
14 revenue that you guys are paying to the county. But
15 we're not going to see any sort of relief with our
16 property taxes, correct, or is that a county issue?

17 THE WITNESS: I can't speak to that.
18 That's a county issue that I can't say.

19 MS. BOBER: So even though all this
20 stuff is basically infringing on all of us and we're
21 dealing with it our taxes keep going up and up and up
22 and this has nothing, no effect whatsoever on our
23 taxes, correct? Anybody?

24 MR. KAINS: Ma'am, I don't think

1 Mr. Agate could even speak to what Livingston County
2 would do with the tax revenue.

3 MS. BOBER: Okay.

4 MR. KAINS: But that is something that
5 you can present to the County Board when it decides.

6 MS. BOBER: Okay. And my follow-up
7 question then would be what exactly is the benefit of
8 these to us in the community that don't want them
9 here?

10 THE WITNESS: There will be property tax
11 revenue that's generated from the project. I can't
12 speak to where those will go, but that money will be
13 in the community.

14 MS. BOBER: Could you speak up. Cause
15 I, as I know other people here, can't hear. You're
16 speaking very low.

17 THE WITNESS: Can you hear me better.

18 MS. BOBER: It's a little better, yes.

19 THE WITNESS: Okay. There will be
20 property tax revenue that's generated from the
21 project, where that property tax will go and then the
22 benefit that you personally see from that I can't
23 speak to that, but the property tax will be generated.
24 There's also a job creation as part of this project,

1 so it will be more --

2 MS. BOBER: And that was 26 jobs,
3 correct?

4 THE WITNESS: -- people will be working
5 on this facility. During operations there will be
6 over 26 jobs created, during construction over close
7 to 168 new jobs will be created, so folks will be
8 working on this facility building this infrastructure
9 and then ultimately operating and maintaining it as
10 well.

11 MS. BOBER: But the 168 you said?

12 THE WITNESS: 168.

13 MS. BOBER: 168 jobs, is that permanent
14 jobs or just the jobs building the initial turbine?

15 THE WITNESS: Those are the construction
16 jobs.

17 MS. BOBER: So those are not permanent
18 jobs? The 26 would be the permanent?

19 THE WITNESS: Correct.

20 MS. BOBER: So that's it?

21 THE WITNESS: Correct.

22 MS. BOBER: Okay. So putting the taxes
23 aside what is the benefit of having these in our
24 community? That's what I thought. Thank you.

1 THE WITNESS: So the renewable energy is
2 one thing that we will be generating. So if you care
3 about the environment and creating clean electrons
4 this project will support that.

5 MS. BOBER: Okay. Let me follow-up to
6 that then. What was the first part of what you said?
7 Again, I want to make sure I address it correctly.

8 THE WITNESS: Generating renewable
9 energy is an important aspect of this project.

10 MS. BOBER: Does any of this energy stay
11 in our community?

12 THE WITNESS: I can't speak to where the
13 energy actually goes once its injected onto the
14 transmission grid, but we will be injecting that power
15 in Kankakee and the electrons flow where they do on
16 the electrical grid from there.

17 MS. BOBER: Thank you, very much.

18 MR. KAINS: Thank you, Ms. Bober.

19 Any other questions for Ms. Agate from
20 members of the public -- or Mr. Agate? Sorry about
21 that.

22 Tom, I'm sorry, but you've had your bite at
23 the apple. But I will say this that many of the
24 points -- I believe many of the points Mr. Agate has

1 touched on will be dealt with more in-depth by other
2 witnesses. Would that be a correct assessment,
3 Mr. Uphoff?

4 MR. UPHOFF: Yes.

5 MR. KAINS: Okay. Very good. So you'll
6 have another bite at another witness, all right.

7 Okay. Any other questions for this witness?
8 All right. Very good.

9 Questions for this witness from Livingston
10 County Staff and Consultants, Ms. Miller?

11 MS. MILLER: No.

12 MR. KAINS: No. All right.

13 Questions from counsel for the ZBA,
14 Mr. Dluski?

15 MR. DLUSKI None.

16 MR. KAINS: For the Livingston County
17 Board, Mr. Keyt?

18 MR. KEYT: No, not for this witness.

19 MR. KAINS: Okay. Very good. All
20 right. Then redirect, Mr. Uphoff.

21 MR. UPHOFF: Thank you.

22 **REDIRECT EXAMINATION,**

23 **QUESTIONS BY MR. SETH UPHOFF:**

24 Q. Mr. Agate, a couple of the items that

1 were brought up in relation to public notice, you've
2 met -- the Applicant Illinois Generation and Heritage
3 Prairie has met all the requirements of notice that's
4 required in the code; is that right?

5 A. That's correct.

6 Q. And, in fact, the county requested that
7 we go out a greater distance than what was actually
8 required and to a mile and a half and we went actually
9 out to a mile and three quarters in terms of addresses
10 to send notice to; is that correct?

11 A. That's correct.

12 Q. So potentially some of the individuals
13 that received notice typically wouldn't even be
14 noticed under normal code had we not expanded to reach
15 out and send notice; is that right?

16 A. Correct.

17 Q. And then in relation to the open houses
18 that were put out there, those were published in their
19 newspapers or other public media to alert the public
20 generally to attend those if they wanted to; is that
21 right?

22 A. That's correct.

23 Q. Did you ultimately go hire at that time
24 a public relations firm that sent out mailings, can't

1 speak to exactly what parameters they used in terms of
2 how far from the project they went out, but they did
3 send out mailings in relation to the open house; is
4 that right?

5 A. That is correct.

6 Q. All right. And as it relates to notice
7 for other meetings, when notice goes out for meetings,
8 that's notice that's sent by the county not the --
9 that's sent by the county; is that correct?

10 A. That's correct.

11 Q. All right. As it relates to other
12 benefits for the community, there's community benefits
13 agreements that you signed with the communities of
14 Campus and Dwight; is that correct?

15 A. That's correct.

16 Q. And so that's in addition to the
17 property tax revenue, those are additional moneys that
18 are going to those communities that they can use as
19 they see fit; is that right?

20 A. That's right.

21 Q. And then there's also benefits that are
22 taken from at least in the tax revenue, some of the
23 taxing bodies included the townships, right?

24 A. Correct.

1 Q. The road districts in the townships,
2 correct?

3 A. Correct.

4 Q. The fire protection districts for
5 everyone in these townships and in these areas; is
6 that correct?

7 A. Correct.

8 Q. So in addition to just the surrounding
9 community properties there's also additional funds
10 that every year are going to be going to individual
11 tax bodies and those tax bodies are just local fire
12 departments and the road districts can utilize those
13 funds to improve facilities and to serve the people of
14 the community generally; is that right?

15 A. That's correct.

16 Q. Okay.

17 MR. UPHOFF: No further questions.

18 MR. KAINS: Very good. Thank you,
19 Mr. Uphoff.

20 And final questions of this witness come from
21 members of the Livingston County Zoning Board of
22 Appeals.

23 MR. RANDOLPH: No questions.

24 MR. KAINS: Okay. Very good. All

1 right. Thank you, Mr. Agate, you may step down.

2 (Witness excused.)

3 MR. KAINS: All right. Before we have
4 another witness, Mr. Keyt, will you please on behalf
5 of Livingston County address this issue of notice.

6 MR. KEYT: Yes, sir. So the Illinois
7 County Code mandates what notices are required for
8 special use hearings under 12009.5 of the Illinois
9 County's Code. That Illinois County Code requires 15
10 day notice prior to the public hearing taking place.
11 The public hearing is this hearing, this is the Zoning
12 Board of Appeals.

13 MR. KAINS: Would you hold the mic
14 closer to you, Mr. Keyt, so folks can hear you.

15 MR. KEYT: Sure. Sorry. So the 15 day
16 notice that is required is the 15 day notice for this
17 particular hearing, that is the Zoning Board of
18 Appeals hearing, that is required by the statute.
19 That notice goes by publication and then it goes to
20 adjacent owners, which is described as those across
21 the street, alleyway, public right-of-way. Livingston
22 County takes the extra steps and mandates that the
23 notice also goes out to any landowners within a mile
24 and a half of the proposed special use. The key part

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Court Reporter
Vermilion County

1 of this is the 15 day notice is required for this
2 hearing, the Zoning Board of Appeals hearing, that is
3 the 15 day notice requirement. That is the public
4 hearing that takes place in relation to a special use.
5 The Regional Plan Commission Meeting is not the public
6 hearing, it is not the place where testimony is given
7 or received or cross-examination occurs. The Regional
8 Plan Commission Meeting is only the meeting of the
9 Regional Plan Commission, it does not take the
10 evidence, it is not the hearing required for the
11 notice. The hearing notice requirement then is met
12 under the 15 day requirement by the publication and
13 then the notice going to those adjacent owners within
14 15 day which was proper.

15 MR. KAINS: All right. Very good. All
16 right. Thank you for that explanation, Mr. Keyt.

17 All right. Mr. Uphoff, your next witness.

18 MR. UPHOFF: Thank you. Next we'd call
19 Allen Wynn.

20 A L L E N W Y N N,
21 was called as a witness on behalf of the Applicant
22 and, having been first duly sworn, testified as
23 follows:

24 MR. KAINS: Sir, what is your name.

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THE WITNESS: My name is Allen,
A-L-L-E-N, Wynn, W-Y-N-N.

MR. KAINS: W-Y-N-N. All right.
Mr. Wynn, thank you.

Mr. Uphoff, you may have questions for
Mr. Wynn.

MR. UPHOFF: Sure.

DIRECT EXAMINATION,

QUESTIONS BY MR. SETH UPHOFF:

Q. Mr. Wynn, could you please introduce
yourself to the ZBA and give them your credentials.

A. Sure. Again, my name's Allen Wynn, I'm
a Senior Director of Environmental and Permitting of
Pattern Energy. I have a bachelor's degree from Texas
State University in Natural Resources and
Environmental Studies. For the past 17 years I have
worked solely on permitting renewable energy projects,
approximately nine of those with Pattern currently.

Q. All right. And, Mr. Wynn, in relation
to, again, your experience and your familiarity with
this project were you pretty heavily involved in
putting together the application and materials that
were submitted in accord with the project?

A. Yes.

1 Q. All right. And if we go to the next
2 slide here does this depict the overall footprint here
3 in great detail for the project area?

4 A. Yes, it does.

5 Q. And I'd like to ask you just to go
6 through this with this map going clockwise starting
7 with 12:00 and reference the structures that are not
8 turbines that are going to be constructed as part of
9 this project and tell us where they are on this map.

10 A. At approximately 12:00, again, the north
11 central portion of the project is the laydown and
12 batch plant. At about 3:00 in the eastern portion of
13 the project is the project substation and the
14 operations and maintenance facility.

15 Q. And these would be outlined or
16 referenced in blue letters with a blue line pointing
17 to where the particular parcel would be located; is
18 that correct?

19 A. That is correct.

20 Q. All right. So you can continue on. I
21 think you mentioned a batch plant, O&M facility and a
22 substation; is that correct?

23 A. Correct.

24 Q. And going from the substations to the

1 east what is the yellow black dash line that refers to
2 that at?

3 A. That is called a Gen-Tie or transmission
4 line that will transmit the power out of Livingston
5 County and enter Kankakee County.

6 Q. So looking at the transmissions up there
7 and that you pointed out and then go across the county
8 line into Kankakee?

9 A. That's correct.

10 Q. All right. Okay. Go ahead and continue
11 on.

12 A. In the southeast corner you see L9 Met,
13 that is the permanent met tower or meteorological
14 tower that will be installed.

15 Q. And what is a meteorological tower just
16 very briefly?

17 A. It records meteorological data, most
18 importantly wind -- wind speeds.

19 Q. And then last location on here?

20 A. There's one more permanent Met Tower, L2
21 Met in the very southwest corner of the project.

22 Q. So that's more towards the 8:00 or 9:00
23 portion of your --

24 A. Yes.

1 Q. All right. And then moving on to the
2 next slide you reference these locations as things
3 that are going to be built on the project that are not
4 turbines. The last one, the ADLS Tower was not
5 mentioned, can you tell us what that is.

6 A. That's part of the aircraft's detection
7 lighting system that is mandated in the ordinance, and
8 that tower will be installed in Kankakee County, it
9 will not be in Livingston County.

10 Q. All right. So it's not on the map
11 because it's been sited and approved in Kankakee
12 County, correct?

13 A. Correct.

14 Q. All right. And moving to the next slide
15 then you reference the aircraft detection lighting
16 system. Could you give us a brief overview of what
17 that system is and how it works, please.

18 A. Yes. It's a sensor based system that
19 monitors air traffic surrounding a wind farm. So the
20 lights are turned off until an aircraft enters the
21 preset perimeter and it's typically 3 nautical miles
22 horizontally and anywhere between 200 and 1,000 feet
23 above the turbines. So when a plane flies into that
24 airspace the lights come on to warn the planes of the

1 turbines' location and then when that plane leaves
2 this perimeter then the lights will go back off.

3 Q. So a lot of people are familiar with the
4 red blinking lights on the top of the turbines, those
5 are the lights that you're talking about; is that
6 right?

7 A. That's correct.

8 Q. So typically most projects around here
9 that people are familiar with, those lights are
10 blinking all the time through the night, right?

11 A. Correct.

12 Q. But this system creates a situation
13 where they would only be illuminated if a plane was
14 traveling within these parameters that you just
15 listed; is that correct?

16 A. That's correct.

17 Q. Otherwise the towers would remain dark
18 throughout the night?

19 A. That's correct.

20 Q. Okay. And this system would then be
21 installed and constructed along with the wind project;
22 is that correct?

23 A. That's correct.

24 Q. And I think you've got it in here that

1 it helps to reduce up to 95 percent of the time that
2 those lights are lit up on top of the turbines?

3 A. That's correct.

4 Q. Okay. And the system then has to be
5 approved by a couple agencies, who has to approve the
6 installation of those systems?

7 A. First the system has to be approved and
8 it's proposed location by the FAA, Federal Aviation
9 Administration, they look at those on a case by case
10 basis and then the tower, the radar tower actually has
11 to have a license from the Federal Communications
12 Commission because it is communicating with sensors on
13 top of each turbine and, I mean, that's how it's able
14 to manage those turn offs so that has to be approved
15 by the FCC.

16 Q. All right. So in addition to receiving
17 permits from Livingston County there's also federal
18 agencies that you have to receive permits from in
19 order to move forward with this project?

20 A. That's correct.

21 Q. So moving on to the next slide there's
22 reference to the Federal Aviation Administration, FAA,
23 how else is the FAA involved in the application
24 process here?

1 A. A request for a determination of no
2 hazard has been submitted for every single turbine
3 location. Each location would receive its own permit
4 of no hazard. Again, those are in process, will be
5 provided in the building permit process and in that is
6 an agreement with the Department of Defense Mitigation
7 Agreement in place which would prevent any radar
8 interference with any military radars.

9 Q. And just so for those who are not
10 familiar what is the determination no hazard?

11 A. It's a document that the FAA will issue
12 stating that they have studied the airspace at that
13 exact location of that turbine and that there would be
14 no commercial aircraft interference or danger.

15 Q. All right. So now in relation to the 71
16 turbines that have been referenced were you involved
17 in creating setback maps to be evaluated, demonstrated
18 in compliance with the ordinance?

19 A. Yes, I was.

20 Q. All right. And in relation to those
21 setback maps there's also some inserts that were
22 included in the binder for the ZBA; is that right?

23 A. That's correct.

24 Q. And one of those inserts is a large

1 overview of the map of the footprint of the project,
2 correct?

3 A. Correct.

4 Q. And on that it has letters and numbers
5 by some yellow dots. And so, for example, L91 or L89,
6 are those references to the turbine locations on that
7 map?

8 A. Correct.

9 Q. And then as it relates to the table that
10 goes along with that, would those L followed by a
11 numeric, L2 or L4, etc., are those located on the far
12 left column of the table?

13 A. Yes.

14 Q. So those designations correspond with
15 the locations on that particular map; is that right?

16 A. Correct.

17 Q. And then we'll come back to that table
18 in just a moment. But let's go to the first setback
19 map that we submitted here and this would be labeled
20 down on the right-hand corner and that's figure 4-1;
21 is that right?

22 A. Correct.

23 Q. Now, the towers are not in numerical
24 order in that it wasn't a consistent numerical order

1 that they ended up in at the completion of this
2 project; is that right?

3 A. That's correct.

4 Q. So would it be fair to say that you
5 started off with a list that was in numerical order
6 but throughout that process certain locations may have
7 been taken off of the list, others may have been
8 added, but rather than renumbering all of them you
9 just maintained a consistent numbering system; is that
10 accurate?

11 A. Correct.

12 Q. And so while they're not in perfect
13 numerical order they do go in ascending order as we go
14 through this; is that right?

15 A. That's correct.

16 Q. So, for example, on the first setback
17 map figure 4-1 then down several lines below that it
18 references L2, would that make a reference to tower
19 location L2?

20 A. Yes.

21 Q. So the figure numbers 4-1, those will go
22 in perfect numerical order from 1 up to 71; is that
23 correct?

24 A. That's correct.

1 Q. But the reference to the L numbered
2 tower below that may not go in perfect numerical
3 order; is that correct?

4 A. That's correct.

5 Q. So as long as we're going through figure
6 4-1 and 2, etc., those are the numbers of the turbines
7 and then L numbers are the turbine designations?

8 A. That's correct.

9 Q. So then additionally looking at the left
10 corner on the left-hand side there's a small map of
11 the entire footprint area; is that correct?

12 A. Correct.

13 Q. And on there is a little red box which
14 indicates approximately where in the footprint this
15 particular map is taken from; is that right?

16 A. That's correct.

17 Q. And then below that little map is a
18 legend which lays out all the different symbols and
19 lines that indicate on this particular setback map,
20 correct?

21 A. Correct.

22 Q. And I want to focus on the setback
23 features which would be the third column over in the
24 legend and that's a color coded system or features on

1 this map; is that correct?

2 A. That is correct.

3 Q. So let's walk through those briefly.

4 The first is the lighter green color and that's the
5 local road setback which is 701.9 feet; is that right?

6 A. That's correct.

7 Q. What does that number 701.9 come from?

8 A. That comes from the ordinance and that
9 is a measurement to be taken from the local road
10 itself and then apply that setback.

11 Q. All right. So are we including a
12 multiplier? So, for example, you would take the
13 turbine height and multiply it by let's say 1.1 then
14 that gives you a particular setback; is that correct?

15 A. That's correct.

16 Q. So for all these setbacks that we're
17 going to be dealing with here the distances are
18 determined by the height of the tower and then
19 multiply by whatever the multiple is in the ordinance?

20 A. That's correct.

21 Q. And you've got two potential turbine
22 types here, you have two potential tower heights; is
23 that accurate?

24 A. That's correct.

1 Q. But if you were to take the greater or
2 the taller of the two turbines then that will give you
3 a sort of a maximum of setback distance that would be
4 applicable to either one; is that right?

5 A. That's correct.

6 Q. So these maps demonstrate that the
7 setbacks that would be required at the tallest side of
8 the turbine which would be put in place?

9 A. They do.

10 Q. So these would be the most conservative
11 numbers, meaning that if a turbine complies with these
12 setbacks, if you were to go anything shorter that it
13 would certainly be in compliance; is that right?

14 A. That's correct.

15 Q. So going back to the colored lines here
16 then, for light blue, those are the overhead
17 distribution lines, the power lines that run along the
18 sides of the road?

19 A. That's correct.

20 Q. And so there's another setback distance
21 of 701.9 feet; is that right?

22 A. That's right.

23 Q. Then in the purple or Violette color
24 you've got setbacks from non-participating residences;

1 is that accurate?

2 A. That's correct.

3 Q. And that distance is 1,340.1 feet?

4 A. Correct.

5 Q. And, again, that's a multiplier from the
6 height of the turbine; correct?

7 A. Right.

8 Q. And then you've got an orange-ish color
9 that is the setback distance from the
10 non-participating property setback lines. So these
11 would be non-participating properties that do not have
12 a residence on; is that correct?

13 A. Correct.

14 Q. And that setback distance is the 701.9
15 feet; is that correct?

16 A. Correct.

17 Q. And then we have this fuchsia or pink
18 color and this is a setback from the Illinois
19 Department of Natural Resources, there's not a number
20 listed there, is that because it depends on which type
21 of natural resource it is that setback may vary?

22 A. That's correct. There were two
23 different setbacks they requested that we adhere to.

24 Q. All right. And was one of those for

1 what was referred to as a perennial stream?

2 A. That's correct.

3 Q. And was another for a forested area?

4 A. Correct.

5 Q. All right. And so if those, again, the
6 setbacks would be different for each particular
7 designation from the IDNR, the Illinois Department of
8 Natural Resources?

9 A. Correct.

10 Q. All right. So now, again, going back to
11 that table that we referenced. If we look at the
12 table across the top in blue there are multiple
13 columns and in each of those columns has the minimum
14 of required setback distance for the taller of the two
15 turbine heights that we have proposed; is that right?

16 A. Correct.

17 Q. So, for example, if we look at the
18 second column going down local road setback
19 requirement we talked before that it's 701.9 feet,
20 we've rounded that up to 702 feet; is that right?

21 A. Correct.

22 Q. Again, a more conservative to make sure
23 we're in compliance; is that correct?

24 A. Correct.

1 Q. So then going down that column the
2 numbers that are listed in the column below there for
3 each of the turbine locations that would be how many
4 feet the turbine location is from that particular road
5 as well; is that correct?

6 A. Correct.

7 Q. And then as we go across that top blue
8 column we've got the other colors, the other colors
9 that we referenced four such as the overhead
10 distribution line, right?

11 A. Correct.

12 Q. Non-participating residences, correct?

13 A. Correct.

14 Q. Non-participating property lines; is
15 that right?

16 A. Correct.

17 Q. And then other building and ordinances
18 and the IDNR setbacks; is that correct?

19 A. Correct.

20 Q. So those are all listed across the top
21 there and the column comes down and corresponds to
22 show the distance for each and every particular
23 setback for each and every tower?

24 A. Correct.

1 Q. So looking at both the table and the map
2 let's go to figure 4.1 -- or 4-1, excuse me. In
3 figure 4-1 we're looking at the tower location L2; is
4 that correct?

5 A. Correct.

6 Q. And at L2 located here in what is the
7 darker green area it looks like more of an aerial
8 view, how do you describe this particular area?

9 A. That's what we refer to as the net
10 buildable area. That is the area that is able for
11 siting a turbine once all of the setbacks are put onto
12 a map.

13 Q. Okay. So once all these color coded
14 setbacks are put in then that area is then your net
15 buildable area which you can use to place the
16 turbines; is that right?

17 A. That's correct.

18 Q. Now, within that net buildable area are
19 other considerations that the application didn't have
20 when we were going to place a specific turbine
21 location?

22 A. That's correct.

23 Q. And what are some of those
24 considerations that you have to take into account?

1 A. Some of those considerations would be a
2 spacing, that the turbines need to be set far enough
3 apart to not wake each other, there be could be --
4 there could be setbacks for -- that could be employed
5 for microwave feedbacks, for shadow flicker, for a
6 number of reasons.

7 Q. All right. So there are multiple
8 reasonable determinations and one of them you said was
9 waking, could you describe what you mean by that.

10 A. That's when the wind turbine essentially
11 takes the wind or steals the wind from a turbine down
12 wind of it. So if they're too close together the
13 turbines will wake each other.

14 Q. All right. So would that be similar to
15 and close to an analogy when there's a boat traveling
16 on the water it creates a wake behind it; is that
17 right?

18 A. Yes.

19 Q. And another turbine in the wake of an
20 additional turbine can actually reduce the amount of
21 wind that it's receiving; is that correct?

22 A. That's right.

23 Q. Okay. So looking at figure 4-1 in
24 reference to Tower L2. Tower L2 is located in a net

1 buildable area indicating that it's in compliance with
2 all the applicable setback requirements that are
3 outlined in the colors on this map; is that correct?

4 A. That's correct.

5 Q. And if we go to the table and we look at
6 L2 and we go across we see that of those individual
7 distances that are listed for L2 are all in excess of
8 the minimum requirements of the ordinance; is that
9 correct?

10 A. Correct.

11 Q. Okay. So now let's go to figure 4-2.
12 Again, we have a map here with all the same layouts
13 and this is for Tower L4; is that right?

14 A. That's correct.

15 Q. And that has a lot of the same colors
16 here except we've added a yellow color, and what is
17 that for?

18 A. The yellow color is --

19 Q. So these are participating residences --

20 A. Participating residences setback,
21 correct.

22 Q. And is that little -- indicating in the
23 yellow circle around those two residences on that map,
24 correct?

1 A. That's correct.

2 Q. So, again, in relation to Tower L4 when
3 we look at it it's located in the middle of that dark
4 green buildable area; is that correct?

5 A. Correct.

6 Q. And if we look to the table and we look
7 at L4 and we follow across on the table we'll see that
8 all of the individual setbacks are in excess of the
9 minimum requirements of the ordinance; is that
10 accurate?

11 A. That's correct.

12 Q. If we go over to 4-3 this would be for
13 purposes of indicating setbacks of Tower L5; is that
14 correct?

15 A. Correct.

16 Q. And, again, looking at the map we've got
17 L5 located in the middle of the darker green net
18 buildable area; is that right?

19 A. That's correct.

20 Q. And, again, the table indicates that all
21 of those setbacks are in excess of the minimum
22 requirements?

23 A. That's correct.

24 Q. If we go to figure 4-4, go down, this

1 demonstrates setbacks for Tower L6; is that correct?

2 A. That is correct.

3 Q. And, again, that demonstrates in the
4 middle of the map there that L6 is located in that
5 green net buildable area indicating it meets all the
6 measurable parts; is that right?

7 A. Correct.

8 Q. And, again, with the information in the
9 table we demonstrated that meets all of the minimum
10 required setbacks?

11 A. Correct.

12 Q. If we go to figure 4-5 this shows the
13 tower location of L9; is that correct?

14 A. That is correct.

15 Q. And, again, on the map here with the
16 colored setbacks it indicates that L9 is located in
17 the dark green net buildable area and it would be in
18 compliance with all minimum setback requirements; is
19 that correct?

20 A. That is correct.

21 Q. Now, L9 here is one of the ones that
22 build area is close to the setback line; is that
23 accurate?

24 A. That's correct.

1 Q. But if we go over to the table to make
2 sure that is in compliance and we look at L9 we'll see
3 that in the first column the minimum distance required
4 is 702 feet; is that right?

5 A. Correct.

6 Q. And L9 is located at 715 feet; is that
7 correct?

8 A. That's correct.

9 Q. So that means that it meets the minimum
10 requirements for that particular setback; is that
11 right?

12 A. That's correct.

13 Q. If we go over then to figure 4-6, this
14 would be Tower L11. Again, Tower L11 is indicated in
15 the dark green net buildable area which demonstrates
16 that it's in compliance with all minimum required
17 setbacks in the ordinance; is that correct?

18 A. That's correct.

19 Q. And, again, here L11 is located pretty
20 close to the orange colored non-participating property
21 setback line; is that right?

22 A. That's correct.

23 Q. So if we go over to the table and we go
24 to L11 and we look for the non-participating property

1 setback lines and we -- the fourth column over; is
2 that correct?

3 A. Correct.

4 Q. And the minimum required distance is 702
5 feet; is that correct?

6 A. Correct.

7 Q. And if you follow L11 across the table
8 it demonstrates that L11 is sited at 718 feet away
9 from that property line; is that correct?

10 A. That is correct.

11 Q. So it would be in compliance with the
12 ordinance, right?

13 A. Yes.

14 Q. All right. So then we go to figure 4-7,
15 this would be for Tower L13. Again, the map would
16 demonstrate that L13 is located in the dark green net
17 buildable area which would indicate that meets all the
18 required minimum setbacks; is that accurate?

19 A. That's correct.

20 Q. Again, L13 is located very close to the
21 blue setback line which is the overhead distribution
22 line; is that right?

23 A. That is correct.

24 Q. So if we go to the table and we look for

1 the overhead distribution line, that would be the
2 second column over; is that right?

3 A. Yes.

4 Q. The required minimum distance is 702
5 feet; is that right?

6 A. Yes.

7 Q. And so L13 would demonstrate that it's
8 located at 723 feet which would be in excess of the
9 minimum of the ordinance; is that correct?

10 A. That is right.

11 Q. Going over to figure 4-8, this
12 demonstrates the setbacks for L16. L16 is located in
13 the middle of the map; is that correct?

14 A. Yes.

15 Q. In this particular situation L16 is
16 located in the area, small net buildable area; is that
17 accurate?

18 A. Correct.

19 Q. But if you go to the table, again, we'll
20 see at L16 if you follow the table across meets all of
21 the specific minimum setback requirements for that
22 location; is that correct?

23 A. That's correct.

24 Q. And the nearest setback location would

1 be the non-participating property line that's the
2 orange color on the map; is that correct?

3 A. Correct.

4 Q. And the minimum distance required there
5 is 702 feet and L16 is located at 722 feet; is that
6 correct?

7 A. Correct.

8 Q. So, again, it exceeds the minimum
9 required by the ordinance; is that right?

10 A. Correct.

11 MR. UPHOFF: Mr. Facilitator, at this
12 point in time I believe we have sufficiently described
13 the nature of the maps and the table to be applied to
14 all of the turbine locations. We're wondering if the
15 Committee wants us to keep going through each and
16 every one or whether the Board would like to review
17 them on their own and ask any questions they may have.

18 MR. KAINS: All right. First,
19 Mr. Uphoff, how many figures do you have? You're on
20 the 8th one, figure 4-8. How many total do you have?

21 MR. UPHOFF: 71.

22 MR. KAINS: 71 figures?

23 MR. UPHOFF: That's correct.

24 MR. KAINS: Okay. Very good. I'm going

1 to open this up to the Board and its feelings. Do you
2 want counsel and this witness to go through each and
3 every turbine to determine if they are meeting the
4 applicable legal setback requirements or do you want
5 a -- perhaps a summary from this witness as to whether
6 there are any of these turbine locations that are not
7 meeting applicable requirements for setback?

8 Madam Chair, do you have an opinion?

9 MS. HUISMAN: Well, I was under the
10 impression that Mr. Keyt had asked that we go through
11 each and every one. Am I incorrect?

12 MR. KEYT: I don't have an opinion.
13 That is up to the Zoning Board how they want to do it.

14 MS. HUISMAN: Okay. I'd like you to
15 just address a couple more that are close, that are
16 very very close and maybe -- I don't know -- I don't
17 know if there's other maps provided in any of these
18 large binders that show us maybe properties. It's
19 great to see the color coding and see the window, that
20 distance, but I guess I'd specifically like to look at
21 L20, the location of that turbine and any others, any
22 others that the rest of the Zoning Board want to take
23 a look at, otherwise we can on our own.

24 MR. KAINS: All right. Here's what

1 we're going to do. We'll address L20 at the
2 Chairperson's request.

3 Mr. Randolph, do you have a feeling?

4 MR. RANDOLPH: I think we have gone
5 through enough is my opinion.

6 MR. KAINS: Okay. Mr. Keifer?

7 MR. KEIFER: I'm good.

8 MR. KAINS: Okay. And, Mr. Flott?

9 MR. FLOTT: If anybody in the audience
10 would want to see a particular one, we could look at
11 those, otherwise I'm okay.

12 MR. KAINS: Okay. Here's what I think
13 we ought to do. Mr. Uphoff, if you can ask your
14 witness the general overarching question as to whether
15 any of these turbine locations violate any setback
16 requirements, whether they are through ordinance,
17 through the Department of Natural Resources or any
18 other requirements, I guess if you would ask him that
19 question that might get us moving a little bit.

20 MR. UPHOFF: Sure.

21 **QUESTIONS BY MR. UPHOFF:**

22 Q. So, Mr. Wynn, as it relates to each of
23 the 71 turbine locations, you've reviewed all of the
24 setback maps and setback tables; is that correct?

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1 A. Yes.

2 Q. Are all of the turbine locations in
3 compliance with all of the identified setbacks as
4 required under the Livingston County Ordinance?

5 A. Yes.

6 Q. And to help double check that, is the
7 table arguably one of the fastest ways to go through
8 that? Because if you look at the top of the column
9 you'll see the minimum distance and as you scroll down
10 through that entire column you should be looking for
11 something that is less than that distance; is that
12 right?

13 A. Correct.

14 Q. So, for example, with the first column,
15 the Local Road Ordinance you know that you have to
16 have a minimum of 702 feet, correct?

17 A. Correct.

18 Q. So if one were to scroll down that
19 entire column you would be looking for a number of
20 less than 702 feet; is that right?

21 A. That's correct.

22 Q. And if there is not a number in that
23 column that's less than 702 feet then each of the
24 turbines that's listed in that column would be in

1 compliance with that particular setback; is that
2 right?

3 A. That's correct.

4 Q. And that same process then would apply
5 for each and every column that goes across this
6 setback table, right?

7 A. That's correct.

8 Q. And this setback table identifies all of
9 the required setbacks that are applicable to the
10 turbine locations for this project; is that correct?

11 A. That's correct.

12 MR. KAINS: All right. Thank you,
13 Mr. Uphoff.

14 All right. At the Chair's request let's
15 just, if you could, please, Mr. Uphoff, ask questions
16 of this witness relative to turbine location L20 and I
17 believe you have pulled up figure 4-11.

18 MR. UPHOFF: That's correct.

19 **QUESTIONS BY MR. UPHOFF:**

20 Q. So, Mr. Wynn, again, with relation to
21 figure 4-11 we're looking at this tower location on
22 L20; is that correct?

23 A. That's correct.

24 Q. And here at L20 it appears to be located

1 in the net buildable area which is the dark green, it
2 is very close to the orange setback line; is that
3 right?

4 A. That is correct.

5 Q. And that would be a non-participating
6 property line setback; is that correct?

7 A. That's correct.

8 Q. And if you go to the table that's in
9 question here and we go to the non-participating
10 property line, that would be column number 4 including
11 the turbine numbers, so column 4 of the setback; is
12 that correct?

13 A. Correct.

14 Q. And that minimum required setback is 702
15 feet, correct?

16 A. Correct.

17 Q. And so for L20 if we follow that across
18 on the table, L20 is located 706 feet from the
19 setback; is that right?

20 A. Correct.

21 Q. So it exceeds the minimum requirements
22 by 4 feet; is that correct?

23 A. That's correct.

24 Q. So it is close but it does meet those

1 requirements; is that right?

2 A. Correct.

3 Q. And in relation to where this is with
4 other properties, so on both the setback map that's
5 color coded it does show other adjoining properties;
6 is that correct?

7 A. Correct.

8 Q. And those property boundaries are
9 outlined either in green or in black and green; is
10 that correct?

11 A. Correct.

12 Q. And so, for example, here in particular
13 with L20 it's got several parcels that are one to the
14 east and one to the west of it; is that right?

15 A. Correct.

16 Q. And then north of it it butts up against
17 a railroad which is in grey and traverses to across
18 the map; is that right?

19 A. That's correct.

20 Q. And then the other properties, the areas
21 to the north that are in grey, those would be areas
22 that are outside of the project that are not
23 identified specifically; is that right?

24 A. That is correct.

1 Q. But the nearest residence, for example,
2 to this would be to the northeast in that grey area
3 and designated by that white circle with a red little
4 house inside of it; is that correct?

5 A. That is correct.

6 Q. And then also to give a little bit of an
7 idea of where this is located in the project,
8 generally over on the left-hand side that little
9 footprint map shows the red box sort of in the north
10 central to the northwest side of this project area; is
11 that correct?

12 A. Correct.

13 Q. So if we go to the large map that was
14 provided to the ZBA which is -- that has the orange
15 and green designations on it we would find L20 located
16 in the north central part just south of the rail line
17 that traverses from the west to east, east to west
18 across the map; is that correct?

19 A. That is correct.

20 MR. KAINS: All right. Thank you,
21 Mr. Uphoff.

22 All right. I think Madam Chairperson has
23 raised a great point that if there are people in the
24 audience who have specific questions about the

1 setbacks for any of the turbines that may be close to
2 in proximity to their residence or farm ground or what
3 have you, I think that we should have the witness
4 address those. What I think we're going to do, we're
5 going to take a break. It is 7:48, we're about due
6 for a break, allow the court reporter to rest her
7 fingers, but I think during the recess, Mr. Uphoff,
8 would you be available to just take turbine numbers
9 down that -- from the public, would you be willing to
10 take those down and then address those after the break
11 with Mr. Wynn?

12 MR. UPHOFF: Absolutely. What I'll do
13 is I've got this large map here which has -- I'll take
14 that over to lectern behind me and then if anybody
15 wants to come up and identify a particular turbine by
16 location and they'd like to have it referenced then we
17 can reference that after the break.

18 MR. KAINS: I think that would be -- I
19 think that would be a great way of handling Madam
20 Chairperson's concern about folks getting the answers
21 with respect to their specific turbine location in
22 relation to their property without going through 71
23 turbines.

24 MR. RANDOLPH: Just to make a point, the

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1 Chairperson did not raise that.

2 MR. KAINS: Oh, I'm sorry.

3 MS. HUISMAN: It doesn't matter. It was
4 Mr. Flott.

5 MR. KAINS: I'm sorry. Thank you,
6 Mr. Randolph, for the clarification. I apologize,
7 Mr. Flott, it was great idea and I wasn't giving you
8 credit. All right.

9 Folks, this Board is going to be in recess
10 for 15 minutes. We will be back at about 4 minutes
11 after 8:00, maybe a little bit sooner if we can get
12 through our break, but 3 or 4 minutes after 8:00, but
13 we will reconvene and go until 9:00 this evening. And
14 we'll continue with Mr. Wynn on the witness stand.

15 All right. The Board is in recess for 15
16 minutes.

17 (A recess was taken at 7:49 p.m.)

18 (Resume at 8:05 p.m.)

19 MR. KAINS: All right. We'll go back on
20 the record now.

21 Mr. Uphoff, have you had the opportunity to
22 speak with any folks in the public about certain
23 turbine locations?

24 MR. UPHOFF: Yes, I have.

1 MR. KAINS: All right. Approximately
2 how many do we have?

3 MR. UPHOFF: Four.

4 MR. KAINS: Four. Okay. Very good.
5 All right. Let's continue with your questions of
6 Mr. Wynn.

7 Mr. Wynn, I just want to remind you you are
8 still under oath. Do you understand that?

9 THE WITNESS: Yes.

10 MR. KAINS: Okay. Very good. All
11 right. Mr. Uphoff, the floor is yours.

12 MR. UPHOFF: Thank you.

13 **QUESTIONS BY MR. UPHOFF:**

14 Q. Mr. Wynn, if you would, please go to
15 figure 4-22. All right. So figure 4-22 and this is
16 to demonstrate the setbacks for turbine location L34;
17 is that correct?

18 A. That's correct.

19 Q. And this shows on the color coded map
20 that L34 is located in that dark green net buildable
21 area; is that accurate?

22 A. That is correct.

23 Q. And as it relates to the table, we get
24 to L34 on the table for setbacks would demonstrate

1 that L34 is compliant with all the setback
2 requirements listed in the ordinance; is that
3 accurate?

4 A. That is correct.

5 Q. Would you please then turn to figure
6 4-25. This would be demonstrated setbacks for turbine
7 location L38; is that accurate?

8 A. Correct.

9 Q. And for L38 the color coded map shows it
10 is located in the dark green net buildable area; is
11 that correct?

12 A. That's correct.

13 Q. And it shows in the turbine table it
14 also indicates that it complies with all the minimum
15 setbacks that are required in the ordinance; is that
16 correct?

17 A. That's correct.

18 Q. And L38 is located close to the blue
19 setback line and that would be overhead distribution
20 line setbacks; is that correct?

21 A. That is correct.

22 Q. And if you go to the second column for
23 that particular setback for L38 it would show that
24 there's a minimum requirement that's 702 feet but this

1 turbine is set at 720 feet from the overhead
2 distribution line; is that correct?

3 A. That's correct.

4 Q. So it is in compliance; is that correct?

5 A. Yes.

6 Q. Then if you would go to figure 4-37.

7 This would be for turbine location L62; is that
8 correct?

9 A. Correct.

10 Q. Again, the color coded map would show
11 that L62 is located in the dark green net buildable
12 area; is that accurate?

13 A. Correct.

14 Q. But that it looks like it's close to the
15 non-participating property line setback. So if we go
16 to the table for L62, the non-participating property
17 line setback requirement is 702 feet and this shows
18 that L62 is located at 719 feet; is that correct?

19 A. That's correct.

20 Q. So it is in compliance with the
21 ordinance, correct?

22 A. Yes.

23 Q. And then if we go to figure 4-43. This
24 would show the turbine location of L69; is that right?

1 A. Correct.

2 Q. And L69 on this color coded map
3 demonstrates that it is right in the middle of the
4 dark green net buildable area and not close to any of
5 the requisite setback lines; is that correct?

6 A. That's correct.

7 MR. UPHOFF: Those were the locations
8 that were brought to me during the break.

9 MR. KAINS: All right. Very good.
10 Thank you, Mr. Uphoff.

11 All right. You may continue with any other
12 questions you may have for your witness, sir.

13 **QUESTIONS BY MR. UPHOFF:**

14 Q. Okay. So, Mr. Wynn, if we could then,
15 let's go to the end of the setback maps. So just
16 after figure 4-71 we have another figure that's on the
17 map and this would be figure 3; is that correct?

18 A. That's correct.

19 Q. And this shows sort of the overall
20 footprint of the site plan for the project area; is
21 that correct?

22 A. Correct.

23 Q. And if you would for this particular map
24 explain to us what the magenta or pink lines are that

1 we see on this map.

2 A. The magenta line that's connecting the
3 turbines is the projects' underground collection
4 system.

5 Q. So all of those are lines that would be
6 buried underground at turbine to turbine supplying the
7 energy that's being produced and ultimately carrying
8 all that energy to the substation; is that correct?

9 A. That's correct.

10 Q. And then for the substation that energy
11 as previously referenced would go onto the Gen-Tie
12 connection lines; is that correct?

13 A. Correct.

14 Q. And on this map, again, that Gen-Tie
15 line is located over on the eastern side and it is
16 designated by a yellow and black dash line that
17 traverses from the substation east to Kankakee County;
18 is that right?

19 A. That's correct.

20 Q. Okay. So we've now covered the site
21 plan and the setbacks. Let's talk about some of the
22 additional due diligence that was required in putting
23 together this project and application. If you could
24 please walk us through that information.

1 A. Sure. So as far as the project we do
2 biological and cultural studies. We coordinate the
3 results with the agencies like the Illinois Department
4 of Natural Resources, U.S. Fish and Wildlife Service,
5 we've coordinated with the Livingston County Soil and
6 Water Conservation District. We have an AIMA with the
7 Illinois Department of Agriculture and we've also been
8 coordinating with the Livingston County Planning
9 Department.

10 Q. All right. And AIMA would be an
11 Agricultural Impact Mitigation Agreement; is that
12 correct?

13 A. That's correct.

14 Q. And those are required by law for a
15 renewable energy project such as a wind project; is
16 that correct?

17 A. That's correct.

18 Q. Now, you've had consultations with these
19 agencies, what exactly does that mean consultations?

20 A. With the IDNR and the U.S Fish and
21 Wildlife Service we meet with them on a fairly regular
22 basis. We present the results of our studies, we ask
23 for their input and then we use that input to help us
24 with our siting plan.

1 Q. So you're meeting with them in person
2 and sometimes on multiple occasions to discuss the
3 project and the studies that you performed; is that
4 correct?

5 A. That's correct.

6 Q. So tell us a little bit about what came
7 from those consultations of these studies that you
8 conducted in relation to this project from the
9 environmental side.

10 A. We met again with the Illinois
11 Department of Natural Resources, we have a
12 consultation through our EcoCAT, a letter from them
13 with recommendations for the setbacks from the
14 turbines were also included in that consultation.

15 Q. And so if we go to the next slide this
16 outlines some of those completed environmental studies
17 that you conducted?

18 A. It does.

19 Q. All right. Tell us a little bit about
20 those.

21 A. Wetlands and waters of the U.S., waters
22 of the U.S., that we consider a creek, we do a full
23 survey of the project to identify those locations and
24 design our infrastructure to avoid those to the

1 greatest extent we can. Cultural resources,
2 archeological and historic structures we survey the
3 entire footprint as well and those results are
4 coordinated with the State Historic Preservation
5 Office. There are threatened and endangered species
6 consultations and as a result of those we completed a
7 one year of bat acoustic monitoring, one year of
8 presence/absence bat surveys and two years of avian
9 use surveys in addition to two years of raptor nest
10 surveys of the project area.

11 Q. And so after you went through all of
12 these studies at various points in time you had
13 provided this information to these agencies that you
14 were consulting with; is that accurate?

15 A. Correct.

16 Q. And then what would happen with that
17 information with those consultations?

18 A. Those consultations sometimes would
19 result in additional surveys for us, additional data
20 that we provide to the agencies.

21 Q. And then you referenced an EcoCAT and
22 some other feedback information that you receive from
23 these agencies, that information was included within
24 the application; is that right?

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1 A. It was.

2 Q. And in particular with the EcoCAT and
3 some of the other consultation letters, those are
4 located in Appendix K of the application; is that
5 correct?

6 A. That is correct.

7 Q. And then Appendix R we referred the bat
8 habitat study?

9 A. That's correct.

10 Q. And then Appendix S you have a natural
11 resource inventory report?

12 A. Correct.

13 Q. And Appendix T you have the cultural
14 resource?

15 A. Correct.

16 Q. And Appendix W you had AIMA which you
17 referenced?

18 A. Correct.

19 Q. Then we move onto the next slide that
20 included environmental studies, can you walk us
21 through this.

22 A. Additional surveys and studies that we
23 do are what we consider communication studies,
24 microwave, communication tower, mobile phone, AM/FM,

1 TV, the land mobile and emergency services. We
2 completed a series of those reports which are also
3 included. The results of the land mobile and
4 emergency services study was provided to the local 911
5 coordinator. There was also consultation with the
6 National Telecommunications and Information
7 Administration, that is a clearing house for the
8 federal government that talks to agencies that have
9 communications systems and they send a letter to all
10 of the agencies and ask them if they had any issues or
11 potential concerns with interference, we've done that
12 and received no concerns with the turbine placement in
13 the area. The one last thing we did was we prepared a
14 draft emergency preparedness and response plan and
15 it's in, we provide to the EMS and fire departments,
16 once it's completed and in addition we will invite the
17 EMS and fire departments to participate in a yearly
18 emergency planning drill that we conduct at all of our
19 facilities.

20 Q. And those interference studies that you
21 referenced before, were those you say were included in
22 the application, those are at Appendix M, is that
23 correct, as in Mary? The interference study; is that
24 correct?

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1 A. Yes, the interference study.

2 Q. And that's Appendix M?

3 A. M, yes.

4 Q. And so that's also published online to
5 look at the results of those different studies, so
6 those are located as a link on the County's website,
7 is that your understanding?

8 A. Yes.

9 Q. And you indicated that you've provided
10 emergency preparedness and response plan, would it be
11 true to say that you've been coordinating generally
12 with the first responder agencies that are involved in
13 the project area and in particular the fire
14 departments that are involved?

15 A. Correct.

16 Q. And is it your understanding that the
17 fire department, the fire districts that are involved
18 have indicated their support for the project and some
19 have even issued letters of support that will be
20 presented later in the evidence?

21 A. Correct.

22 Q. Moving onto the next slide then we've
23 got some ecological considerations, can you walk us
24 through those.

1 A. Sure. These are some measures that we
2 put into place during construction to try to minimize
3 the impacts of the wildlife and other natural
4 resources such as tree clearing in the winter to avoid
5 any nesting birds or potential bat habitat. We
6 conduct an environmental awareness training for all of
7 our construction operational personnel, and also we
8 establish -- minimize the speed limits to prevent any
9 collisions with animals on the facility. Under
10 natural resource protection we'll have a storm water
11 pollution prevention plan in place which will help
12 minimize storm water runoff to ensure the project has
13 no negative impacts to water quality. Dust control
14 through water trucks to prevent dust. Erosion
15 mitigation and noxious weed control will be conducted
16 at the facility. And finally we'll have an
17 environmental compliance team on site monitoring
18 construction to ensure that we're abiding by all
19 permits and the AIMA.

20 Q. And in addition to that ongoing
21 environmental compliance during the period of
22 construction is there also ongoing compliance
23 following construction?

24 A. That's correct. We have an

1 environmental compliance team that manages our
2 operating facilities. One thing we will be doing at
3 this facility would be five years at post-construction
4 monitoring that we will be coordinating the results
5 with the Illinois Department of Natural Resources and
6 the U.S. Fish and Wildlife Services.

7 Q. Okay.

8 MR. UPHOFF: And those are my questions
9 for Mr. Wynn.

10 MR. KAINS: All right. Very good.
11 Thank you, Mr. Uphoff. Thank you, Mr. Wynn.

12 All right. Questions for this witness first
13 from members of the Livingston County Zoning Board of
14 Appeals.

15 MS. HUISMAN: Mr. Wynn, I just wanted
16 you to maybe take a look at a couple more turbines
17 that -- only with respect to the column
18 non-participating residence and the setbacks.

19 THE WITNESS: Okay.

20 MS. HUISMAN: L95 specifically is pretty
21 close to R1340. Can you get a look at the map and
22 identify where the residence is in relationship to
23 L95.

24 THE WITNESS: Sure. So from the local

1 road setback is 702 feet. This turbine setback is 949
2 feet away. From the overhead distribution line the
3 setback is 702 feet. This turbine is 708 feet away
4 and from the non-participating property line ordinance
5 requirement is 702 feet. Turbine is 716 feet.

6 MS. HUISMAN: Yeah. So I'm looking at
7 the residence side columns and not the participating
8 residence and the requirement for that 1340 and the
9 setback measurement is 1,362. On the drawing it looks
10 like it's pretty much right -- right on the line. I'm
11 not familiar with the properties so I don't know what
12 type of natural buffers there might be in between or
13 if it's possible to get that one further away from
14 that residence or if you contacted -- if that party --
15 if that information was available, that's just kind of
16 close.

17 THE WITNESS: Okay. I'm not sure what
18 the question is.

19 MS. HUISMAN: I don't know by looking at
20 the drawing or the map which way the property -- the
21 non-participating residence would face and it's just,
22 you know, I would call it right on the cusp of the
23 setback requirement. So what kind of natural buffers,
24 and -- and I'm not familiar with the particular

1 location, or is there any potential to get that one
2 further away from that non-participating residence, or
3 if you have contacted that residence and they've
4 waived or there's no issue. I just want to make sure
5 that we have dotted our I's and crossed our T's with
6 that.

7 **QUESTIONS BY MR. UPHOFF:**

8 Q. Mr. Wynn, are you able to answer as to
9 whether or not there are any existing screens on that
10 residential property that would create a visual buffer
11 in the direction of that existing turbine and where
12 it's located?

13 A. I can't tell looking at it at this time.

14 Q. All right. And to the best of your
15 knowledge or would you be familiar with whether or not
16 the landowners of that particular residence or the
17 residential owners have had any consultation with the
18 company.

19 A. I'm not aware of any.

20 Q. All right. So at this point the best
21 that you can provide is the distance is in excess of
22 the minimums of the setbacks required by the County
23 Ordinance; is that right?

24 A. That's correct.

1 Q. Okay. And would we be willing to try to
2 investigate that further if it was necessary to do so?

3 A. Yes.

4 MR. UPHOFF: Okay.

5 MS. HUISMAN: Okay. Thank you.

6 MR. KAINS: Any other questions from
7 members of the Zoning Board?

8 MS HUISMAN: Are you going to be having
9 anyone else testify as to the interference and the
10 potential -- the studies, like, I didn't see anything
11 in -- at least in my brief look at the big binder of
12 anything indicating doplar radar interference. I
13 noticed a lot of like agencies that you've been in
14 contact with and phone interference, TV interference,
15 but as far as, like, you know, storm predictions and
16 the concerns about doplar radar interference, has that
17 been addressed?

18 THE WITNESS: The National Weather
19 Service is one of the agencies that was communicated
20 with on the NTIA, so they received a letter with the
21 turbine layouts asking for comments and no concerns
22 were received based on that.

23 MS. HUISMAN: Okay. So I was just
24 looking in the binder, is that addressed in here in

1 your Appendix N or whatever appendix had the
2 information in it?

3 THE WITNESS: Doplar radar is not
4 addressed in that.

5 MR. UPHOFF: It's addressed in that
6 we -- the National Weather Service is the one
7 monitoring the system, is that correct, Mr. Wynn? And
8 so the National Weather Service was consulted on this
9 for an opportunity and provide comment and provided no
10 comment in relation to the project.

11 MS. HUISMAN: Okay.

12 MR. UPHOFF: And I don't believe that
13 the location and the interference studies that the --
14 that all the agencies ever contacted any information
15 that was received there.

16 MS. HUISMAN: Okay. I'll take another
17 look.

18 MR. KAINS: All right. Are there any
19 other questions from members of the Board for
20 Mr. Wynn? All right. Very good.

21 Questions for this witness from members of
22 units of local government, including school districts?

23 Questions from interested parties represented
24 by licensed attorneys?

1 Questions from other interested parties, that
2 is members of the public? Questions for Mr. Wynn from
3 the -- okay. Come on up, sir. All right.

4 Mr. Smothers, you may address questions to Mr. Wynn.

5 MR. SMOTHERS: Can you pull up L69 on
6 your map. We don't have these maps. All we seen is
7 this -- I can't remember that anyway.

8 So, Mr. Wynn, when you guys took this survey
9 does it show my airport in there?

10 THE WITNESS: No, sir, that's not in
11 these setbacks.

12 MR. SMOTHERS: So I guess I don't know
13 how you guys came up with these setbacks without
14 looking at the aerial setbacks.

15 THE WITNESS: First of all, we
16 coordinated with the Illinois Department of
17 Transportation we were advised that's a private
18 airport. We followed the administrative code that
19 discusses the setback is 5,000 feet from the
20 geographical center of the airport.

21 MR. SMOTHERS: That's north and south,
22 that's not from the ends.

23 THE WITNESS: Well, it --

24 MR. SMOTHERS: It's 5,000 feet off of

1 the end of the runway. Well, I mean, you're
2 talking about -- you're talking a lot of difference
3 here. So when you're looking at the north and the
4 southbound it reads at 5,000 feet from the center to
5 the north, 5,000 feet going south. From the east end
6 is 5,000 feet from the end of the runway going east,
7 from the west end it's 3,000 from the west. So that's
8 what I'm saying, you don't -- do you even know where
9 my airport is on there?

10 MR. KAINS: Mr. Smothers, could you turn
11 on your microphone. Do you see a button?

12 MR. SMOTHERS: I'm sorry.

13 MR. KAINS: All right. Could you
14 rephrase your question.

15 MR. SMOTHERS: Well, see, what I'm
16 getting at is all of these are done and they didn't
17 take into effect where this airport is, the runway and
18 that's what's everything is based off of for the
19 setbacks on -- on -- is the runway. They all know
20 that because we've been in a lot of discussions for
21 the past year and they all know that. First they had
22 the wrong setbacks. They thought it was --

23 MR. UPHOFF: And if I could, I'd like to
24 object to this line of testimony. He's not actually

1 asking questions. He's wanting to testify which he'll
2 have an opportunity to do later.

3 MR. SMOTHERS. Okay. I guess my
4 question is --

5 MR. KAINS: Hang on a second,
6 Mr. Smothers. I have to rule on the objection. I'm
7 going to sustain that objection, okay. And so I'm
8 just going to direct you, sir, and you will have ample
9 time to say your peace when it's your turn, but right
10 now it's time for questions for Mr. Wynn.

11 So any questions you have for this witness go
12 right ahead.

13 MR. SMOTHERS: So my question was was
14 any of these setbacks done to the runway that isn't on
15 there?

16 THE WITNESS: We set back turbine space
17 on the information from the Illinois Department of
18 Transportation for a private airport.

19 MR. SMOTHERS: But it's not on there --

20 THE WITNESS: All of the standards in
21 the rule it discusses a --

22 MR. SMOTHERS: But, Mr. Wynn, it isn't
23 on there. It isn't on there. Those setbacks are
24 wrong.

1 THE WITNESS: These are setbacks that
2 are in the County Ordinance. We did not include the
3 airports --

4 MR. SMOTHERS: Well, I agree. So
5 there's nothing on there for the runway?

6 THE WITNESS: No, cause we set back
7 turbines outside of the setback zone based on what
8 IDOT's telling us.

9 MR. SMOTHERS: Can you say that again,
10 please.

11 THE WITNESS: Yeah. So the Illinois
12 Department of Transportation says the horizontal
13 surface ends 5,000 feet from the geographic center of
14 the airport.

15 MR. SMOTHERS: Going north and south?

16 THE WITNESS: We were told by the
17 Illinois Department of Transportation that is the
18 center point of the runway.

19 MR. SMOTHERS: I agree, going north and
20 south.

21 THE WITNESS: And we set back turbines
22 5,000 feet outside of that and also 3,000 feet from
23 the ends of the runway.

24 MR. SMOTHERS: So let me ask you a

1 question, cause that's supposed to be before you guys
2 said. You guys did this circle --

3 MR. UPHOFF: Again, I'm going to object.
4 He's testifying and now he's testifying to hearsay.

5 MR. SMOTHERS: He's the one that made
6 the circle.

7 MR. KAINS: Okay. I'm going to sustain
8 the objection and ask you to ask questions of
9 Mr. Wynn, and, again, Mr. Smothers, you will have
10 ample time to say whatever you want when it's your
11 turn.

12 MR. SMOTHERS: So my question is did you
13 base this off of a circle from the center of the
14 runway?

15 THE WITNESS: Yes.

16 MR. SMOTHERS: So that's not a traffic
17 pattern?

18 MR. UPHOFF: Again, I object --

19 THE WITNESS: Well, besides that we also
20 have a memo from our airspace consultant that says
21 airway is a privately owned private use airport which
22 notes that this airplane's instrument approaches. The
23 FAA they did not and will not evaluate distracted
24 operations during the --

1 MR. SMOTHERS: That's correct. But the
2 FAA -- we have a certain boundary setback that you
3 guys did not follow. I'm not trying to be an A-hole
4 here. I'm just saying we want to protect our area.
5 You guys are coming in wanting to make all these
6 things there, all we want to do protect our area.

7 THE WITNESS: We're doing that following
8 the State of Illinois guidance as there is no FAA
9 projection --

10 MR. KAINS: Mr. Smothers, do you have
11 any other questions of the witness?

12 MR. SMOTHERS: I thought this was
13 questioning.

14 MR. KAINS: Okay. You can ask
15 questions.

16 MR. SMOTHERS: So where do I go now that
17 I know that they're wrong? Where do I go? Do I have
18 to get a lawyer? Do we have to -- do we have to put
19 up the money, thousands and thousands and thousands of
20 dollars? They're the ones coming in encroaching on
21 our property and --

22 MR. KAINS: Right now -- Mr. Smothers,
23 right now is the time to ask questions of this
24 witness. It will be your time to talk about

1 attorney's fees and whatever it is when it's your turn
2 to testify.

3 MR. SMOTHERS: And when is that?

4 MR. KAINS: That will be after the
5 Applicant presents its case and then we will have
6 testimony from persons in favor and then we will have
7 testimony from persons who are opposed and then there
8 will be testimony from persons who are neutral on the
9 issue. So we will have that in future evenings of
10 this hearing.

11 MR. SMOTHERS: Either today or tomorrow,
12 is that what you're saying?

13 MR. KAINS: Sir, I don't know if it's
14 going to be tomorrow or not. From what I understood
15 from Mr. Uphoff and his team has eight witnesses and
16 we're on the second one and so I don't know if we're
17 going to get through all of his case tomorrow night,
18 okay. So we may be looking at a later date, but we
19 will definitely consult with this Board and all the
20 parties involved about another date, we may be going
21 into July before we get to the testimony that you want
22 to give.

23 MR. SMOTHERS: So can I ask him one more
24 question.

1 MR. KAINS: Absolutely, sir.

2 MR. SMOTHERS: So can I get from you
3 guys a survey showing off the ends of my runway off
4 the center to each window that's on my property so I
5 know that you guys took these measurements right?
6 This shouldn't be a burden of the citizens to do this.

7 MR. KAINS: The question is do you have
8 a survey you can provide Mr. Smothers.

9 THE WITNESS: We have figures, they're
10 not based on actual site surveys.

11 MR. SMOTHERS: They're latitude and
12 longitude.

13 MR. KAINS: All right. What I'm going
14 to do is direct Mr. Uphoff to provide Mr. Smothers
15 with any surveys or anything that you might have, and
16 if you don't have it then you don't have it, but if
17 you do have it, please provide Mr. Smothers with any
18 surveys with respect to the airport and the
19 measurements, if any, that were taken.

20 MR. SMOTHERS: And they can talk to me
21 and so we can talk about this and get it right.

22 MR. KAINS: Absolutely. Mr. Uphoff is
23 the attorney right here and I am sure he would be glad
24 to talk with you. Well, I'm not sure, but I would

1 guess that he should.

2 MR SMOTHERS: Okay. Thank you.

3 MR. KAINS: Mr. Smothers, thank you,
4 very much for your questions.

5 All right. Were there any other questions
6 from the public for Mr. Wynn. Yeah. Tom, I'm going
7 to get your last name before we're done. Spell it for
8 me again, please.

9 MR. KULASIK: K-U-L-A-S-I-K, Kulasik.

10 MR. KAINS: Kulasik.

11 MR. KULASIK: That's correct, sir.

12 MR. KAINS: It's like a classic car.

13 All right. Mr. Kulasik, questions for Mr. Wynn.

14 MR. KULASIK: And I'm going to apologize
15 for the first questions cause I'm trying to go back to
16 my -- are you employed by the wind farm company or are
17 you a subcontractor?

18 THE WITNESS: I'm employed by Pattern
19 Energy, yes, one of the two joint venture partners.

20 MR. KULASIK: And you do this all over
21 the country for all of the different projects?

22 THE WITNESS: Yes.

23 MR. KULASIK: Okay. I just wanted to
24 get that together. I'd like to look back at the

1 setbacks for L9, and I got a question cause you were
2 shouting off the numbers, but the map, I couldn't tell
3 the distances, I don't know what they're coming from
4 or going to.

5 Okay. So you kept saying the setback's at
6 700 and something feet. Can you reiterate that once
7 again, it's 702 feet is the code; is that correct?

8 THE WITNESS: That's correct.

9 MR. KULASIK: And this is set back how
10 far according to your agenda?

11 THE WITNESS: This is set back 715 feet.

12 MR. KULASIK: Okay. From what?

13 THE WITNESS: From the -- this is for a
14 local road, so it is setback 715 feet from the center
15 line of that road to the east.

16 MR. KULASIK: Okay. What is the
17 distance between that and the property of the lower
18 left which could be my property?

19 THE WITNESS: The distance between L9?

20 MR. KULASIK: Yes.

21 THE WITNESS: And your property?

22 MR. KULASIK: Yes. Is that information
23 available?

24 THE WITNESS: Is it a residence?

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MR. KULASIK: Yes.

THE WITNESS: In the corner?

MR. KULASIK: Yes.

THE WITNESS: That is a non-participating residence.

MR. KULASIK: Correct.

THE WITNESS: I show 1,833 feet.

MR. UPHOFF: I'm sorry. I couldn't --

THE WITNESS: 1,833.

MR. KULASIK: Okay. What was the code for again?

THE WITNESS: 1340.

MR. KULASIK: Okay. I just wanted to -- I couldn't understand from what you were saying before. I just needed some clarification on that.

Now, on the map I have it shows a bunch of orange lines which I'm assuming are the lines that are the interconnect underground for the power. What kind of power is it, is it AC/DC, high voltage, low voltage?

THE WITNESS: Well, I'm not a construction employee but it's DC 34.5 low voltage what I understand it to be.

MR. KULASIK: If it's out of your bounds

1 then tell me, I'll get the question to the proper
2 person, on my map it shows the orange line coming
3 forward, but it also shows an orange line that goes
4 straight and dead ends and nearly right in front of my
5 property and I'm wondering what does that orange line
6 represent?

7 THE WITNESS: Without seeing the map I'm
8 not sure I can answer your question.

9 MR. KULASIK: Can I go up and show him.
10 It shows a line traveling north from L4 that would end
11 at 3000 North Road. What does that line represent?

12 MR. UPHOFF: So, Mr. Wynn, if we're
13 looking at this it would be figure 1 that he's now put
14 up on the screen. The individual is asking about L4
15 which is located over at, you know, sort of the 9:00
16 far side of the screen. He's indicating that there's
17 a line running from Turbine L20 to L4 and then up to
18 L9, that would be the transmission line; is that
19 correct?

20 THE WITNESS: The road going from L20 to
21 L4?

22 MR. UPHOFF: No. There's a line going
23 from L20 to L4 to L9, that would be -- that looks like
24 a pipe line --

1 THE WITNESS: This is a geographic map,
2 USGS map?

3 MR. UPHOFF: No. No. No. Sorry. The
4 orange line that runs directly from L20 to L4 to L9 is
5 the collection line, correct?

6 THE WITNESS: Yes.

7 MR. UPHOFF: Okay. And then from L4
8 there's a line that runs directly straight north to
9 the road north of it, would that be the direct access
10 road --

11 THE WITNESS: That would be an access
12 road, yes, sir.

13 MR. UPHOFF: So that is an access road
14 that goes directly from the road to turbine location
15 L4?

16 THE WITNESS: Correct.

17 MR. UPHOFF: Okay.

18 MR. KULASIK: Okay. Like I said, our
19 drawing does not indicate that. That just has the
20 orange lines.

21 On this ADLS, you mentioned that earlier.

22 THE WITNESS: Yes.

23 MR. KULASIK: Does that have -- do you
24 put up a radar tower and operate a radar like we would

1 understand it rotating and then sending out receives.

2 THE WITNESS: Yes.

3 MR. KULASIK: And it's my understanding
4 from what you said, please correct me if I'm wrong,
5 I'm trying to get these questions best I can, that if
6 an aircraft approaches within 3 nautical miles at any
7 point of the wind farm or within 200 or 1,000 feet
8 above it will illuminate the wind farm?

9 THE WITNESS: The lights will turn on,
10 yes.

11 MR. KULASIK: Okay. Now, when the
12 lights are on are they steady or --

13 THE WITNESS: They blink.

14 MR. KULASIK: Okay. And for how long --
15 I mean, after the aircraft departs the area how long
16 does it stay on?

17 THE WITNESS: I don't have an answer to
18 that question.

19 MR. KULASIK: Okay. And do you happen
20 to know, you said this communicates from this radar
21 tower up above each individual wind turbine, how is
22 that accomplished?

23 THE WITNESS: Through the project's
24 Scada System. It's tied into our control system.

1 MR. KULASIK: So the radio frequency are
2 all components so that communicate each indicator?

3 THE WITNESS: And that communicates
4 through, you know, the Scada wiring or other
5 components.

6 MR. KULASIK: Okay. You wouldn't happen
7 to know where that falls on the frequency band, do
8 you?

9 THE WITNESS: I don't.

10 MR. KULASIK: Cause I'm looking at radio
11 interference, that's going to be my next. I notice
12 you did have a radio study, AM/FM, TV. So this is not
13 going to affect any reception I get from the City of
14 Chicago to my TV?

15 THE WITNESS: That's not what our
16 studies say.

17 MR. KULASIK: Okay. So I'm not going to
18 see any interference? I won't be getting a choppy
19 picture?

20 THE WITNESS: Not that we're aware of.

21 MR. KULASIK: Okay. How about cell
22 phone, that's all going to be good?

23 THE WITNESS: That's correct.

24 MR. KULASIK: Cause it's already spotty

1 in that part of the county anyway. The one thing you
2 said you were an environmental specialist?

3 THE WITNESS: Yes.

4 MR. KULASIK: What plans have you put
5 into effect should there be a leak from one of these
6 turbines then at the top? I don't -- I'm spit balling
7 here cause I don't have the exact figures, but I know
8 30 plus gallons of lubricant that's up there, should
9 it all leak out what is the plan?

10 THE WITNESS: If it leaks down onto the
11 gravel base that surrounds the turbine it will be
12 cleaned up, properly disposed of, there will be
13 documents at the wind farm called the spill pollution
14 remission plan that gives instructions on how to
15 dispose of and clean up any potential spill.

16 MR. KULASIK: An incident such as that
17 is the public ever notified?

18 THE WITNESS: There's no requirement for
19 that, no.

20 MR. KULASIK: Do you notify the State
21 EPA when it happens?

22 THE WITNESS: No because we don't -- we
23 don't meet a minimum threshold that would require
24 that.

1 MR. KULASIK: Isn't that the minimum
2 threshold for hazardous materials 100 pounds reported
3 quantity?

4 THE WITNESS: I'm not aware.

5 MR. KULASIK: Okay. Well, last I knew
6 in 2018 the Illinois EPA required anything over 100
7 pounds of hazardous material needs to be reported to
8 the IEPA.

9 THE WITNESS: The spill prevention
10 solution will prevent --

11 MR. KULASIK: And 30 gallons is --

12 THE WITNESS: -- identifies all of that.
13 I'm not sure. I don't know that lube oil is
14 considered a hazardous material. I would have to
15 consult with one of our experts.

16 MR. KULASIK: 100 pounds of 30 gallons,
17 like I said, I'm sure that at least more than
18 qualifies for 100 pounds. So I'm just looking at how
19 it gets in the ground, how that's monitored should it
20 get in the ground, ground water contamination.

21 THE WITNESS: Again, we monitor the wind
22 turbines 24/7, leaks like that are reported and
23 corrected.

24 MR. KULASIK: And will the company give

1 adjacent property owners a phone number to call
2 somebody directly with the company should there be an
3 issue that they have to address that concern in the
4 future?

5 THE WITNESS: Well, there will be the
6 operation and maintenance facility where it will be
7 staffed by local people and any concerns would be
8 addressed.

9 MR. KULASIK: Okay. Will the public be
10 given a number that they can call?

11 THE WITNESS: Yes. Yes, we can do that,
12 yes.

13 MR. KULASIK: Okay. Thank you.

14 MR. KAINS: All right. Thank you,
15 Mr. Kulasik.

16 All right. Any other questions for Mr. Wynn
17 from the public? Yes, ma'am. Could you please state
18 your name.

19 MS. EHRHARDT: Rachel Ehrhardt.

20 MR. KAINS: Could you spell Rachel.

21 MS. EHRHARDT: R-A-C-H-E-L.

22 MR. KAINS: And your last name, how do
23 you spell that?

24 MS. EHRHARDT: Ehrhardt,

1 E-H-R-H-A-R-D-T.

2 MR. KAINS: Okay. Very good.

3 Ms. Ehrhardt, questions for Mr. Wynn.

4 MS. EHRHARDT: My questions for you
5 would be we already discussed cell phone impacts that
6 there won't be any, but what will be the impact to
7 satellite internet for residents that live within the
8 area?

9 THE WITNESS: I don't know. I'm not
10 aware of any study that has that. I can't answer that
11 question right now.

12 MS. EHRHARDT: Okay. I know a lot of us
13 in the area utilize a satellite internet and we also
14 require it to work from home.

15 THE WITNESS: I will look into it and
16 get back to you on that question.

17 MS. EHRHARDT: All right. Thank you,
18 very much.

19 MR. KAINS: Thank you, Ms. Ehrhardt.
20 Mr. Uphoff, are you making a note to come back on that
21 one?

22 MR. UPHOFF: Yes.

23 MR. KAINS: Very good. All right. Any
24 other questions for Mr. Wynn from the public?

1 All right. Very good. Thank you. All
2 right.

3 Questions for Mr. Wynn from Livingston County
4 Staff and Consultants, Ms. Miller?

5 MS. MILLER: No.

6 MR. KAINS: No questions.

7 All right. Questions from counsel on behalf
8 of the Zoning Board of Appeals, Mr. Dluski?

9 MR. DLUSKI: No questions.

10 MR. KAINS: Mr. Keyt?

11 MR. KEYT: I have a few.

12 **CROSS-EXAMINATION,**

13 **QUESTIONS BY MR. ANDREW J. KEYT:**

14 Q. Mr. Wynn, in relation to the FAA's
15 approval via determination of no hazard I assume that
16 you anticipate receiving those prior to the building
17 permit date?

18 A. Yes.

19 Q. Okay. In terms of the ADLS tower or
20 ADLS system, has that been be applied for with the FAA
21 yet?

22 A. It has not.

23 Q. Okay. Is it the intention to apply for
24 that and receive that approval prior to the building

1 permit phase?

2 A. We may not have the information we need,
3 it would be applied for prior to construction, but I'm
4 not sure we'll be ready to apply for that at the
5 building permit stage. We have consultants that have
6 to do some additional studies. I can follow-up on a
7 schedule for that.

8 Q. Understood. In terms of the IDNR
9 recommendations that are listed in the EcoCAT reviews,
10 is the Applicant going to comply with those
11 conditions?

12 A. Yes.

13 Q. And the recommendations listed from the
14 IDNR in those EcoCAT?

15 A. Yes.

16 Q. And then in the IPAC reviews, is the
17 Applicant willing to comply with those recommendations
18 and conditions?

19 A. Yes.

20 Q. In terms of interference with any
21 communication systems or 911 systems utilized by the
22 county, if there would be an interference that were
23 recognized at some point during the project's lifetime
24 can I assume the Applicant would be willing to work

1 with the county to determine a workaround for whatever
2 interference it may be?

3 A. Absolutely.

4 Q. In terms of interference with either
5 television or home internet is the Applicant able to
6 work with those homeowners to develop a workaround in
7 the event that there is interference?

8 A. Yes, absolutely.

9 Q. Okay.

10 MR. KEYT: That's all the questions I
11 have. Thank you.

12 MR. KAINS: All right. Thank you,
13 Mr. Keyt. Redirect, Mr. Uphoff.

14 **REDIRECT EXAMINATION,**

15 **QUESTIONS BY MR. SETH UPHOFF:**

16 Q. Mr. Wynn, in addition to the testimony
17 you already provided did you understand that you
18 consulted with outside resources in relation to the
19 setbacks from the airport that was raised?

20 A. Correct.

21 Q. And can you tell us a little bit about
22 that outside consultant.

23 A. Consultant Capital Airspace Group, they
24 help us analyze airspace issues and help us with our

1 determination of no hazard filings with the FAA.

2 Q. And they did analyze this scenario
3 involving the provided airport; is that correct?

4 A. That's correct.

5 Q. And the report that they gave to you
6 indicated what?

7 A. The report indicated that this airport
8 is governed by the State of Illinois, that the FAA
9 will not apply for any CFR part 77 obstruction hazards
10 to this facility.

11 Q. Okay. So they indicated that you took
12 whatever designation this airport has, the FAA will
13 not be enforcing whatever that particular rule is on
14 this particular location; is that right?

15 A. That's correct.

16 Q. And so then in consultation with them it
17 was determined that based on the Illinois State
18 requirements that there would be a 5,000 foot setback
19 measured from the geographical center of the runway;
20 is that right?

21 A. That's correct.

22 Q. And the geographical center of the
23 runway was determined by creating bisecting lines from
24 all corners of -- the runway is a rectangle, correct?

1 A. Yes.

2 Q. And so the bisecting lines across that
3 rectangle is determined by the exact center,
4 geographic center of that runway; is that right?

5 A. Correct.

6 Q. And then measured the setback from that
7 geographical center of the runway?

8 A. Correct.

9 Q. And then that's how you were able to
10 reach a determination of a circle of 5,000 feet from
11 that location?

12 A. That's correct.

13 Q. And then you said there's an additional
14 3,000 feet from each end of the runway; is that
15 accurate?

16 A. That's correct.

17 Q. And you were then able to utilize those
18 figures and determine that none of the -- none of the
19 turbines in your current footprint plan would be
20 within those setback distances; is that accurate?

21 A. That's correct.

22 Q. All right. And is that report something
23 that can be submitted into evidence if required of the
24 Board.

1 A. Yes.

2 Q. And so that was -- again, state the name
3 of the company that provided the report.

4 A. Capital Airspace Group.

5 Q. And with that I'm going to keep a copy
6 of that to be submitted to the Zoning Board; is
7 correct?

8 A. Yes.

9 MR. UPHOFF: Okay. No further
10 questions.

11 MR. KAINS: All right. Thank you,
12 Mr. Uphoff.

13 All right. Final questions for this witness
14 come from members of the Livingston County Zoning
15 Board of Appeals. All right. Very good.

16 All right. Mr. Wynn, thank you for your
17 testimony. You may step down.

18 (Witness excused.)

19 MR. KAINS: All right. It is 8:50,
20 Mr. Uphoff.

21 MR. UPHOFF: Yes, sir.

22 MR. KAINS: Can your next witness
23 testify in the next ten minutes? How long is his
24 testimony expected to take?

1 MR. UPHOFF: Realistically his testimony
2 is expected take longer than ten minutes.

3 MR. KAINS: What is the subject matter?

4 MR. UPHOFF: Subject matter is going to
5 be construction. We're going to try to go through it
6 at a high level. I think we could get through his
7 direct examination in around 15 minutes or so.

8 MR. KAINS: I don't think we're going to
9 do that. When I have a witness testify I like that
10 witness to testify and then have questions right then
11 there and there.

12 All right. So you have a construction
13 expert, and who is after that?

14 MR. UPHOFF: After that we'll have
15 another witness who will be talking about the
16 financial ability of the Applicant to complete the
17 project and also to discuss two issues in relation to
18 the road use agreement.

19 MR. KAINS: And then a witness after
20 that one?

21 MR. UPHOFF: After that we would then
22 have a witness who would be talking about the sound
23 study that was conducted. Following that we would
24 have a witness who would be discussing the shadow

1 flicker issue, that's also a witness on the variance,
2 and then we would have additional witnesses testify in
3 relation to property value impact and economic impact.

4 MR. KAINS: All right. Very good.

5 All right. So, folks, this Board is going to
6 reconvene tomorrow evening at 6:00. We'll go from
7 6:00 until 9:00 in this room tomorrow night and we'll
8 start at 6:00.

9 And you heard Mr. Uphoff, he has some
10 technical-type witnesses but there's going to be some
11 construction testimony and, of course, your questions.
12 There will be the financial ability of the company and
13 then get into some scientific-type stuff with sound
14 and shadow flicker. We hope to get through as many
15 witnesses as we can tomorrow evening.

16 So with that said, Madam Chairman, the Board
17 is in recess.

18 MS. HUISMAN: Yes, we're in recess. You
19 want a motion or just call it?

20 MR. KAINS: No.

21 MS. HUISMAN: Okay. We are in recess.

22 MR. KAINS: Recess until tomorrow night,
23 6:00. Thank you.

24 (Cause recessed.)

Jamie S. Atkinson, CSR
Court Reporter
Vermilion County

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WHICH WERE ALL THE PROCEEDINGS MADE OF RECORD IN THIS
CAUSE ON SAID DAY.