

STATE OF ILLINOIS
PIATT COUNTY ZONING BOARD

GOOSE CREEK WIND, LLC
APPLICATION FOR A SPECIAL USE PERMIT

12/21/22
6:02 P.M. - 10:18 P.M.

PIATT COUNTY ZONING OFFICER:
Keri Nusbaum

HEARING FACILITATOR:
Scott Kains, Esq.

PIATT COUNTY ZONING BOARD MEMBERS:
Loyd Wax - Chairman
William Chambers
Paul Foran
Jim Harrington
Kyle Lovin

PIATT COUNTY BOARD MEMBERS
Jerry Edwards
Todd Henricks
Michael Beem

COUNSEL FOR THE PIATT COUNTY BOARD:
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COUNSEL FOR THE APPLICANT:
Benjamin Jacobi, Esq.

COUNSEL FOR OBJECTORS:
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COURT REPORTER: Courtnay Orman, CSR

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1 MR. WAX: Let's call the meeting to order,
2 please.

3 Hello. Can we call the meeting to order?

4 Thank you. Welcome to the meeting. Could we have
5 a rollcall, please.

6 MS. NUSBAUM: Mr. Larson?

7 MR. LARSON: Here.

8 MS. NUSBAUM: Mr. Harrington?

9 MR. HARRINGTON: Here.

10 MS. NUSBAUM: Mr. Lovin?

11 MR. LOVIN: Here.

12 MS. NUSBAUM: Mr. Foran?

13 MR. FORAN: Here.

14 MS. NUSBAUM: Mr. Wax?

15 MR. WAX: Here.

16 MS. NUSBAUM: Mr. Chambers?

17 MR. CHAMBERS: Here.

18 MS. NUSBAUM: Mr. Wax?

19 MR. WAX: Here.

20 MS. NUSBAUM: State's Attorney Perry?

21 County Board members, Mr. Henricks?

22 MR. HENDRICKS: Yes.

23 MS. NUSBAUM: Mr. Edwards?

24 MR. EDWARDS: Yes.

25 MS. NUSBAUM: Mr. Beem?

1 MR. BEEM: Yes.

2 MS. NUSBAUM: Ms. Jones?

3 Ms. Piatt?

4 Thank you.

5 MR. KAINS: Very good, and good evening. We have
6 just a few more witnesses that we will go in this order
7 tonight: We will hear from Mr. Dennis McKanic first,
8 followed by Mr. James Reed, and then an additional
9 person has signed in, a Chris Stillabower, who will go
10 third, and we will hear from them tonight, and then we
11 will go into primarily a legal discussion with respect
12 to exhibits, and then we will have the reading of
13 written comments, any writings that have been submitted
14 to the zoning board, and I've just received a number of
15 them just as we walked in tonight. So, we will have the
16 reading of comments, and then there will be attorneys'
17 closing statements, and then there will be a discussion
18 from the board with respect to scheduling a night in
19 January to meet for the board to discuss and make its
20 recommendation.

21 So I call it DND night, discussion and decision,
22 and that will be sometime in January, but the board will
23 take up that issue following closing statements.

24 All right. With that said, first witness tonight,
25 Mr. McKanic.

1 Good evening, sir. Could you please raise your
2 right hand to be sworn?

3 Courtney, would you be able to swear in the
4 witnesses?

5 COURT REPORTER: Yes.

6 DENNIS MCKANIC
7 called as a witness, being first duly sworn, was
8 examined and testified as follows:

9 DIRECT EXAMINATION

10 MR. KAINS: All right. Sir, could you please
11 state your name, spelling your first and last names for
12 the record?

13 MR. MCKANIC: Dennis McKanic, D-E-N-N-I-S
14 M-C-K-A-N-I-C.

15 MR. KAINS: And, Mr. McKanic, where do you
16 reside?

17 MR. MCKANIC: In Bement, in Piatt County.

18 MR. KAINS: Very good. And Mr. McKanic is
19 testifying in opposition to the application for Special
20 Use Permit, and by rule as a Piatt County resident,
21 Mr. McKanic, you have 45 minutes for your presentation,
22 and you may proceed.

23 MR. MCKANIC: My name is Dennis McKanic. I've
24 only lived here a few years. I'm sure, you know, most
25 people have lived here a whole lot longer than that. I

1 grew up on the south side of Chicago, so -- and then
2 from there, after 9/11 and the economy got really bad, I
3 moved down south, where I had family down there, so --

4 MR. KAINS: You're fine, Mr. McKanic, take your
5 time.

6 MR. MCKANIC: I've lived in city environments.
7 I've lived in country environments, rural areas. People
8 around here, they live around here for a reason, you
9 know. They don't want to be around all that
10 industrialized -- I really don't know how to put it in
11 words.

12 You know, when they say that, you know, you can
13 put a price on things, but there's some things, you
14 know, that really are priceless, you know, where people
15 live, you know, sit on their back porch and, you know,
16 the scenery, you can't buy that. You can't replace
17 that. Even if they take them down, the land is scarred.

18 My neighbor lives across the street from me.
19 She's a farmer. She told me: You have make sure you
20 check the fine print really close, because I guess she
21 had an incident where a blade was broke and they left
22 it. They came and replaced it, but they left it on her
23 property. So, you know, they talk about these things
24 being so "green", and I'm sure at the very end product
25 it's "green", but, you know, it's just not really -- I

1 don't think it's worth the investment.

2 Just as a side note, I think the whole
3 climate-change thing is a gimmick. I think it's
4 something made up by banks and millionaires to create
5 projects like this to get rich off of.

6 I mean, at one point in time the beaches of
7 Florida shared soil with the coast of Africa. That
8 didn't happen because we weren't putting up wind farms
9 and driving electric vehicles. I mean, the environment
10 is changing. The climate has been changing since the
11 earth was created. It was just -- we have to learn to
12 adapt to it.

13 And then all this -- everything "going green" with
14 this -- I'm sorry, I'm just nervous.

15 MR. KAINS: Take your time, Mr. McKanic, you're
16 doing fine.

17 MR. MCKANIC: I have -- it's information I'd like
18 to submit, if I could.

19 MR. KAINS: Yes, sir.

20 MR. JACOBI: Thank you, sir.

21 MR. MCKANIC: Do I hand these to you?

22 MR. KAINS: Sir, are they all the same copies?

23 MR. MCKANIC: Yes.

24 MR. KAINS: And, Mr. Keyt, will you mark this as

25 --

1 MR. KEYT: McKanic Exhibit 1.

2 MR. KAINS: McKanic Exhibit 1.

3 MR. MCKANIC: I gave him a copy already.

4 MR. KAINS: Go right ahead, Mr. McKanic.

5 MR. MCKANIC: That first page -- I mean, I've just
6 got stuff highlighted in these articles. That first
7 page where it talks about *Copper's Role in Wind*
8 *Generation*. In that upper left corner, that little
9 paragraph there, it talks about just in the generators
10 in a typical 1.5 megawatt turbine, just in the generator
11 itself holds nineteen hundred pounds of copper. And in
12 that same paragraph it explains that renewable energies
13 require five times as much copper as conventional forms
14 of generating electricity.

15 So, I mean, you're burning less coal to produce
16 electricity, but you're going to be burning more coal to
17 manufacture the copper, so it just seems to me you're
18 displacing the pollution from one sector to another. So
19 I don't really see the benefit in there to jump on. You
20 know, there's a little over 70,000 -- I don't know, I
21 seen somewhere there was 77,000. I seen another place
22 almost 71,000 wind turbines in the United States, and
23 that's only making up about 8 to 10 percent of our -- of
24 our electricity. So how much is it really needed? How
25 much do we got to, you know, build to support, you know.

1 One thing that they mentioned that these
2 turbines, they kill -- or there's 10 million birds that
3 are killed by cats every year, and, I mean, that's just
4 -- I don't see that really being a stable argument,
5 because cats are going to kill bird regardless if
6 there's wind turbines put up. I mean, that's just
7 nature, but when you put a -- you know, a man-made
8 monstrosity into, you know, a wildlife environment, it's
9 going to -- it's just -- it's not supposed to be there.

10 I mean, if there's so many people that really
11 don't want them, why don't they put them in places where
12 there isn't any people? You know, I'm sure there's a
13 lot of places in Arizona, Nevada, you know, out there
14 where people don't desire to live just because the way
15 it is right now. So why don't they just put the
16 turbines out there? You know, and there's not much
17 grass or foliage out there that could catch fire if
18 something did catch on fire, so to me it would seem that
19 would be the most safest environment to put something
20 like that.

21 And they go on about, you know, that this is
22 "green energy", and they're almost kind of like leading
23 people to believe that it is going to reduce the cost,
24 and -- I didn't print it out to give everybody a copy.
25 It was an article published in Bloomberg, November 7th

1 of this year. It was *Renewable Power's Big Mistake Was*
2 *a Promise to Always Get Cheaper*. And they had
3 interviewed -- I'll just read a quote in here. There
4 was an interview with a CEO Henrik Anderson of Vestas.
5 He said, "It made some people make the wrong assumption
6 that energy and electricity should become free. We
7 created the perception to some extent. We were to blame
8 for it, and that was a mistake." He said, "While
9 wind-power costs have steadily declined, to the point
10 where many people concluded prices would eventually hit
11 zero, technological advances can only go so far. Now
12 the industry needs to charge more so it can deliver the
13 massive scale-up needed for the countries to achieve
14 their ambitious client goals."

15 So it's -- I mean, it's not gonna -- or our
16 electric bill isn't gonna get any cheaper, you know, so
17 I don't see us getting any benefit out of this.

18 For property taxes, they say they are going to go
19 up because the land is more productive. You know, it's
20 unsightly. I don't care what anybody says. I wouldn't
21 want to live by one. I don't know anybody who has said:
22 I'm looking for a house by a wind farm. I've never
23 heard that.

24 I've heard people say that -- yesterday, it's
25 like a David and Goliath story. To me, it almost seems

1 like when Columbus come to America and when all the
2 Europeans come in and chased the natives out of their
3 land and forcing their ideologies on them, is what it
4 seems like to me.

5 There was an article published on Wind Watch on
6 October 31st in 2013. That's this one right here.
7 There was two young mechanics, age 19 and 21, that died
8 when a fire broke out in a wind turbine where they were
9 performing routine maintenance.

10 I'm assuming they were trained blackout/tag out.
11 So, you know, performing routine maintenance wouldn't
12 suspect anything to happen like that, but -- excuse me.
13 Said a fire started in the afternoon but it took until
14 the evening for the special team of fire fighters to
15 arrive to ascend with a large crane. That just -- I
16 still am not buying the fact that these turbines have
17 been around for so long and there's been so much
18 research and development done on these things that
19 they've been saying this whole time there's no
20 technology, you know, available for a fire suppression
21 on these wind turbines. It just -- everybody that I
22 talk to here on the record and off the record, they all
23 said the same thing.

24 Anyway, one victim was found on the ground beside
25 the wind turbine, and the other body was recovered by a

1 specialized team, and two mechanics escaped safely. A
2 witness reported seeing two men jump through flames into
3 a staircase. I'm sorry, but when I read this article, I
4 thought of 9/11 when I finished that paragraph. Those
5 two boys shouldn't have had to make that decision when
6 they went to work that day because there was no fire
7 suppression system. Something like that should never
8 happen. It says: Cause of the fire was not yet
9 determined, but Deltawind suggested there was a short
10 circuit that could have caused it. The turbine was
11 1.5 -- 1.75 megawatt Vestas V-66. These turbines are
12 being sold by secondhand dealers online to buyers who
13 don't have knowledge about the potential fire hazards.
14 The wind industry has long claimed that the wind turbine
15 fires are rare, but after creating a Google alert for
16 the term "wind turbine fire", ECM received clips from
17 media outlets around the world documenting that in fact,
18 wind turbine fires are far more common than industry
19 would have perspective buyers to believe. And Vestas
20 has been plagued by the wind turbine fires in the past.
21 The company blamed a 2011 wind turbine fire on a brake
22 problem. In 2012, a Vestas V-112 wind turbine in
23 Germany caught fire, and Vestas blamed the blaze on a
24 loose connection that caused an arc flash."

25 These all seem like common things that could

1 happen to anything, you know. Something just working a
2 little loose from vibration or, you know, whatever they
3 talk about. They got all these sensors on there to
4 detect all this stuff and to detect -- you know, I
5 watched a video the other day and one had got struck by
6 lightning and the blade was on fire, and it just kept on
7 going. I mean, there was nothing to detect that and
8 shut that off, you know.

9 So -- and just the top of the next page, it says:
10 "There was a turbine that collapsed in Ireland. In
11 April of 2013, a Vestas V-80 wind turbine in Ontario,
12 Canada, just burst into flames." But there's no fire
13 suppression system available.

14 Through doing all my research, I found -- I ran
15 across a website called Stat-x, S-T-A-T-X. They were a
16 company that offers fire suppression systems for wind
17 turbines, and they had an article it says: A typical
18 commercial wind turbine, which is 2 to 3 megawatts in
19 power, could cost anywhere from \$2.5 to \$4 million, and
20 the operation and maintenance of just one can range from
21 40 to \$50,000 a year. A whopping 90 percent or more of
22 the wind turbine fires originate in the nacelle.

23 A lightning strike, electrical malfunction,
24 maintenance are all things that can trigger these fires.

25 I remember talking to Jason Conley and was asking

1 him about the fire suppression systems, and he brought
2 up, you know, the -- how troubling it would be pumping
3 water up to the nacelle. I get that. But to me, it
4 would seem pretty like common sense if there's any kind
5 of fire up there, it's going to be an electrical fire,
6 and to me, it seems like you would be a moron if you
7 tried to put an electrical fire out with water. So I'd
8 see that being just -- I don't know -- do you think I
9 was stupid or something?

10 Anyway, then I found this 14-page .pdf. I mean,
11 this looks like something that like you get if you
12 bought a turbine, and they would hand this to you like,
13 here, this is something you would look into. "The
14 Complete Guide to Wind Turbine Fire Protection", and as
15 you go through here and it tells you, it explains
16 assessing the risk. I'm not going to spend a lot of
17 time on this. And it gives you, you know, the
18 frequency: Several different authorities have reported
19 estimates of the annual rate at which wind turbines
20 catch fire. These include: 1 in 6,000 (GCube
21 Insurance), which is an industrial insurance company.
22 That was in 2015. One in 1,710 (International
23 Association for Fire Safety Science, 2014). One in
24 10,000 (Fire Protection Engineering Magazine), that was
25 in 2019, and 1 in 2,000 (Wind Power Engineering

1 Magazine) in 2020.

2 And it just -- it goes on and, you know, it talks
3 about the cost of the fire and fire claims, and -- but
4 there's a page that explains to you the ignition
5 sources. It explains there's three ignition sources in
6 a wind turbine. I mean, if you knew nothing about it --
7 you wouldn't even have to be an engineer, you could look
8 at this and be like, okay, this is where -- places that
9 I should focus on. I just don't understand why they're
10 -- why they're not doing this. Really I don't
11 understand why Vestas or any wind turbine manufacturer
12 isn't putting fire suppression systems in their wind
13 turbines, just like the automatic manufacturers are
14 getting air bags in cars, really. That should be a
15 mandated thing.

16 So, but I mean, there's -- because most of the
17 fires start in the convertor cabinet, the wind turbine
18 owners protect these areas first. Those are, you know,
19 are primary areas, and it explains their systems. You
20 can use inert gases to suppress these fires so it
21 doesn't damage any of the electronics so you don't have
22 a total loss of the wind turbine. You don't have to
23 just stand there and let it burn out and then just
24 replace the whole wind turbine. You know, they could
25 kind of cut their costs back.

1 So I was kind of wondering if this was like an
2 insurance thing. I called around a couple insurance
3 companies to ask would it be --- I don't know because
4 that's why I called, but would it be considered
5 insurance fraud if a company knowingly did not put a
6 system like this on their equipment in order to get a
7 higher payout on their insurance for whenever an
8 accident does happen, and he said it just kind of
9 depends on the way their insurance policy is written,
10 and then he says that some of these companies that
11 they've got so much money they don't even carry
12 insurance, they just throw money at it, you know.

13 And then looking further into this, it explains
14 how much they suggest you should invest into fire
15 suppression. It looks like, looking at the chart, about
16 \$10,000 per megawatt, so that would put about sixty-six
17 grand per turbine in this project, would come out to
18 about \$3 million. If these wind turbines are about \$6
19 million a piece, that's less than one, but I don't
20 understand why they're not making that extra effort, you
21 know -- so I hate to put it this way, but to me, it
22 looks like they're saying: The hell with you, Piatt
23 County, you're not worth the extra effort to protect
24 your citizens, is what it seems like.

25 The ember from a wildfire can travel for five

1 miles. They talk about creating the perimeters and
2 containing the fire. The ember from a wildfire can
3 travel for five miles. Everybody's got a pretty rough
4 idea of five miles, but if you wanted to see five miles,
5 you can't really see five miles. To give you an idea, a
6 good, flat land, depending on your height, if you're in
7 a truck or standing on the ground, the horizon, where
8 the sun sets and you can no longer see, where it looks
9 like the sun falls off of the earth, that is three
10 miles. So if you're creating a perimeter on a five in
11 your immediate area, how are you containing it if you
12 can't see it past the horizon. You've got local
13 resources standing around, you know, however long it
14 takes to put these fires out. You know, hope to God
15 something else didn't happen where we need those
16 resources for somewhere else, if there's a car accident
17 or another fire.

18 It seems like the only "green" that's in these --
19 in these wind farm projects is the "green" that's going
20 in their pockets. As soon as -- when the federal
21 subsidies stop, these wind farms stop; they shut them
22 down.

23 So, I mean -- I've run across an article just
24 today on powertechnology.com. On May 25th, 2021, this
25 is when this article was published. It said: A wind

1 turbine strikes a blade approximately 20 times a year --
2 or it says: A blade will be struck by lightning
3 approximately 20 times in its lifetime -- I'm sorry.
4 And it said: As those turbines reach over 100 meters in
5 height that they actually start to create a lightning
6 themselves, it's call "upwards lightning". Hold on.
7 Let me read the article to you. I have it right here.

8 MR. KAINS: Mr. McKanic, how long is the article?

9 MR. MCKANIC: It's two paragraphs.

10 MR. KAINS: Very good.

11 MR. MCKANIC: I mean the article is longer, but it
12 goes into detail that we don't need for right now.

13 MR. KAINS: All right. Very good. You can read
14 two paragraphs.

15 MR. MCKANIC: By Soren F. Madsen, head of
16 simulation and modeling at a global lightning
17 protections services company PolyTech. He has worked in
18 the field of wind turbine lightning strikes for 15 years
19 and says that: On average a blade will receive around
20 20 strikes during its lifetime, but the number will
21 largely depend on the geographical location of the wind
22 farm. Two types of lightning can occur, he says: One
23 that starts in a thunderstorm and then propagates
24 downward, attaching to the turbine tip - called
25 downward-initiated lightning - and another "upward

1 lightning". That happens when the turbines gets very
2 tall and itself starts to generate lightning that
3 wouldn't otherwise occur.

4 So I just -- with everything that I have found in
5 my research, I just don't -- I don't think it's a good
6 idea for Piatt County to jump on the bandwagon with
7 the -- you know, we just hold on to this as a sanctuary
8 county, you know. Because once they're up, they're up;
9 it's over, you know. It's one of those things you can't
10 never turn back from. Thank you.

11 MR. KAINS: Okay, Mr. McKanic, thank you. We'll
12 have questions for you, so hang right there.

13 Questions for Mr. McKanic regarding his testimony
14 from members of the Zoning Board of Appeals?

15 Very good.

16 Questions from members of units of local
17 government, including school districts?

18 Questions from interested parties represented by
19 licensed attorneys, Mr. Jacobi?

20 MR. JACOBI: Thank you, Mr. McKanic. No, sir.

21 MR. KAINS: Thank you.

22 Question from Piatt County staff and consultants?

23 Very good.

24 Thank you, Mr. McKanic, for your testimony, and
25 you're excused.

1 Our next witness is James Reed.

2 Mr. Reed, do you wish to testify or have three
3 minutes of public comment?

4 MR. REED: I believe I'll be longer than three
5 minutes.

6 MR. KAINS: Could you please raise your right
7 hand to be sworn?

8 JAMES REED
9 called as a witness, being first duly sworn, was
10 examined and testified as follows:

11 MR. KAINS: Very good, sir. Could you please
12 state your name, spelling your first and last names for
13 the record?

14 MR. REED: James Reed, J-A-M-E-S R-E-E-D, and I'm
15 from De Land, rural De Land in Piatt County.

16 MR. KAINS: Very good, and are you neutral on the
17 issue?

18 MR. REED: I am registered as neutral, yes, sir.

19 MR. KAINS: Very good. You are a Piatt County
20 resident, sir, you may have 45 minutes, if you wish.

21 MR. REED: All right. Thank you.

22 MR. KAINS: Go right ahead.

23 MR. REED: Mr. Kains, Mr. Keyt, Chairman Wax, and
24 the zoning board, thank you so much for the opportunity
25 to present. I know it's been a long trip to get to this

1 this point, and I appreciate all your time and effort
2 and dedication to your job serving Piatt County.

3 During the last several weeks as we've had these
4 meetings, I've observed a lot of discussion and a lot of
5 presentations of information that have come forward, and
6 some of it -- while I've tried to maintain a neutral
7 stance, some of it has been contradictory to previous
8 statements that have been made and other information
9 that's been presented throughout the entire process of
10 adopting and modifying and updating the zoning
11 ordinance. Some of that is a little concerning because
12 a lot of things that when that was done at county board
13 level or zoning board level, we didn't know what we
14 didn't know. There was information that was not
15 available to help make the decision to guide the
16 creation of the ordinance at the time it was discussed
17 at zoning board or at the county board, and I attended
18 all those meeting and listened to what was presented
19 there.

20 So let's start with the height. The height from
21 when the zoning board first started to discuss this and
22 they took evidence and information off of other
23 counties, those counties had heights that were like in
24 the 250 to 450-foot height ranges, and so their
25 ordinances were drafted to deal with tower heights in

1 that range, but the height here is 610 feet, so that
2 raises a lot of issues that had not, I think, previously
3 been considered under the adoption of the ordinance. We
4 did not learn until just a few nights ago that these
5 towers were so high that in fact they'll require two
6 heights instead of one. So those are the issues I think
7 still need addressed moving forward, you know, if you're
8 going to consider this seriously.

9 The other is setback issues. The original
10 ordinance as was proposed was for more setback than what
11 is currently in the ordinance, but at every discussion
12 point, Apex brought forward experts that presented
13 information, but again, we didn't know what we didn't
14 know, because there was no opposing view other than
15 local people that just sort of inherently felt that
16 there was not enough safety provided in the ordinance to
17 protect, you know, their property and livelihood and
18 their way of life, and as example of that, I'll talk
19 about this fire issue and the isolations zone they're
20 going to create. They said specifically it would be
21 1,500 feet from around the tower. Well, the setback in
22 the ordinance, as I understand it, is 1,600 feet from a
23 residence or a school, so to have only 100-foot presumed
24 safety zone between a residence, a school, and the
25 isolation zone for a fire to me is unacceptable. So

1 that is something I think that the zoning board must try
2 to address if you get down to having discussions with
3 Apex about things that could be done before they're
4 accepted to increase the safety of people in Piatt
5 County.

6 In fact, this ordinance also goes on to say that
7 the setback to non-participating property owners and
8 property line is only 1,000 feet. So if there is in
9 fact a tower and they have to isolate 1,500 feet, they
10 could get onto someone's property that is not
11 participating and doesn't want to be a part of this.
12 And I think that has to be addressed because there's a
13 reason they didn't want to get involved in this, and now
14 they're going to find themselves in this isolation zone
15 for a fire, and again I've not been able to look at
16 their maps and to tell for certain if there are any that
17 are that close to a property line or even to a
18 residence. Perhaps they're not, and that would
19 alleviate some of those issues.

20 Also, I've talked previously about road safety.
21 Having traveled in other counties where they have had
22 windmills built and the roads have been restored or put
23 back, I mentioned before that the issue of the shoulder
24 drop off and the adjoining ditch and having a two-foot
25 drop off from the road surface down to the ditch for a

1 combine or a tractor or even a tractor with a batwing
2 mower making for an unsafe condition. So I know that is
3 the way it's written right now that that negotiation
4 would be happening after the ordinance is passed, and in
5 negotiations with the highway engineer and the highway
6 road-use plan, but I think it's something that you
7 should think about dealing with here so it's ensured
8 that it gets done before that point in time, because,
9 again once, you get past a certain point in time,
10 there's no turning back.

11 I would also suggest that looking at the maps,
12 there are certain roads that are so crucial to the
13 agricultural community within this area that they really
14 need to be taken off the table and not allowed to be
15 used. And I talked specifically about road 2150 North
16 and what I call the Bethel-Harris Road, because if you
17 have disruption of the availability for agricultural
18 traffic on road 2150, what it's going to do is it's
19 going to throw all that traffic up on the Illinois Route
20 10, and that creates conflicts with a lot of garbage
21 trucks coming out of Champaign. That's a very heavily
22 trafficked road, as well as boat traffic going to
23 Clinton in the summer, and that's the reason why the
24 farmers in the area use 2150 for that major east/west
25 traveling corridor, and then of course the Bethel-Harris

1 Road is the major north/south corridor that people use
2 all the time with agricultural equipment to stay off the
3 Mansfield Blacktop from Route 10 to Mansfield because
4 they don't want to have interactions with traditional
5 automotive traffic, if they can keep from it. So those
6 are things I think also need to be addressed moving
7 forward.

8 I had conversations -- or I heard also testimony
9 that their general contractor would be White
10 Construction, and I know that White Construction also
11 was mentioned last night by the presenters. They also
12 did the work around the wind farm around Wapella. And I
13 know specifically from talking to a drainage
14 commissioner in that area who was part of that project,
15 that even though the drainage district had a specific
16 agreement with the construction -- or with the sponsors
17 of the progress, NREL, to have all the lines run five
18 foot underneath the district tile, that at the actual
19 construction site, where White Construction was a
20 general contractor -- and I don't know who their
21 subcontractors were -- they in fact went ahead and
22 installed those lines at only four foot under, and what
23 they said was there was an AIMA agreement, and they were
24 only going to abide by the AIMA agreement and not abide
25 by the specific agreement with the drainage district.

1 So in the last 30 days, they've had to dig up all those
2 lines, and they're making them re-lay them to go back to
3 the five foot is what the drainage agreement called for.
4 So again, it demonstrates the disconnect between the
5 company that wants to build, the company that is on the
6 ground building, and the subcontractors who may actually
7 be on the ground doing the work. So that conversation
8 doesn't always carry down.

9 Another issue that came up here was they testified
10 on the very first day that they had contacted all FCC
11 registered telecommunication companies, and that night I
12 texted my provider, who has broadband off the top of the
13 De Land elevator, and said he had never been contacted
14 by this company. Three days later I texted him again
15 and asked him if he had ever gotten ahold of them. He
16 said he placed calls every day and had no response. So
17 a few days after that I texted him again, and said:
18 Well, do you want to come to a meeting and talk to them
19 there because they'll be at that meeting? At that point
20 his response was: I'll just wait and see what happens,
21 and if legal action needs to be taken after the fact,
22 then I guess that's what I'll have to do.

23 But the map shows three towers between Farmer City
24 and De Land, which would be the direct line-of-sight for
25 the broadband dedication to De Land, but then De Land

1 also serves as a hub and relays that signal on to Weldon
2 and then on to Lane. So it's a huge area that is
3 covered by the signal that comes directly out of Farmer
4 City, and, of course, this is just the source of the
5 signal. This has no discussion about the individual
6 customers of his within the De Land, Weldon, Lane area
7 and their lines of sight with the towers, and I asked
8 him specifically: Are you an FCC registered
9 telecommunications company, and he said: Yes,
10 absolutely. So, there's discrepancy there that I think
11 needs to be addressed before maybe you grant a permit to
12 find out for sure if that has adequately been addressed.
13 And a lot of these issues, of course, you know, again
14 like I said, when the discussions have happened
15 previously in the County, you all didn't know what you
16 didn't know, which is why you have a hearing. That
17 brings it out and then that gives you the opportunity to
18 address it here and now and in person before moving
19 forward anymore.

20 Also, the other night, there was testimony that
21 they are going to run their power lines above ground to
22 the peaker plant, and they basically said that the
23 peaker plant, the high-voltage line that runs north of
24 the peaker plant would have to be raised so their lines
25 can go under to access the peaker plant for the tie in.

1 Well in 1983 in the spring, that line went down. 13
2 miles of that line went down, and it took down every
3 country line within that area of the 13 miles. It was
4 weeks before power was restored. So that particular
5 line may need to be hardened or increased in its
6 dependability to make sure that doesn't happen again
7 before it might pull down their lines running underneath
8 of it, and I'm sure they've talked to them about that
9 and there's been a plan to put taller poles and they'll
10 be stronger, but that is a real concern because it has
11 happened before.

12 And then we also heard the other night about the
13 possibility of a re-power, and they mentioned that the
14 opportunity would be there, too. In other projects at
15 times they have raised the towers even higher to handle
16 bigger blades and bigger generators, and I think they
17 represented that that would mean that they would have to
18 reapply for a permit, and I hope that is the case that
19 that isn't allowed under the current configuration, but
20 again those are issues to deal with.

21 Mr. Koziar indicated last night I believe that if
22 there was an issue with sound, that they could curtail
23 the operation of the windmills when they knew there was
24 a wind in a certain direction or there was a, you know,
25 certain, you know, climate condition that created the

1 noise above the loud limit, and so I just am struck by
2 if they can do that for sound, why can't they do that
3 same thing for flicker? You know, you originally
4 adopted a zoning rule of 15 hours a year. The County
5 Board overrode you and made it 30. I will still
6 recommend the right number is 0. There's enough space
7 in this world to have windmills that don't flicker on
8 houses and interrupt somebody's livelihood, or my idea
9 it should even be five acres around their residence so
10 they can enjoy their yard at any time. That's what they
11 bought it for. That's why they built their house is to
12 enjoy it and be outside.

13 So they have a lot of changes that have been made
14 to the original zoning ordinance that, you know,
15 basically Apex got kind of geared their way, but I think
16 the zoning ordinance should not be looked at as just the
17 absolute hard, fast definitive word on this. If it was,
18 there would be no need to have had a hearing, because
19 you could have just checked the boxes and said: Well,
20 they meet all that, move forward, but there are a lot of
21 things we didn't find out until the hearing. So while I
22 still try to remain neutral, it is very difficult given
23 the discrepancies and some contradictions that we have
24 heard here within the public testimony, and so that's
25 why I challenge you to make sure you dive deep into

1 everything and all the evidence that's been presented to
2 make sure that the interest, the safety, the well-being,
3 the livelihood of citizens in Piatt County are protected
4 if this is allowed to come in.

5 With that, I thank you. I'm finished.

6 MR. KAINS: Thank you, Mr. Reed.

7 Questions for Mr. Reed from members of Piatt
8 County Zoning Board of Appeals?

9 Mr. Harrington.

10 EXAMINATION

11 BY MR. HARRINGTON:

12 Q. Thank you, Jim. Who was the broadband provider
13 you were working with there?

14 A. Wireless Data Net out of Farmer City.

15 Q. Very good.

16 A. There are a lot of people in the De Land area
17 that have them. It's the best internet we've ever had.

18 Q. I understand. I wonder since you bring that up,
19 maybe you have current knowledge, are there other
20 transmissions on top of the elevator property, such as
21 RTK, that would be effected?

22 A. There's RTK. The De Land elevator also serves as
23 a relay hub for the 911 system in Piatt County. One of
24 the towers that is there is for that.

25 Q. Do we happen to know how that would possibly be

1 effected or not, I don't know?

2 A. I'd have no idea.

3 Q. I don't either. I agree with you on your road
4 use; however, honestly, I am a little foggy on how
5 that's going to work together with the zoning since Eric
6 Seibring pretty well owns that.

7 So good points. Thank you.

8 A. Every time when every county has had a wind
9 project, they immediately update their zoning, and they
10 change things around because they realize they didn't
11 know what they didn't know, the ordinance was
12 inadequate, and so the road usage, because I think a lot
13 of people are surprised that road usage and the drainage
14 agreements would come after the Special Use Permit, and
15 so, again, as we look to the future, that's why I'm glad
16 that Mr. Luetkehans has brought in some experts to
17 testify so we get both sides of the issue.

18 Q. No, I agree, and as you've heard, that's why I've
19 asked so many times repeatedly, not just do they have a
20 proposal, but do they have an actual written, signed-off
21 agreement with your drainage districts and neighboring
22 ones, and I appreciate your bringing that up, but I
23 would also ask you to help us out by staying vigilant on
24 that right and encourage your other zoning commissioners
25 to -- we tried to give them the best setup we could, use

1 it for all it's worth.

2 A. Well, we appreciate that.

3 MR. HARRINGTON: Yep, thank you.

4 MR. KAINS: Any other questions for Mr. Reed from
5 members of the zoning board?

6 Questions for Mr. Reed from members of units of
7 local government, including school districts.

8 Questions for Mr. Reed from interested parties
9 represented by licensed attorneys, Mr. Jacobi.

10 MR. JACOBI: Thank you, Mr. Reed. I don't have
11 any questions.

12 MR. KAINS: Very good. Thank you.

13 Questions from interested parties, members of the
14 public in support or in opposition to or neutral on the
15 issue? Questions for Mr. Reed?

16 Questions from Piatt County staff and
17 consultants?

18 Very good.

19 Mr. Reed, thank you for your testimony.

20 MR. HARRINGTON: Hang on, sorry.

21 MR. KAINS: One from Mr. Harrington.

22 MR. HARRINGTON: Q. Back on your topic about the
23 setup at Wapella, you were referring to apparently a
24 four-foot drop versus a five foot. Run that by me
25 again. Had they already done this and then discovered

1 that the depth was off, or are you saying then a tile
2 project came in behind and that's what triggered it
3 maybe?

4 A. No, actually in DeWitt County, the Special Use
5 Permit was granted and the drainage district went to
6 court and blocked the project under the Illinois
7 Drainage Code because they never consulted with the
8 drainage district. We have taken the initiative of
9 reaching out and engaging with them ahead of time or
10 trying to in a meaningful way and even hired an
11 engineering firm to help us with designing, you know,
12 requirements, and we believe that we can get that
13 accomplished, but in this case, those drainage districts
14 which were all tile districts, outlet districts, their
15 agreement required them to bore under every district
16 tile, which they identified, and to bore at a five-foot
17 depth, and they did not do it, because they -- the
18 workers on the ground said AIMA only requires a
19 four-foot. So this was existing tile that was already
20 there and had been there for a long time. It was a
21 district tile, and so now, yes, they're over there
22 digging those back up to verify the depth of several
23 locations because those drainage districts hired an
24 engineer and required him to be on site any time they
25 crossed district facilities, and our district is going

1 to do the same thing. You know, if they work in the
2 spring or fall or some time when we as commissioners are
3 farming, we can't be there to supervise, and we really
4 wouldn't know what we're looking at anyhow. So we have
5 engaged a professional engineering firm to do that for
6 us. And even with that person on site, during the
7 construction in Dewitt County, they put them in at the
8 wrong depth even after they were told by someone on
9 location that wasn't the agreement.

10 Q. That's very good. I guess that's to my point is
11 how did they discover that discrepancy, was it by a
12 future project, or did this engineer they finally had --

13 A. The engineer they had on site knew they were
14 doing it not to agreement at the time, told them about
15 it, and then once they completed, then they decided to
16 go up, they contacted the company and asked them to come
17 on site for, you know, these exploratory digs before the
18 lines were energized when it was safer to do so, and
19 then in fact discovered, you know, I mean the engineer
20 notated which ones weren't to spec at the time, and so
21 they re-dug those and then they re-bored them and
22 spliced the transmission lines together at the correct
23 depth.

24 MR. HARRINGTON: Very good. Good information.

25 MR. KAINS: Any other questions for Mr. Reed from

1 members of the zoning board?

2 Mr. Reed, thank you, sir, for your testimony.

3 Mr. Chris Stillabower.

4 Good afternoon, sir. Are you wishing to testify,
5 which would allow you an extended period of time, or
6 would you like to make just a three-minute public
7 comment?

8 MR. STILLABOWER: I'm probably going to testify.

9 MR. KAINS: Okay. Very good. Sir, could you
10 please raise your right hand to be sworn by the court
11 reporter?

12 CHRIS STILLABOWER

13 called as a witness, being first duly sworn, was
14 examined and testified as follows:

15 DIRECT EXAMINATION

16 MR. KAINS: All right. Sir, would you please
17 state your name, spelling your first and last names for
18 the record?

19 MR. STILLABOWER: Sure. My name is Chris
20 C-H-R-I-S, last name is Stillabower,
21 S-T-I-L-L-A-B-O-W-E-R.

22 MR. KAINS: And, Mr. Stillabower, where do you
23 reside?

24 MR. STILLABOWER: I live in Mansfield.

25 MR. KAINS: Okay, and that's in Piatt County. We

1 all know that by now --

2 MR. STILLABOWER: Yes,

3 MR. KAINS: -- for all of us out-of-towners.

4 Since you are a Piatt County resident, by rule you have
5 up to 45 minutes, and you may begin with your
6 presentation. Thank you.

7 MR. STILLABOWER: Okay. Thank you. So this is
8 my first time ever public speaking. I am utterly
9 terrified, so I'm just going to tell you that up front.

10 MR. KAINS: Chris, you can just take your time.
11 That's just fine.

12 MR. STILLABOWER: Thank you. I never thought I
13 would be here doing this, but here I am. So it's a very
14 important cause, and that's why I'm here. Okay. So I
15 wanted to thank the board, first off. I can't imagine
16 having to make this decision and all the information you
17 guys have to process. I know a lot of people deal with
18 "information overload". I'm sure you have quite a bit
19 of that, so thank you for that.

20 Okay. So I am here -- I guess the question is why
21 am I here, right? So why are we all here? It's a big
22 decision, and because of that, we've got to fully vet
23 it. We have to make sure that we look at every little
24 bit and piece to make sure that it's a good choice for
25 our county. I see this as kind of like a bit of

1 gambling in a way. We're looking at -- we have to look
2 at like what we wish to gain, so that's a big part of
3 it. There's risk versus reward. So what are we going
4 to gain? Well, we already have a beautiful, quiet
5 countryside. We have nice roads. We have nice schools.
6 We have dark, starry nights. We have families that
7 build lives here and stay here. I know that my family
8 has probably been in this area for over a hundred years,
9 and I don't really want to go move to Florida or, you
10 know -- and if the global warming thing is true, then it
11 will eventually get warmer here, too, so I'm hoping to
12 wait it out.

13 Because we have all those things here, it goes
14 back to the: What do we wish to gain? I mean, yes,
15 there's some money involved, but there's also some risk.
16 And some of that risk we've talked about previously.
17 There's health, possible health risks. Some folks could
18 lose sleep. Some people could develop health problems,
19 and it may not happen, we don't know is the thing.
20 There was some mention of possible suicide rates going
21 up. People having increased anxiety. I know I've had
22 increased since Apex stepped in the door four years ago
23 and came to one of our village meetings. There's the
24 possibility of -- or there is -- and for sound, which
25 seems to be pretty unknown, I guess we'll say. There's

1 a lot of unknowns about it. With a lot of these things
2 there's just a lot of unknowns, and I know we've had a
3 lot of expert witnesses come in, but all of those expert
4 witnesses were paid for by the company trying to get
5 their product approved. If I was going to get a product
6 approved, I would find a person that supports my ideals
7 or ideas. Because if they didn't, they wouldn't help me
8 sell my product.

9 We don't know if property values will drop. We're
10 told maybe they won't. I don't think they're going to
11 go up, other than, you know, standard going up. But
12 personally I've always wanted to live in the country,
13 and now I have no desire to live in the country, knowing
14 how close these things can get to my house. So it kind
15 of ruined it for me. That was the ultimate Piatt County
16 dream was to have a farmhouse one day, and if you can
17 have one of these 1,600 feet from my property -- or I
18 think that's the -- I don't have all the numbers exactly
19 memorized, but it's kind of scary.

20 We don't know if the Doppler radar will be messed
21 up. We don't know if there will be issues with Wi-Fi.
22 We don't know if there will be issues with radio, cell
23 signal, TV signal. We don't know if the Aircraft
24 Detection Lighting System is going to work.

25 Last night it was mentioned that they are using a

1 new company. What I don't know though is does that new
2 company have better success rates, or are they just
3 trying to figure it out, too?

4 We also don't know about damage to tile, damage to
5 roads. The decommissioning of the blades is a big one
6 for me. Knowing that they're plastic or some type of
7 plastic polymer or something of that nature, it kind of
8 scares me for the next 30 years, because a lot of things
9 in our life are -- or a lot of things in history have
10 been: Well, we'll just kick the can down the road;
11 we'll figure it out later, and then when we do that
12 then, I mean -- there was a book I was reading, an
13 encyclopedia I actually picked up, a 1970s encyclopedia.
14 And you look at it, and it's like: We're going to have
15 problems with antibiotics one day. We're going to have
16 problems with pollution one day. But it's like, why
17 weren't we fixing it then? Why do we all of a sudden
18 have to rush into it right now?

19 So the blades are a big deal to me. If they can
20 tell me that the blades were 100 percent recyclable and
21 we knew where we were going to recycle them at this very
22 day, that would help me a lot, but it doesn't sound like
23 -- from my understanding last night, it's almost like
24 we're in the infancy stage, and so it's like not many
25 places have had to recycle these yet. I believe when I

1 did research on it that there is a some place in like
2 Missouri or Mississippi or something. I could be wrong
3 on the place. But wherever it was, it was fairly far
4 away, and I got to thinking, like, we're going to have
5 to truck these down there. And the electric vehicles
6 aren't really there for trucking, I don't think, yet.
7 They're coming along, but we're going to have to use
8 diesel fuel to truck these things down there, and it's
9 going to be quite a distance.

10 Okay. So I'm just looking at the whole thing as
11 there's lot of uncertainties. There's a lot of "I'm not
12 really sure", and I don't get a warm, fuzzy feeling
13 going into that not knowing these things. Like what do
14 we do with the blades? How much does it cost to take
15 them down, because we have to guess. I mean, the
16 guessing thing gets kind of scary.

17 So while we may make money today, as long as
18 everything -- you know, the checks clear, the checks
19 come through, we'll get that money today in the county,
20 but what will it cost us in the future? If we get \$38
21 million or whatever it is over there on the poster, then
22 are we going to end up spending 60 million to take them
23 down or, you know, 20 million? I mean, do we know? We
24 don't, and that's the problem. There's so much
25 uncertainty with this.

1 There's a lot of folks here that have lived in
2 Piatt County because they want to be here. They don't
3 want to be in the big city, they don't want -- I mean,
4 when I drive down the road, I notice my town based on
5 the water tower and the grain elevator, and that's how
6 you know when you're in small-town central Illinois, and
7 that won't be the same thing anymore when you have to
8 try to find those among those 50 turbines or whatnot.

9 I also have concerns over the soil. We are going
10 to take a bunch of soil and put a bunch of concrete in
11 it, and what's that going to do to our soil, and then if
12 we can't find a place to do anything with these blades,
13 then we're probably going to -- like that picture last
14 night -- have to bury them, and if they're made of
15 plastic, we run into some of the same risks we have with
16 plastic bottles with the bisphenol A, the BPA, and all
17 that getting into the water.

18 So I think all in all, there's the possibility
19 that we could, I guess, make money as a county from
20 this, but there's a lot of risk. And there is a lot of
21 folks that are going to be -- that are going to lose
22 their peaceful property, and, I mean, is that what we
23 want? I would think we would want to keep people here
24 and keep them happy, and I feel like that's part of like
25 what the boards are for, to make people happy. People

1 would like to continue to enjoy the sunsets and the
2 night skies, and their peaceful drive home, minus the
3 fans.

4 So it all comes down to risk and reward. Is the
5 risk worth the reward? So I think that's -- well,
6 actually -- sorry, I do have a couple other things. If
7 the project were to move forward, I did notice a couple
8 things that kind of were a little alarming to me, other
9 than the blades, of course. The -- what I would call --
10 I think it's called a "staging area" or something like
11 that. It's going to be on the Mansfield slab is what it
12 looks like, really close to the Galesville/Mansfield
13 slap. I don't know my roads very well, as you can tell,
14 but there's crossover there, and there is a lot of
15 hills. I actually drove it this morning and drove home
16 last night, really paying attention and trying to find
17 that spot that's over there on that map. And so I guess
18 my concern is with the hills and the stuff and if -- I'm
19 assuming they're coming out of it with their blades or
20 some of their equipment, slow moving vehicles, how do we
21 keep safety in that zone there so that people don't get
22 hurt with the blind spots and the hills and those sorts
23 of things?

24 I notice that up in Bellflower, they've recently
25 gotten their wind farms, and I noticed up there that

1 they have a lot of the access roads, but none of them
2 were like blocked off or anything. So it's like, I
3 mean, I guess I'm just thinking teenagers or something.
4 There could be people going off in there. What's
5 keeping people from going back there and hiding or doing
6 stuff, and then all of a sudden they drive, you know, or
7 they race out of there or something and there's nothing
8 like preventing them from being in the access road or
9 coming out of the access road, or coming out of the
10 access road while speeding and crashing into another
11 vehicle. So I think that if we're going to have access
12 roads, we at least need to gate them off or something.

13 Yeah, so I think that's pretty much what I got.

14 MR. KAINS: Very good. Thank you,
15 Mr. Stillabower.

16 Questions for this witness from members of the
17 Piatt County Zoning Board of Appeals?

18 Mr. Harrington?

19 EXAMINATION

20 BY MR. HARRINGTON:

21 Q. You are currently a rural or in-town Mansfield?

22 A. So I live in town. My distance to the turbines
23 is to be determined because of the uncertainty of where
24 they're going to place them still, but that doesn't mean
25 I'm not effected, because every night when I'm driving

1 home, either I take 150 or 74, I see all the flashing
2 lights from Bellflower, or from 150, I can see all the
3 flashing lights -- or I'm coming up the Mansfield slab,
4 I can see all the new flashing lights, so I'm still
5 effected by it. I think they're distracting. I think
6 that they can kind of get your focus off the road where
7 you should be paying attention. They're not pretty to
8 look at, and there's something to be said for the
9 stillness of night. Like it's peaceful to be able to
10 look at darkness or to look at the sky and not have it
11 flashing back at you. Sometimes people just need a
12 break from the hustle and bustle of life, and to be able
13 to look and it to be dark. Some of those roads out
14 there, some of those areas are like the darkest I've
15 seen, and you look that way, it's super bright, and you
16 look up that way now and it's flashing everywhere.

17 MR. HARRINGTON: No, you brought up some very
18 good points, I just wanted to understand your vantage
19 point. Thank you four your comments.

20 MR. KAINS: Any other questions for Mr.
21 Stillabower from members of the zoning board?

22 Very good.

23 Question for the witness from members of units of
24 local government, including school districts?

25 Licensed attorneys? Mr. Jacobi.

1 MR. JACOBI: Thank you. No questions.

2 MR. KAINS: Very good. Thank you.

3 Questions from interested parties, members of the
4 public in support of the application or neutral on the
5 application?

6 Questions from Piatt County staff and
7 consultants?

8 Very good.

9 Mr. Stillabower, thank you.

10 MR. STILLABOWER: Yeah, thank you.

11 MR. KAINS: Now, over the course of these 14
12 nights, a number of people have signed in to testify.
13 The following people have signed in on different nights
14 of these 14 nights of this public hearing to testify in
15 opposition: Rebecca Spake, Jeff and Lori Howes, Rodney
16 Cox, Tim Mecum, Theodore Hartke.

17 Mr. Hartke, do you wish to testify?

18 MR. HARTKE: Yes.

19 MR. KAINS: Very good. You may come forward.

20 MR. HARTKE: I have a PowerPoint. Should we do
21 this after a break to get it set up?

22 MR. KAINS: Why don't you go ahead and set it up
23 and we'll call other names.

24 MR. HARTKE: Okay, where do I hook up at?

25 MR. KAINS: Right over here, using the wall as a

1 screen.

2 Sharif Goodson, Ryan Bauer, Tim Thomas, Josh Beck,
3 Michelle Dillavou, Brian McDowell -- oh, Michelle
4 Dillavou.

5 MS. DILLAVOU: I don't want to.

6 MR. KAINS: Okay, and that's fine.

7 Brian McDowell. Mr. McDowell, do you wish to
8 testify, or do you wish me to read your written
9 statement?

10 MR. MCDOWELL: I would like my letter read, but I
11 also have questions for Apex Wind, if I may.

12 MR. KAINS: Actually, the time for asking
13 questions of any of the parties is over with, but if you
14 wish to make a statement you could, or I will read your
15 letter into the record.

16 MR. MCDOWELL: You can read my letter. Thank
17 you.

18 MR. KAINS: Very good. Thank you, Mr. McDowell,
19 and we have one person who signed in, I'm having a heck
20 of a time. The first name begins with an L and the last
21 name of appears to be Holcomb on 550 East Road in De
22 Land.

23 UNIDENTIFIED AUDIENCE MEMBER: They're not here.

24 MR. KAINS: They're not here? Did I get the last
25 name right?

1 UNIDENTIFIED AUDIENCE MEMBER: Halcomb.

2 MR. KAINS: Close. Very good. Okay.

3 Those are all of the folks who have wished to
4 speak, and they will be passed.

5 Are you ready, Mr. Hartke?

6 MR. HARTKE: Let's see if this is turned on, is
7 it on?

8 MR. KAINS: It is yes, sir.

9 MR. HARTKE: Can you hear me?

10 MR. KAINS: Mr. Hartke, if you could please raise
11 your right hand to be sworn.

12 THEODORE HARTKE
13 called as a witness, being first duly sworn, was
14 examined and testified as follows:

15 DIRECT EXAMINATION

16 MR. KAINS: Okay, sir. Please state your full
17 name, spelling your first name and last names for the
18 record.

19 MR. HARTKE: My name is Ted Hartke, T-E-D
20 H-A-R-T-K-E.

21 MR. KAINS: And, Mr. Hartke, where do you reside?

22 MR. HARTKE: I live at 1193 County Road 2300 East
23 in Sidney, Illinois.

24 MR. KAINS: Which county does that lie?

25 MR. HARTKE: Champaign County.

1 MR. KAINS: Okay. And by rule, Mr. Hartke, you
2 have 15 minutes to testify.

3 MR. HARTKE: I understand you guys can ask
4 questions, so if I don't get through all this, you can
5 ask me anything you want, okay? I don't want to waste
6 your time. If you're tired of hearing from me, I can
7 quit.

8 MR. KAINS: You'll have 15 minutes, and then
9 there will be ample time for the board and others to ask
10 you questions.

11 All right, Mr. Hartke, you may proceed. Thank
12 you.

13 MR. HARTKE: Okay. I'm going to go pretty quick.
14 If the stenographer wants me to slow down, I'll slow
15 down for you.

16 My name is Ted Hartke. I used to live in the wind
17 farm in Vermilion County. This first slide is just some
18 background information of what those wind turbines were
19 and the distances from my home and my old address. This
20 is a little bit of background about my home and my
21 family. I grew up on a farm, became an engineer, and
22 moved to Vermilion County. Everything was going good.
23 I was in favor of the wind farm. It was built around my
24 home. Construction was completed. Contractors left.
25 We were still pretty happy. They turned on the wind

1 turbines, and then we had issues with the wind turbines
2 with sleep deprivation because of the noise. I'm not
3 getting paid anything for my presentation.

4 This is my family in 2012, just before they turned
5 on the wind turbines. My daughter, myself, my wife
6 Jessica, and my son. This is a picture of my house in
7 the wind farm. That turbine, first one there, it's 495
8 feet to the top of the blades. The first turbine is
9 1,665 feet away. The next one is 3,147 feet away behind
10 my house. The next one beyond that one is 4,600 feet
11 away. If you turn around and stand at the corner of my
12 house in the bedroom and look the opposite direction,
13 these turbines, 56 and 57, those were 2,225 feet away
14 and 3,454, feet away. This one that was 2,225 feet away
15 was almost directly upwind of us, so when we had noise
16 issues, this was the most prevalent culprit, where we
17 were downwind of the noise and felt the blade flex from
18 the turbine blades catching wind at upper levels, and
19 then when there's no wind at lower levels, that blade
20 relaxed and flexed back. That blade flex, I believe,
21 was causing air pressure pulse in our home, which was
22 low frequency noise and caused our sleep issues.

23 Okay. This is my daughter in July of 2013. We
24 had already been complaining about the noise. We
25 couldn't get to sleep. This was about eleven o'clock or

1 11:30 at night. She asked me if she could wear these
2 headphones in bed, and I wanted to show you guys this
3 here. This is a young little girl asking to wear
4 headphones to bed. That's a life-impacting thing when
5 your daughter asks to wear headphones in bed in her room
6 at night in the home that you own, pay the taxes on.
7 This is a very emotional thing here. Keep in mind that
8 the wind farm followed IPCB noise standards, allowing
9 the noise to be as loud as legally possible/allowable
10 all the time outside our home.

11 So this is the window of her bedroom. You can see
12 the turbine just takes up the entire window. In the
13 fall, we kept finding that our kids were waking up, they
14 were going down to sleep on the couch, in the chair in
15 the living room. So in the fall, we tore down all the
16 beds, moved them all in the living room. This is the
17 quietest room in the home. So my daughter's bed is the
18 far one by the kitchen door. My son is laying in his
19 bed, the close one on the left. My wife and I's bed you
20 can see the corner of it over there.

21 Another life-impacting problem with wind turbine
22 noise is you sleep in the same room with your children.
23 This can causes marital problems. You can't have
24 intimate moments with your wife, like you should be able
25 to. This is another little emotional, family-breaking

1 plea that is -- who would have thought wind turbines
2 would be hard on marriages, okay?

3 These are the distance maps. I included this one
4 so you can refer to it later. I want you to lay out
5 every house in your wind farm and see the orientation of
6 the turbines compared to all of these homes. Do we want
7 a broken family that's forced to live this close to a
8 thumping nightly wind turbine?

9 For us, it was all about the noise. This shows
10 some information about noise, and I don't want to waste
11 much of my time and your time tonight talking about it.

12 We reached out to some acousticians. This
13 acoustician told us: Oh, no surprise you're having
14 problems, this is what your noise level should be. When
15 you guys created your ordinance, this is the exact same
16 presentation I did for you guys two years ago, and I
17 really pressed you guys to put a noise limit in there
18 that would be liveable, that you could sleep with, and
19 it was rejected, and this is a repeat of that.

20 This is where widespread complaints start. We'll
21 start at 33 and a half dBA, and your wind farm will be
22 pushing about 45 dBA. At 45 dBA's, there's adverse
23 health effects -- effects begin at 40, and 39 is what I
24 was trying to get you guys to go to.

25 This is the noise in the application of the wind

1 farm before it was built. I want to point something
2 out. The noise acoustician said that most of the
3 locations were going to have less than 40 dBA noise
4 level and that was going to be sufficiently low to
5 eliminate sleep issues. Well, if 40 dBA -- after 40
6 dBA, he admits sleep issues start. This is the wind
7 farm's acoustician. If it's more than 40, they know
8 sleep issues are going to be a problem. They wrote it
9 right here in their application in Vermilion County in
10 2000 -- I think it was 2009. Oh, I'm sorry, it says
11 June 2011.

12 Apex, they use outdated articles and claims.
13 This is a snapshot of one of their websites. They claim
14 that wind turbines are no problem. In response to that,
15 I have all of the slides from Dr. Paul Schomer that he
16 gave to Boone County, Illinois. I'm not going to go
17 through all these. These are some heavily detailed
18 stuff. If you would like for me to go back to some of
19 them later, I would be glad to tell you what some of
20 them are involving. There's a bunch of them. I'm going
21 to go really fast through these, like as in skipping
22 them. I'm not going to stop for any of them.

23 Okay. Your County wants to protect property
24 values. I think you had the property value expert here,
25 and I wanted to show you just a couple examples of

1 actual properties that were in my neighborhood where I
2 lived. Here's one of them. The lady that lived here
3 testified that the appraiser docked her home value, and
4 her property value dropped about \$25,000 in the time
5 period from when the turbines showed up from just before
6 they were there.

7 This is an -- I wanted you guys to have a copy of
8 this. This is the Apex Good Neighbor Agreement. This
9 policy offers payments to neighbors to live with noise
10 and vibration, and they're offering within a half mile
11 of their homes. That would have been a ready good
12 setback to have since they already know they need to
13 have some safety mechanism in place for people that are
14 having to, you know, "lawyer up". The folks within a
15 half mile to get them to sign off on their noise and
16 flicker.

17 There are two -- there are three homes in
18 Vermilion County. I have deeds of two of them that were
19 sold. Three families refused to sign this Good Neighbor
20 Agreement with Apex in Vermilion County. In this
21 instance, here is where Apex, Hoopeston Wind L.L.C./Apex
22 Clean Energy purchased land from a family, and here is
23 one they purchased from the Eyrich couple.

24 So if there's nothing wrong with Apex wind
25 turbines, why are they buying homes? Have you guys ever

1 had an applicant come in who buys a home preemptively
2 because, you know, there could be some problems? That
3 tells a lot to me.

4 So the payments they're giving people is \$2,500 a
5 year. Here is a Zillow listing that offers that. This
6 is the same price -- or same home I'm talking about, the
7 Eyrich family. In 2014 they bought it for 295,000. At
8 the end of 2014, they listed it for sale for one
9 twenty-nine, nine. They removed the listing.
10 Eventually it sold May 20th, 2015, exactly one year
11 later within seven days. It sold for \$117,500. Okay.
12 That's a huge drop, and I want to point out this is a
13 home that Apex purchased before the project and then
14 dumped it after the project.

15 We talked about if wind companies are good for
16 your community. Contractors are on board, they want
17 that. I have a lot of information here regarding some
18 liens where Apex never paid their bill. It shows bad
19 business operations.

20 Also I want to point out, I had a friend effected
21 by this, having a direct attack from being against wind
22 farms. They like to pressure folks to go their way and
23 agree with them. So I want to point out this is just a
24 huge dishonesty thing. I run my business in an honest
25 manner, and I fix my mistakes and admit to them

1 immediately, and when I see folks that don't operate
2 honestly, I tend to call them out on this, and this is
3 one of the things I want to show you guys. There were
4 some mailers put out against a county commissioner, his
5 name is Mike Kerschner. And this attack article or
6 mailing came out during his reelection, and it had this
7 format, and this was, we think, presented by Apex. And
8 then over in Illinois in Ford County, there was two
9 women, Cindy Ihrke and Ann Ihrke. They were running for
10 county board, and they're very much anti-wind, and they
11 let people know that up front, and this same mailer
12 popped up. Those mailers look very, very, very, very,
13 similar. That's pretty amazing that the same thing
14 would come from two different areas where the only wind
15 project that is going is Apex, and they asked Erin
16 Baker, who has been at these hearing. They asked her,
17 would Apex put out this political flier, and her answer
18 was: Our project definitely did not pay for the
19 mailings. Her project was Heritage -- or I forget the
20 name up in Ford County, but I wish someone would ask her
21 if Apex had involvement. You know, we want to know
22 specifically, did Apex do this? I would like to know
23 from Apex. If you can ask them any more questions, ask
24 them if they did this.

25 So we left the home about eleven and a half

1 months after turbines turned on. We moved into a
2 doublewide trailer that was my wife's grandmother's
3 home. She passed away and it was available, so we moved
4 into the doublewide trailer. And we took my daughter to
5 the dentist. After the dentist, she came to my office
6 and hung out with me for a half day, and kids are bored
7 at your office, so I gave her a black pen, a yellow
8 highlighter and a red pen. That's all I had. She drew
9 this, and she's six years old, and she wrote on the
10 other side of the page. I'm going to read it to you.
11 This is by Sophia Ruth Hartke. "You may think wind
12 turbines are good, but when you have 50 by your home,
13 you can't sleep in your own room, and you try to sleep,
14 but you can't. Because of the wind turbines' engine
15 noise, I had to move into a mobile home because my mom,
16 dad and brother, plus me, couldn't sleep." She's six
17 years old. I'm submitting that. I want you to know
18 that this is what it's like living next to the maximum
19 noise level allowed by IPCB level noise standards. All
20 right.

21 So this is like two days after I moved out of my
22 house. I moved Christmas weekend of 2013, and your job
23 is -- only job is to protect our health, safety, and
24 welfare. You're not doing that if you approve a wind
25 farm, especially on one huge technicality that I think I

1 have caught them on on this project. If there's
2 anything that you do to defend your county when you
3 reject or vote to reject this wind farm, I think it's
4 easy to hang your hat on one fact. Their noise levels
5 are measured at the houses or within the yard
6 immediately around the homes. They completely
7 disregarded and dismissed and they don't want you guys
8 to realize that these noise standards aren't being
9 measured at the property lines. To these guys, I don't
10 know if they're -- I'm going to go on a stretch here --
11 communist-minded that they think all that neighboring
12 land it theirs for the taking, and they want to just eat
13 up what's not theirs, but they're using beyond the
14 property lines and noise abatement zone, which is not
15 legal. It's clearly in their thing -- in their
16 application. I grilled their noise acoustician who was
17 here, I said: How come these aren't measured at the
18 property lines?

19 MR. KAINS: Mr. Hartke, you have one minute.

20 MR. HARTKE: Oh, thank you very much.

21 MR. KAINS: Very good.

22 MR. HARTKE: There's some more slides. I just
23 want to hit this home with you guys. I lived with that
24 IPCB noise standard at my house. If that noise level
25 was met at my property line, maybe you know, it would be

1 better, but I don't think I would still be in my home.
2 But the maximum noise levels on an IPCB standards are
3 only a numerical value. The second part of IPCB noise
4 standards is you can't cause noise pollution, which is
5 unwanted sound, and effecting people's sleep, that is
6 noise pollution when it goes inside their home.

7 With that, I'll let you guys ask me whatever
8 questions you want. I'm an open book.

9 MR. KAINS: Very good. Thank you very much,
10 Mr. Hartke.

11 Questions for the witness from members of the
12 Piatt County Zoning Board of Appeals?

13 Mr. Harrington.

14 EXAMINATION

15 BY MR. HARRINGTON:

16 Q. Thank you, Ted. So to briefly look back at some
17 of your notes there, the tower at 2,225 feet was the one
18 you felt was of most concern?

19 A. Yes, because we're downwind of it.

20 Q. Because of its location adjacent to your home,
21 right?

22 A. Because of just the proximity/position it was
23 from us.

24 Q. Remind me, from your previous presentation, am I
25 saying this right, did you have some noise modeling or

1 testing done at your location?

2 A. Yes.

3 Q. And what did you find?

4 A. We had measurable amounts of low frequency noise
5 inside of our home.

6 Q. Did they ever test your property outside --

7 A. Yes.

8 Q. -- to say what it was or not?

9 A. Okay. At my home in Vermilion County, we were
10 very vocal about our complaints. We went to county
11 board meetings. We were pounding them. I was ruining
12 all kinds of relationships, professional and personally.
13 I was out to get somebody responsible for ruining my
14 home, okay? So being unable to use your home at night
15 when you should be able to use it just motivates you to
16 no end, okay? So we gave Invenergy a ton of political
17 and public pressure, and they finally caved in, and they
18 did a noise study at our house, and they hired Michael
19 Hankard, and we had tried to hire a guy named Dr. Paul
20 Schomer. Paul Schomer, who is from Champaign, said he
21 couldn't work for us because he said he was already
22 contracted with Invenergy to do quiet research, that was
23 his response when my wife contacted him in probably
24 spring 2013. So here we go, fast forward to like, let's
25 say, July 2013, and the wind company says, all right,

1 we're going to do a noise study, and we're going to use
2 Hankard. Well my neighbor, David Miles, he also got on
3 the board because -- I forgot a part, from January until
4 May, Invenergy shut off wind turbines 51 nights so we
5 could sleep. About Mother's Day, they just refused to
6 shut them off. So that just increased the pressure even
7 more. When they refused to shut them off, my neighbor
8 Dave Miles showed up and said, "Oh, my god, these things
9 are noisy. What's happening?" I didn't realize that me
10 getting them shut off at night was letting him sleep
11 also because he was almost similarly positioned as what
12 my home was. So David Miles poured on the pressure to
13 say: How come you don't have Dr. Schomer do it, he's
14 from Champaign, and Mike Hankard is from somewhere in
15 Wisconsin. Wouldn't it be cheaper to have a local guy?
16 Besides, he wrote the IPCB noise levels way back when.
17 So Invenergy begrudgingly said they would have both
18 consultants do the noise study. So they showed up in
19 August and did noise levels. They set their microphones
20 in various places. They started a field measuring in
21 August and September. On October 8th, which was my
22 birthday, they showed up at a board meeting, and they
23 were, I don't know, about to tell them their successful
24 results. A lady named Kim -- I'll think of her last
25 name in a minute -- she was from McLean County. She

1 hates wind turbines. She popped up there and says:
2 Hey, these guys cheated because in the months of August
3 and September, the wind turbines are curtailed because
4 that's when the U.S. Fish and Wildlife requires the
5 turbines to slower rotation speeds because of migration
6 of birds or bats, I don't remember what. So Invenergy's
7 Attorney Mike Blazer pops up there and says: Oh, yeah,
8 we -- I don't know if he said we forgot about that or we
9 need to take that into consideration, and, you know, we
10 didn't get enough measurements going on these last two
11 months. They did two months of measurements. We're
12 going to extend the study.

13 So they extended all the way through October and
14 November. And they came up with the solution at the end
15 of the noise study -- and this noise study is published
16 on the Vermilion County website, if you want to see it.
17 The noise study said: We don't have any particular
18 evidence of any exceedances of the noise level within a
19 tolerance of .01 decibels, or something like that.
20 Okay. So during the time period they -- of course they
21 averaged out the noise and gave themselves the --
22 followed the protocol. They say they did. We contested
23 that they didn't do the noise study right, because they
24 had no observed measurements. These were unattended
25 microphones out on the property line, and they didn't

1 have anybody observing the noise or taking notes. If a
2 truck passes by or if a dog barks, they're supposed to
3 note those things. They only use some computer report,
4 like just some raw data, and they would go and only
5 listen to the portions that they think would have
6 exceeded the noise level, and in one of them they said
7 the grain bins from a quarter mile away was making noise
8 that night. Well, I'm here to tell you, I didn't
9 abandon my home because of a grain bin a quarter mile
10 away from my house that has a constant noise of a hum,
11 compared to the thumping, incessant noise of a wind
12 turbine that comes and goes, and it's just so
13 disturbing. So I hope that answers your question about
14 this.

15 Q. Yeah. So it sounded like they just basically
16 referred back to the same IPCB number, that: Hey, it
17 wasn't over the limit, and just left it at that?

18 A. And keep in mind, when that noise study came out,
19 they had adjusted and they called the microphone at that
20 property line, they called it a -- not a place holder --
21 they called it one of their reference points, but they
22 actually calculated the noise, what they would predict
23 it would be at my house, and we immediately said: Well,
24 you guys did it wrong. You didn't observe and have
25 anybody note taking during the noisy events, and you

1 didn't measure the noise at our property line. So they
2 really tried to get by with as much as they could to
3 just barely make it within 0.1 decibels.

4 Q. I understand. No, thank you very much for that
5 reminder of what you went through. That is
6 completely -- I hope --

7 A. It was a disaster.

8 MR. KAINS: Are there any other questions from
9 members of the zoning board?

10 EXAMINATION

11 BY WILLIAM CHAMBERS:

12 Q. Question for you. On the sound study side of
13 things, did you ever get an actual dBA reading or any
14 sound reading, an actual number for on your property or
15 in the home?

16 A. Yes. The noise study from Hankard and Schomer
17 had very detailed information in the noise study. I had
18 some of that in these slides. I think I do in this set
19 of slides.

20 Q. Do you remember a number?

21 A. They were at 45, 46 dBA, if you would adjust it
22 for dBA.

23 Q. Okay. A couple questions. Your neighbors, so
24 you say your -- Dave Miles had issues also, what was --
25 if you say you talked to everyone around there, all your

1 neighbors that are a reasonably close --

2 A. Okay.

3 Q. -- to where you are, was there varying opinions
4 on this?

5 A. Definitely varying opinions. I'm going to put
6 this noise thing -- I'm going to have to use an analogy
7 to explain this, okay? Our physiology is different from
8 one person to the next. Some of us get carsick or
9 seasick on a boat. Some people are -- they have easy --
10 tend to have dizzy spells -- or what's the term I'm
11 looking for, but some people are more prone to that. I
12 have never had any issues with those types of things.
13 And not everybody is going to experience what I
14 experienced. I know that for sure. We don't know who
15 is going to be "allergic" to wind turbines, let's call
16 it that. You can't take two guys walking through a hay
17 field, one of them is just having an allergy attack and
18 just about ready to die without an inhaler and the other
19 guy can't sit there and say: The science doesn't
20 support your asthma attack, you must be just a
21 complainer and this is within the Illinois Pollution
22 Control Board hay field standards.

23 MR. KAINS: Mr. Hartke, the question was: What
24 were your neighbors' opinions with respect to the sound?

25 A. It was variable. Some folks hated it and wanted

1 to say things, but they weren't -- because they saw what
2 was going on with the reaction to our complaints. Some
3 were very good and vocal about it. There was probably
4 approximately 21 households within the wind farm where I
5 lived that had some noise/sleep issues, and probably
6 four to five of those households from our discussions
7 were almost as bad as ours or similar to our sleeping
8 problems.

9 Q. Did any of those people move away as well?

10 A. By my account, right now I think that there are
11 three people, myself and two others that moved away
12 because the noise was an issue for them in the wind farm
13 where I lived.

14 Q. Okay. Last question I have. When you sold the
15 home, how did that -- tell me about that. How did that
16 go?

17 A. Okay. When we moved out of the house, we put our
18 house on Zillow. I have a bunch of pictures of it, if
19 you care to see that, and we placed it on Zillow about a
20 few months after we moved out of it. That gave us time
21 to make it "showroom ready" or whatever. And we had it
22 on Zillow all the way until the day we sold it, and it
23 took like -- I have to think here, we sold it in
24 November of 2016. So we left it December 2013, sold it
25 in November of 2016. And I'm trying to remember here, I

1 think it was in fall of 2016, it might have been as late
2 as November. So we had it on the market for just over
3 two and a half years, and by not living there for that
4 entire time period and paying the mortgage and the taxes
5 and the insurance and keep up -- and keeping up the
6 home, this was about \$100,000 setback for our family.
7 I'm leaving out any of the home replacement costs. You
8 know, I had to go move twice and find another home. I'm
9 not counting that. I don't think that's fair to count
10 that. I think I need to only fairly tell you that it
11 was \$100,000 mess because that's what I truly lost not
12 being able to live there and having to pay for it that
13 whole time it was for sale.

14 Q. All right. Thank you. On the mailers that
15 you've brought up, did you ever try to -- did you just
16 assume on that, or did you do any investigating that
17 with the post office or some sort of outside resource?

18 A. On the slide that I show the mailers was the
19 information that came from Seneca County, I believe it
20 was, and also Ford County. The individuals that that
21 happened to provided me those mailers, and I have showed
22 this every time I've testified in a project that has
23 ever included Apex to make sure everybody knows the kind
24 of thing that they might do.

25 Q. Right, but what I'm asking is, have you had

1 anyone or you yourself try to look into that more to the
2 truth of that?

3 A. No, I haven't seen a need to look into it. I've
4 asked Erin Baker in Ford County if she did this, and it
5 was just like a brick wall. It was almost like the
6 question never got asked.

7 MR. CHAMBERS: Okay. That's all I've got.

8 MR. KAINS: Very good. Thank you, Mr. Chambers.
9 Any other questions for this witness?

10 Yes, Mr. Larson.

11 EXAMINATION

12 BY MR. LARSON:

13 Q. So did the effect seem to be worse for your
14 children than you adults?

15 A. Kids don't know that this is happening. They
16 were very young. So my daughter was six and my son was
17 like eight and a half or so. They don't know that this
18 was happening because of -- they're just too young to
19 understand this. All they know is that they can't
20 sleep, and all they also know is that when we lived in
21 the house before, everything was good. When we -- after
22 we moved, everything was good again. It was only the
23 time period we lived in the wind farm where my kids had
24 struggles with grades, just being in a terrible mood.
25 As parents, you try not to get frustrated with kids when

1 you're overly tired and you're having problems, and I
2 think my wife and I were definitely bad parents during
3 this year of time that we were dealing with this. It
4 was extremely tough where there's kids with low sleep or
5 no sleep and the parents with no or low sleep. It was
6 terrible.

7 Q. It's kind of safe to say for the kids it was kind
8 of a blind study?

9 A. Yeah, the kids don't get on the internet and get
10 mad at wind turbines. They don't read internet stories.
11 They don't compare themselves to other people having
12 sleep issues. The kids don't -- but kids take some
13 reading off their parents. Like my daughter, by the
14 time we moved to the doublewide, she knew why we were
15 moving, and then she realized how important it was, too,
16 but -- my dog didn't know and he couldn't be kept in the
17 garage any longer, and we moved him into -- the
18 slideshow I had with our beds in the living room, my dog
19 had moved into the utility/laundry room around the
20 corner, because he would just not let us sleep because
21 he would bark and bark and bark where he was at unless
22 we had him really contained in that utility room. So
23 the dog wasn't on the internet, and we didn't tell the
24 dog it's wind turbines.

25 Q. True.

1 A. Don't laugh about this. This is really real,
2 folks.

3 MR. LARSON: Sure. Okay. Thank you.

4 MR. KAINS: Any other questions for Mr. Hartke
5 from the Piatt County Zoning Board of Appeals?

6 Very good.

7 Questions for this witness from units of local
8 government, including school districts?

9 Questions from interested parties represented by
10 licensed attorneys, Mr. Jacobi?

11 MR. JACOBI: Thank you.

12 EXAMINATION

13 BY MR. JACOBI:

14 Q. Mr. Hartke. Just maybe a couple. Thank you for
15 your presentation. And I hear you on your testimony. I
16 hear what you're saying. You're a licensed engineer.

17 A. Yes.

18 Q. You're not a medical doctor?

19 A. No.

20 Q. Did you take your doctor -- or did you take your
21 daughter to a medical doctor?

22 A. Yes.

23 Q. And was there a diagnosis?

24 A. We discussed a lot of things about what to do to
25 treat this thing, and the -- we're getting into the

1 weeds here. I'm starting to expose my kids' medical
2 stuff to you, so I want you to know how that's pretty
3 serious for a parent, okay?

4 Q. Let me rephrase?

5 A. No, I'll finish it. It was recommended that we
6 would move out of the home by a physician, just move.

7 Q. Okay. Did the medical doctor diagnose the wind
8 turbine as the cause?

9 A. We discussed that at very great detail, and there
10 was no -- how can I say this? Physicians want to have
11 something that they can't be challenged on, and they --
12 I'm trying to remember the specific explanation and the
13 words that we had discussed in these discussions. My
14 wife was present for some of those interactions with the
15 doctor, and I phoned in when we had one or two. And I
16 can tell you more, but we had sleep studies done on our
17 kids, and they had no sleep study results. It said:
18 This kid is normal and does not have night terrors, meat
19 sweets. The children --

20 Q. I understand.

21 A. -- after their sleep study, they were cleared as
22 being not any other medical reason for their sleep
23 disturbance and waking up.

24 Q. I understand, but you didn't obtain that
25 diagnosis from the physician is what I'm hearing, and

1 that's okay. You said that this was an Invenergy
2 project?

3 A. Yes.

4 Q. It sounded like you took issue with their
5 methodology of measuring?

6 A. We did take issue with the not following to the
7 IPCB protocol due to the property line issue and due to
8 the not observing the measurements per the protocol.

9 Q. Yeah. And that was Michael Hankard that did that
10 study for them?

11 A. Yes, and Dr. Schomer from Champaign.

12 Q. Dr. Schomer participated in that study?

13 A. It was a dually-authored study.

14 Q. Okay.

15 A. Schomer was onsite when the studies began, at the
16 same time as Hankard when they initially set up the
17 system.

18 Q. And I thought Schomer was the expert that you had
19 preferred, correct?

20 A. Our neighbor Dave Miles insisted that Schomer be
21 included, and we had tried to hire Dr. Schomer because
22 there are no acousticians in Illinois. He is the only
23 one in Illinois, and we happened across his name on the
24 internet, and we attempted to contact him because we had
25 nowhere to start, no knowledge of anything. And that's

1 the only reason we started with him.

2 MR. JACOBI: No further questions. Thank you.

3 MR. KAINS: Very good.

4 Thank you, Mr. Jacobi.

5 Question for interested members of the public,
6 members of the public in support of or neutral on the
7 application?

8 MR. GANTZ: I guess I'm opposed.

9 MR. KAINS: Mr. Gantz, you're opposed, I'm sorry
10 you can't buttress his testimony.

11 What is your name, sir?

12 BRENDAN BURTON: My name a Brendan Burton.

13 MR. KAINS: Yes, Mr. Burton, I believe you've
14 asked questions. Would you please step forward to this
15 mic in the middle, right here. And, sir, could you
16 please spell your name for the court reporter.

17 MR. BURTON: My name is Brendan Burton,
18 B-R-E-N-D-A-N B-U-R-T-O-N.

19 MR. KAINS: Okay. You may ask questions of
20 Mr. Hartke.

21 EXAMINATION

22 BY MR. BURTON:

23 Q. I remember CalRidge. I was on that. It's a very
24 large wind farm, over 100 turbines?

25 A. I think 130 some.

1 Q. Yeah, it was a big farm. 1.6, they were GE
2 towers, kind of Boulder Technology. I was not around
3 that farm when it was running. That's a very large
4 footprint of a wind farm. It goes almost to Oakwood
5 power station. It stretches very far. I remember your
6 property. It was a beautiful property. Was there
7 anybody else that moved out of that wind farm due to
8 similar symptoms that you were having?

9 A. Early I was asked that similar question, and I
10 told them that I know of myself and there's two other
11 families that moved due to the noise as being one of the
12 major, major motivators for having them move.

13 Q. That -- I guess I wasn't paying attention. I was
14 just saying that was a very large wind farm. There was
15 a lot of people that were -- could have possibly been
16 impacted by that footprint. But any ways, carry on.
17 That's it.

18 MR. KAINS: Thank you, Mr. Burton, we appreciate
19 your questions.

20 All right. Any other questions for the public,
21 folks in support of or neutral on the application?

22 Questions for this witness from Piatt County staff
23 and consultants?

24 Final questions for the witness come from the
25 board. Anybody else?

1 Very good.

2 Thank you, Mr. Hartke, we appreciate your
3 testimony tonight.

4 MR. HARTKE: Please know that I submitted this
5 PowerPoint to the attorney representing the citizens, if
6 you need copies of this for whoever wants it.

7 MR. KAINS: Very good.

8 MR. HARTKE: I can also provide that
9 electronically, however you would like to have it.

10 MR. KAINS: Thank you, Mr. Hartke.

11 MR. HARTKE: Thank you, gentlemen. Have a good
12 night.

13 MR. KAINS: That concludes all testimony in this
14 public hearing. We're going to take a brief recess.

15 Courtney, would 10 minutes be okay in light of the
16 time?

17 Okay. We're going to take a recess of ten
18 minutes, and then we will take up admission of exhibits,
19 and then read written comments submitted by the public.
20 The board is in recess. It is 7:49. We will return and
21 reconvene at 7:59. Thank you.

22 (Recess was taken.)

23 MR. KAINS: Okay. Folks, if you could please
24 find your seats.

25 All right. Folks, the evidence has concluded.

1 Now we're going to take up the issue of admission of
2 exhibits. First of all, exhibits have been presented to
3 the Zoning Board of Appeals by the applicant.

4 Mr. Keyt, are we up to 44?

5 MR. KEYT: Well, the applicants -- the
6 applicant's exhibits are up to 46, I believe, but there
7 are other exhibits from other parties, of course, that
8 increase the total number of exhibits.

9 MR. KAINS: Sure. Okay. So first with respect
10 to the exhibits from the applicants.

11 Mr. Luetkehans --

12 MR. LUETKEHANS: Yeah.

13 MR. KAINS: -- any objections to specific
14 exhibits?

15 MR. LUETKEHANS: Yeah, I'll try to get through
16 them. I'm going to object for the record to Exhibit 3,
17 which is Loomis' updated report. I understand that it's
18 going to go in, but for reasons I will state in my
19 closing, I think parts of it are irrelevant and want to
20 just state that.

21 MR. KAINS: Very good. With respect to Exhibit
22 3, it will be admitted. And over objection and -- but,
23 yes, you made a record of it. Thank you,
24 Mr. Luetkehans.

25 MR. LUETKEHANS: The next one is Petitioner's

1 Exhibit No. 36. That's the energy policy article. I
2 think that was asked of -- I think it was Dr. Punch in
3 cross-examination. Dr. Punch did not know anything
4 about the article, and I just don't know why it would
5 come in at this point.

6 MR. KAINS: I'm going to overrule the objection.
7 Note the objection for the record, overrule it. We're
8 going to allow it in for the limited purpose of what it
9 is, but Dr. Punch did testify that he was unaware of the
10 contents of that article, but it's going to come in.

11 MR. LUETKEHANS: And then the last ones are 43,
12 44, 45 and 46 that I objected to last night, and I
13 believe those were sustained, and I want to make sure I
14 raised an objection again.

15 MR. KAINS: What were those specifically?

16 MR. LUETKEHANS: Those were the aerials that were
17 asked of -- I think they were asked of Mr. Minder that
18 he had not seen, and we objected and you sustained for
19 lack of foundation and him not having any idea what they
20 were.

21 MR. KAINS: Mr. Jacobi.

22 MR. JACOBI: Yeah, those exhibits, as we explained
23 last night, were tendered for the purposes of
24 demonstration. They were demonstrative exhibits. The
25 foundation -- their foundation is in the sound modeling

1 report. In fact, they were -- which is the Appendix 5
2 to the application. Specifically figure 6 and figure
3 13, which are the sound propagation model results for
4 500 hertz and 1,000 hertz, and those exhibits were
5 zoom-ins of particular properties on these maps.

6 MR. KAINS: So the maps are already in as figures
7 attached to the application; is that correct?

8 MR. JACOBI: The zoom-out map is in the
9 application. These were zoomed-in versions of that map.
10 And again, this is just for demonstrative purposes and
11 for the purposes of last night. I won't use them
12 tonight.

13 MR. KAINS: I'm going to exclude them just
14 because they're already in -- they're in the
15 application. They're in evidence. The witness
16 Mr. Minder did not know about them, but my recollection
17 is Mr. Minder was able to give testimony with respect to
18 -- he was responsive to your ultimate question on the
19 issue. So 43 through 46 are going to be excluded.

20 Anything else, Mr. Luetkehans?

21 MR. LUETKEHANS: No, thank you.

22 MR. KAINS: Okay. Then, Mr. Luetkehans, how many
23 exhibits are you tendering?

24 MR. LUETKEHANS: We are tendering exhibit --
25 Objector's Exhibits 1, 2, 6, 8, 15, 19, 20, and 40,

1 which is kind of duplicative of 42 of the Petitioner's,
2 except 40, it's double labeled as 42 of the Petitioner's
3 and 40 of ours, because that's one is the Gallagher that
4 was highlighted in orange. I'm not sure there's an
5 objection.

6 MR. KAINS: I recall that.

7 Mr. Jacobi, any objection to the exhibits that
8 counsel for the opposition is tendering?

9 MR. JACOBI: No. Give me just one minute to
10 check my list.

11 MR. KAINS: You may take your time, yes, sir.

12 Folks, this is the part of legal proceedings that
13 they never show on TV because it is incredibly dull, but
14 incredibly necessary for preserving a good record to go
15 to the county board for their consideration.

16 Mr. Jacobi.

17 MR. JACOBI: Yes, sir, the only exhibit that we
18 object to is Exhibit 15, and that was the -- that was
19 the decommissioning report from Livingston County in I
20 believe 2015. That was drafted I think in part by
21 Mr. Minder and used during his examination yesterday.
22 It was used in a very limited scope in his examination
23 yesterday, yet the entire report was tendered to the
24 board. It was a different project, a different
25 ordinance, a different time. Livingston County has

1 passed a Special Use Permit for wind projects in the
2 very recent history, as some of us in this room know.
3 So that report is irrelevant to this proceeding, and we
4 object.

5 MR. KAINS: Mr. Luetkehans.

6 MR. LUETKEHANS: As we discussed last night, we
7 think it was relevant to Mr. Minder's testimony, as well
8 as the showing of the detail necessary for an actual
9 decommissioning plan, and even when you have that
10 detail, members like people -- engineers like Mr. Minder
11 can actually analyze and in this case saw the
12 deficiencies, as they saw here, and the fact that there
13 are differences between the two types of decommissioning
14 plans I think is relevant and instructive to the board.

15 MR. KAINS: Thank you. What happened in
16 Livingston County is barely relevant to what we have
17 going on here; however, I'm going to allow it in as
18 evidence because it is instructive with respect to what
19 decommissioning plans can look like, and Mr. Minder last
20 night, the engineer retained by Piatt County, did
21 testify to it. I'm going to -- it's coming in for the
22 limited purpose of being instructive with respect to
23 what a decommission plan detail looks like. So 15 is
24 in.

25 All right. So all of the other exhibits tendered

1 by counsel are coming in. The only exception 40 --
2 Applicant's Exhibits 43 through 46.

3 Now Mr. Keyt, there were other individual exhibits
4 presented by members of the public.

5 MR. KEYT: I can -- I can go through them here
6 and list them out. I think I have them all. We have
7 Bill Gallagher Exhibits 1, 2 and 3. If any of the
8 parties want me to list out specifically what they are,
9 let me know.

10 MR. KAINS: Mr. Keyt, how about if I ask.

11 Any objections to Bill Gallagher Exhibits 1, 2 and
12 3?

13 MR. JACOBI: Bill Gallagher Exhibit 1 was the
14 article about the studies. Bill Gallagher Exhibit 2 and
15 3 were the actual studies?

16 MR. KEYT: That's correct.

17 MR. JACOBI: We would object to the article about
18 the studies. We would not object to the studies
19 themselves.

20 MR. KAINS: I'm going to allow that exhibit to
21 come in, with the understanding and I think the board is
22 well aware that it is an article. It is not the study,
23 but it is a news article or journal, publication
24 article.

25 All right. Those three will be in.

1 Mr. Keyt.

2 MR. KEYT: We have Susan Ryan Group Exhibit No.
3 1, which was various articles, photos, and maps.

4 MR. KAINS: Counsel.

5 MR. JACOBI: We don't have an objection to that
6 exhibit.

7 MR. KAINS: Very good. The Susan Ryan Group
8 Exhibit 1 is admitted into evidence.

9 MR. KEYT: We then have the Ferguson exhibits.
10 There was Ferguson Exhibit No. 1, which were Conditions
11 of Special Use related to Alta Farms, and there was
12 Ferguson Exhibit No. 2, which was Mr. Ferguson's
13 proposals for conditions.

14 MR. KAINS: Again, Mr. Ferguson was a member of
15 the DeWitt County Board who testified last night.

16 Mr. Jacobi.

17 MR. JACOBI: Yes, sir. We do object to these two
18 exhibits.

19 MR. LUETKEHANS: As would the Objectors.

20 MR. KAINS: Since there's nothing to argue about,
21 they will be excluded.

22 MR. KEYT: Hold on one second. Okay. Then we
23 have Kayla Gallagher exhibits. She submitted Kayla
24 Gallagher Exhibit 1, which was an updated wind turbine
25 assessment.

1 MR. KAINS: Mr. Jacobi.

2 MR. JACOBI: I'm not sure I have that one.

3 MR. LUETKEHANS: Here, Ben. Sorry, I can't
4 reach. Sorry, I didn't mean to throw it at you.

5 You would think between the two of us our arms
6 would be long enough.

7 MR. JACOBI: We did that on purpose.

8 MR. KAINS: We need Stretch Armstrong in a suit.

9 MR. JACOBI: I don't have an objection.

10 MR. KAINS: All right. Kayla Gallagher Exhibit 1
11 is in.

12 MR. KEYT: We then had a number of exhibits from
13 Professor Sarah Fox. Those were a PowerPoint, which was
14 Exhibit No. 1, Exhibits 2 through 14 were various
15 letters from land owners, and then number -- or Exhibit
16 No. 15 was a client list of Professor Fox.

17 MR. KAINS: Mr. Luetkehans?

18 MR. LUETKEHANS: No objection.

19 MR. KAINS: Those will be in. All Professor Fox
20 exhibits are admitted into evidence.

21 MR. KEYT: Then we have what are Goose Creek
22 exhibits in support. There was Hepler Exhibit No. 1,
23 which was an October 7th, 2022 e-mail.

24 MR. LUETKEHANS: Could -- could you say the name
25 again? I don't think I was here, so I don't have it.

1 MR. KEYT: Hepler Exhibit No. 1, which was an
2 October 7th, 2022 e-mail from a public health
3 administrator in Logan County.

4 MR. LUETKEHANS: No objection.

5 MR. KAINS: That will be admitted into evidence.

6 MR. KEYT: Then there is Hepler Exhibit No. 2,
7 which was an October 11th, 2022 e-mail.

8 MR. LUETKEHANS: No objection.

9 MR. KAINS: That's in.

10 MR. KEYT: And then there was Apex Koziar Exhibit
11 No. 1, which was a letter from Cargill.

12 MR. LUETKEHANS: No objection.

13 MR. KAINS: That will be admitted as well.

14 MR. KEYT: Then there was County exhibits.
15 County Exhibit No. 1, which was the Patrick Engineering
16 report, otherwise known as the Minder PowerPoint.

17 MR. LUETKEHANS: No objection on behalf of the
18 objectors.

19 MR. JACOBI: No objection.

20 MR. KAINS: The Minder PowerPoint is in.

21 MR. KEYT: Then there is the Stalter exhibits,
22 which was Stalter Group Exhibit No. 1, which was various
23 signed petitions, various.

24 MR. KAINS: Mr. Jacobi.

25 MR. JACOBI: Yes, sir, so what I have are a number

1 of signed petitions, also a printout and unsigned sheet
2 printout of names, online comments. I'm not sure what
3 these pages are, one through -- actually pages 3 through
4 19 -- 3 through 18 is what they're numbered.

5 As to the actual signed signatures, I think we
6 have to object just because we don't know under what
7 context these signatures were gathered. You know, the
8 -- there's no indication that the signatories were given
9 information from both sides or whether the -- you know,
10 the survey was tainted in that regard. I just don't
11 know, so I have to object.

12 So as to the unsigned sheet, I am not sure what
13 this is, so I have to object to it.

14 MR. KAINS: I understand your objection; however,
15 they will come in as -- the group exhibit will be
16 admitted into evidence, and it just will simply show
17 that Ms. Stalter and others circulated the petitions, as
18 she testified. It's not indicative of the individual
19 persons of support for this project or not, just is a
20 petition that was circulated. The unsigned ones, they
21 can come in as well just to show that there were people
22 who are in opposition who told Ms. Stalter they were
23 opposed to this.

24 So, Stalter Group Exhibit 1 will be admitted into
25 evidence.

1 Is that it, Mr. Keyt?

2 MR. KEYT: No.

3 MR. KAINS: But wait, there's more.

4 MR. KEYT: Mr. McKanic submitted an exhibit
5 today, which is McKanic Group Exhibit No. 1, which was
6 various documents, articles, a document that is entitled
7 *A Complete Guide to Wind Turbine Fire Protection.*

8 Mr. Jacobi.

9 MR. JACOBI: I have no objection.

10 MR. KAINS: McKanic Exhibit 1 -- Group Exhibit 1
11 will be admitted into evidence.

12 MR. KEYT: Okay. We then have letters from the
13 public we have not read into the record yet, but we have
14 Group Exhibit No. 1, letters in opposition, and Group
15 Exhibit No. 2, letters in support.

16 MR. KAINS: Those will come in as letters --
17 written comments submitted by the public to the Zoning
18 Board of Appeals. Those will come in, and they will be
19 read.

20 MR. KEYT: Those are all of the exhibits that I
21 have.

22 MR. KAINS: Excellent.

23 Anything else on exhibits, Mr. Jacobi?

24 MR. JACOBI: No, sir. Just for the record, the
25 Applicant had actually submitted 1 through 46; however,

1 numbers 25 through 32 were reserved, so those exhibits
2 don't exist, just so there's no confusion in the record
3 later. So it's 1 through 24 and then 33 through 46.

4 MR. LUETKEHANS: We agree.

5 MR. KAINS: Very good.

6 Anything further?

7 MR. JACOBI: No, sir.

8 MR. KAINS: Anything further from you,
9 Mr. Luetkehans, on exhibits?

10 MR. LUETKEHANS: No, sir.

11 MR. KAINS: All right. Very good. All right.

12 Now comes the time for the reading of written comments;
13 however, due to time constraints, these will be read
14 into the record when this board meets in January because
15 the thing that we need to get done tonight -- it's 8:18
16 p.m. -- closing statements from counsel.

17 Prior to closing statements from counsel,
18 Mr. Keyt, you, me, Mr. Gershon, Mr. Jacobi, and
19 Mr. Luetkehans had a telephone conference earlier this
20 week to discuss the factors that this Zoning Board of
21 Appeals must consider in their vote on this application
22 for Special Use Permit. The parties have all agreed
23 that there are relevant factors to be determined by the
24 ZBA, and, Mr. Keyt, if you could please read into the
25 record the statement regarding the factors.

1 MR. KEYT: Okay. The relevant factors for the
2 Zoning Board of Appeals to consider and evaluate a
3 Special Use Permit to Goose Creek are the following:

4 Factor No. 1, the establishment, maintenance, or
5 operation of the Special Use will not be detrimental to
6 or endanger the public health, safety, morals, comfort
7 or general welfare.

8 Factor No. 2, the Special Use will not be
9 injurious to the use and enjoyment of other property in
10 the immediate vicinity for the purposes already
11 permitted, nor substantially diminish and impair
12 property values within the neighborhood.

13 Factor No. 3, the establishment of the Special Use
14 will not impede the normal and orderly development and
15 improvement of the surrounding property for use as
16 permitted in the district.

17 Factor No. 4, adequate utilities, access roads,
18 drainage and/or other necessary facilities will be
19 provided.

20 Factor No. 5, adequate measures will be taken to
21 provide ingress and egress so designed as to minimize
22 traffic congestion in the public streets.

23 Factor No. 6, the establishment of maintenance and
24 operation of the Special Use will be in conformance with
25 the preamble to the district in which the Special Use is

1 proposed to be located.

2 Factor No. 7, the Special Use shall in all other
3 respects conform to the applicable regulations of the
4 district in which it is located and the board shall find
5 that there is a public necessity for the Special Use.
6 In addition, the ZBA may recommend conditions to the
7 County Board.

8 MR. KAINS: Thank you, Mr. Keyt.

9 Those are the factors to be considered by the
10 board. Finally, before closing statements, are there
11 any additional Piatt County staff reports or comments?

12 No.

13 All right. The only Piatt County staff report or
14 comment would have been the -- was the testimony and
15 PowerPoint presentation last night of the engineer
16 retained by the County, Mr. Matt Minder.

17 All right. For closing statement, each party will
18 be given the opportunity. Mr. Jacobi will go first.
19 Mr. Luetkehans will go second, and then Mr. Jacobi will
20 have an opportunity for a rebuttal closing statement.

21 During closing statements, I sincerely ask that
22 there be no noise, cheering, booing, hissing, anything
23 like that. I've seen it happen where folks in the crowd
24 get upset with something the lawyers say in closing
25 statement. I have to say, this group has been amazing.

1 The decorum and respect that you all have shown for each
2 other, for the other side, has been just absolutely
3 commendable, but I do ask that each attorney be able to
4 give his closing statement without any distraction.

5 So with that said, Mr. Jacobi, you may present
6 your closing statement. Would you like to address the
7 room from the podium or from the seat?

8 MR. JACOBI: Thank you. Actually, I'd prefer the
9 podium. I do have a PowerPoint.

10 Josh, would you mind bringing that site plan over?

11 Is this okay for everybody? Nobody has to crane
12 their necks too much?

13 MR. KAINS: It's perfect.

14 MR. JACOBI: I'll get to this later. We don't
15 need it yet.

16 Well, members of the ZBA, thank you. We have been
17 here 14 nights. That means 14 dinners that you've
18 missed with your loved ones and kids. You've spent a
19 lot of time, many months even, establishing these
20 standards that this whole process was based on. It's a
21 lot of work, and it does not fall short on me. In fact,
22 prior to being at this law firm and representing
23 developers, I sat in Andy's chair representing zoning
24 boards of appeal, like yours, in counties throughout
25 Illinois in proceedings just like this actually, in wind

1 proceedings some of them. I know the toll that it takes
2 on the board to sit through these proceedings. I know
3 the time that it takes. So, thank you.

4 Someone mentioned at some point that Apex is just
5 passing through and that we're all -- and me included --
6 just another lawyer in another suit moving county to
7 county. I take a little exception to that. As I stated
8 when I first introduced myself, Piatt County is my
9 backyard. I grew up very close to here. This project
10 has meaning to me, and I'm here because I believe it can
11 help the community, and I believe it can bring benefits
12 to the residents here, and I think that's why everybody
13 from Apex is working on this project, but me in
14 particular.

15 The County appointed you all to the Zoning Board
16 of Appeals, and you have the privilege or maybe the
17 burden, some would say, of receiving and weighing the
18 evidence on Application for Special Use Permits and
19 other zoning requests, and that duty is the same whether
20 it's reviewing a Special Use Permit for a shooting range
21 or a church, a cellphone tower or wind farm, all of
22 which require Special Use Permits in your ag district.
23 The hearing took 14 nights of evidence, and I'm going to
24 do my best to summarize 14 nights of evidence into an
25 about an hour, just so you know what's coming. And that

1 evidence includes documents and testimony, the
2 application binder, everything you've heard under oath
3 and that's been admitted into the record, and you must
4 review that evidence to determine if the application
5 presented here meets the standards set forth in the
6 zoning ordinance and the factors -- the standards in the
7 WECS ordinance and factors in your zoning ordinance.
8 And I think this point is worth emphasizing. You've
9 heard some testimony about what those standards in your
10 WECS ordinance should be, especially relating to sound
11 and shadow, but you can't rewrite the standards in this
12 process. There's a process for that, it's a text
13 amendment, and in fact text amendment proceedings I know
14 were held. I wasn't a part of them, but they were held
15 and this summer concluded, and this was a lengthy
16 process as well.

17 And second, it's not fair to the applicant. Not
18 just this applicant, but any applicants for Special Use
19 Permits, applicants for wind farms and shooting ranges
20 and churches alike, they all rely on the ordinances when
21 putting their resources into their applications and
22 developing their projects, whatever they may be. When
23 your ordinance sets certain standards, they devote time
24 and resources to that, and if counties are allowed to
25 change their standards in the middle of proceedings, the

1 entire system would be thrown into chaos. Nobody would
2 know the rules anymore. Nobody could rely on anything
3 anymore, and that's important. And we appreciate that
4 your hearing officer Mr. Kains clarified this when he
5 said in a recent hearing that the standards have already
6 been set and that it's your obligation to determine
7 whether or not we meet those standards in the WECS
8 ordinance, which is what you can do is place conditions
9 consistent with your ordinance on the Special Use
10 Permit. That's allowed. That's encouraged actually.
11 We heard testimony from former and current board members
12 in your neighboring counties, Ms. Irkhe, Mr. Ferguson,
13 Mr. Hepler, and their advice was: If you're going to do
14 it, do it right. And we agree with that. We agree with
15 that. The County has already authorized wind farms by
16 allowing them to be permitted as special uses, so let's
17 make sure we do it right.

18 So what factors must you apply in making your
19 decision? Well, there are really two buckets, but they
20 overlap. So your obligation is to determine that the
21 project meets all specifications in your WECS ordinance,
22 that's one, and then the Special Use section of your
23 zoning ordinance. It doesn't establish mandatory broad
24 standards, but it does have those seven factors for your
25 consideration that Mr. Keyt just read into the record,

1 and those factors you have in front of you. I say they
2 overlap because the stated purpose of the WECS ordinance
3 is very similar, and actually can we get to -- good. So
4 the stated purpose --

5 MR. KAINS: Excuse me, Mr. Jacobi, could one of
6 your people move the map? I'm having a hard time
7 seeing.

8 There you go.

9 MR. JACOBI: Is that better?

10 MR. KAINS: Yes, sir, absolutely.

11 MR. JACOBI: "One of my people" is me usually, so
12 --

13 MR. KAINS: Thank you.

14 MR. JACOBI: So the purpose of your WECS
15 ordinance. Very important here, to assure that any
16 development in production of the wind generated
17 electricity in Piatt County is safe and effective and
18 also to facilitate economic opportunities for local
19 residents.

20 If the project meets all the specifications in
21 your WECS ordinance, including the setback, sound,
22 shadow flicker, safety codes, et cetera, then the twin
23 purposes of your WECS ordinance are fulfilled. Those
24 purposes support a finding as well that the County meets
25 factors related to public health, safety, morals,

1 comfort, general welfare, and that's indicative of
2 Factor 1 in your zoning ordinance, which Mr. Keyt just
3 read, and it's really the common theme throughout all of
4 those seven factors, and it's the theme and the scope of
5 review that the court would take later. So that's
6 what's important.

7 The purpose of this closing presentation is to
8 summarize how the evidence presented supports a finding
9 that the project meets those factors and serves these
10 twin purposes and meets all of your WECS ordinance
11 standards. And I'm going to do my best to summarize the
12 evidence. I'm not going to go through everything for
13 the sake of everyone here. If I don't mention
14 something, I want you to know it's not because I think
15 it's less important, I just think it's maybe more clear.
16 I'll spend a little bit more time on some things that
17 generated more attention in these hearings. So I thank
18 you ahead of time for your patience as I work through
19 some of this stuff.

20 Next slide, please.

21 So just a reminder, so a list of our expert
22 witnesses that testified. We can see, of course, Scott
23 Koziar, Alan, Adam -- I won't read through them all. I
24 just decided there's too many of them, but we have
25 environmentalist, safety, construction, economics. Most

1 of you have been here for most of these hearings, so
2 you've seen their testimony. Sound, shadow, sleep.

3 What is the ask here? The ask -- Goose Creek is
4 requesting a Special Use Permit to build 50 wind
5 turbines and facilities, including cutch and cable
6 substation, all-in building, some of the other
7 facilities you've seen on the chart. I want to stress
8 that 50 number. Originally Goose Creek considered 71
9 locations. Those were conceptualized. Those 71
10 locations were modeled by RSG to make sure that using
11 those 71 locations, all of the receptors for primary
12 structure would meet standards specifications set by
13 your ordinance. The application is for 60 locations
14 however, and Goose Creek will build 50. So there are 10
15 alternates. We're asking for 60. We'll build 50.
16 There are 10 alternates, and that's because, as Scott
17 Koziar testified, once you do the geotech analysis, you
18 might realize you can't use some of your first choices
19 and you have to move on to alternates, but from 71, we
20 dropped 11 to 60, and we'll drop 10 more to 50.

21 And here is something unique about this project
22 actually is it already has -- it already has the
23 turbines picked out. You don't see that in every
24 county. So we know exactly what the profiles are for
25 it. That's an advanced stage of development actually,

1 and it means that if the County so chooses to approve
2 this project, Apex is ready to go. Goose Creek is ready
3 to go. They're using the Vestas 162, V-162, 6.0
4 megawatt turbine, and that turbine is important for your
5 purposes that it complies with all your highly technical
6 specifications. So we're checking boxes.

7 You know, does this project as designed meet the
8 requirements of the WECS ordinance? It does, but you
9 don't actually have to take our word for it. Well, I
10 hope you would, but you don't have to because the County
11 hired someone, and independent engineering firm, Patrick
12 Engineering, to analyze this project against this WECS
13 ordinance. This is truly an independent undertaking.
14 Another thing sort of unique for your county, we didn't
15 see his conclusions until Friday, just this last Friday.
16 So the Friday before he presented them, and that's when
17 Mr. Keyt circulated them to us and also to
18 Mr. Luetkehans.

19 Patrick Engineering had a couple very key
20 conclusions, found that the application appears to
21 comply with the required conditions of the ordinance, or
22 indicates the intent to design and operate the wind farm
23 in accordance with the ordinance requirements for such
24 items that will be completed after siting approval.
25 These factors are up there. Design, installation, and

1 operation information appears to be consistent with the
2 requirements of the ordinance. Avian studies and
3 mitigation measures appear to be consistent with the
4 requirements of the ordinance. Setbacks from corporate
5 limits, primary residences, public roads, rights of way,
6 third-party electrical, power lines, communication
7 towers, adjacent properties all appear to be met or
8 required waivers received. I read those to you because
9 they're so important. And your independent engineer
10 found that the project has complied.

11 Mr. Luetkehans, who has actually hired Mr. Minder
12 in the past in Livingston County I think, asked
13 Mr. Minder, you know, so you didn't really do a deep
14 dive here, did you? And then Mr. Minder answered:
15 Yeah, I did. I did a deep dive.

16 He's here for the County's benefit, and if he felt
17 that the County did not -- if he felt that the project
18 did not comply with the WECS ordinance, he would have
19 told you. He would have said something. He also
20 validated the sound model. Unusual, to be honest, and
21 excellent for you. He validated our sound model and
22 found that Goose Creek had complied with the sound
23 regulation, and I'll get to that a little bit more
24 later. He had some comments on the draft
25 decommissioning plan, so since we're on that, let's talk

1 about draft decommissioning for a second.

2 If we could go to the next slide, please.

3 Looking for the -- well, the next slide has your
4 WECS language on it, so I'll just read it to you. The
5 WECS ordinance -- and this was also read by Mr. Minder
6 during his testimony, so it shouldn't be too unfamiliar.
7 The WECS project must provide a decommissioning plan to
8 ensure that the WECS equipment is removed and the land
9 is restored to its previous use upon the end of the
10 project's life -- importantly -- before a construction
11 permit is issued. The plan shall include -- and then it
12 has a bunch of things it needs to have in it. But what
13 this means -- and I believe your attorney would agree
14 with me -- Mr. Minder certainly agreed with me yesterday
15 is that the final decommissioning plan with all its
16 detail must be established prior to construction permits
17 being issued. There's a logical reason for that. To be
18 truly valuable, it must have details that are not known
19 until final engineering is completed, until the roads to
20 be used as part of decommissioning are established, that
21 the road use agreements -- and we heard a little bit
22 about those today -- and those with the agreements with
23 the township and with the County. That also, by the
24 way, is not required until the building permit phase.

25 Your work today is critical, as none of those

1 final steps can occur until this final use is completed
2 and we know what is going to be built. So once we have
3 the final engineering site plan, we know where our roads
4 are going to go, we can start to lock down those costs.
5 There's no requirement at all in your WECS ordinance
6 that we submit a decommissioning plan with the Special
7 Use Application. We did a draft anyway because we
8 wanted to demonstrate we're committed to complying with
9 this provision ultimately. We wanted to give the County
10 some idea of what it would look like. It wasn't
11 required. We recognize that would give an opportunity
12 for opposition to raise questions and criticize, but we
13 also trust the ZBA understands, you know, its own codes
14 and recognizes that, as did your consulting engineer,
15 that those details we will provide when required to and
16 the decommissioning plan would be thorough and it will
17 protect your county. These are all terms to be worked
18 out and evaluated later.

19 In going back, you know, if you want to do it
20 right, you know, then when the decommissioning plan
21 comes and you have those factors that -- or those
22 elements or those considerations that Minder suggested,
23 those are items that we are willing to work with. You
24 know, if you want to set the five-year average price of
25 steel, update it every five years, that's something we

1 can work with. We weren't trying to dismiss that in the
2 draft plan. All of it's workable, except maybe the
3 first one, and that was the bearing depth, and that's
4 because we've negotiated with land owners in Piatt
5 County that we'll remove facilities up to four feet
6 down. That's consistent with your WECS ordinance,
7 Section 13(b) in the decommissioning section. AIMA
8 suggests five feet. The agricultural mitigation
9 agreement suggests five feet, but Section D of the AIMA
10 allows land owners to negotiate their own terms. That's
11 very specific in AIMA. It allows land owner, if they
12 choose, to negotiate this differently, and that's what
13 has happened here in a lot of cases, and there's a
14 reason for that, too. As we heard from Mr. Koziar --
15 actually I believe it was Mr. Carlson testified
16 sometimes landowners don't want you re-digging up the
17 land when it's so far down, it's fine with them.

18 We want to make sure that the decommissioning plan
19 is done right, and again we'll work with the County.
20 We'll be in a much better position to do so when we know
21 the final 50 turbine locations that are settled on,
22 hopefully approved by the County.

23 So moving to the benefits, please. I won't go
24 into these in too much detail because we've heard a lot
25 about them already, but I think it's really worth

1 highlighting. There's a lot of economic benefits. We
2 know that. A lot of jobs in the short-term for
3 construction, long-term jobs, a lot of money, a lot of
4 money going to your school districts, you know, 13
5 million in property taxes for Piatt County itself. 91
6 million for the other taxing bodies. We've heard about
7 the Rivian deal, supporting Rivian, a local employer,
8 heard about a deal with Cargill that Cargill intends to
9 sign. There are other benefits here. I know this isn't
10 just about the money.

11 Participating land owners will generate a stream
12 of revenue -- we heard that from Sarah Fox and her
13 witnesses -- that will supplement their farming income,
14 and in some cases that literally saves the farm. We
15 heard Sarah Fox, you know, she's a law professor from
16 NIU. She kind of talked like one, but they represented
17 a lot of good land owners here in Piatt County, and she
18 gave her time to them because she felt it was an
19 important issue, and she helped those landowners explain
20 to the board just how important this was. The
21 landowners like Laura and Braxton Bragg, Tom Scott. You
22 know, these are folks that will really be assisted by
23 this project. They will have benefits.

24 There are other intangible benefits that I think
25 are really important. We heard from Mr. Taubel last

1 night that money is not everything, and I agree. So
2 installing a wind farm like this will stop the
3 encroachment of other development on the rural character
4 of this land. It will. That applies to
5 non-participating neighbors as well. When a wind farm
6 like this is put up, more intrusive development can't
7 come in. It preserves the agriculture. The farm can be
8 -- the land can be farmed for another two generations.
9 I think that's really important.

10 I want to talk about ADLS for a moment. We've
11 heard a lot about ADLS. It's a relatively new feature,
12 I'll say, and it's being required by many counties now,
13 as it should in my opinion. Something else that's --
14 well, we intend to use ADLS systems on final FAA
15 approval, which we expect. This system keeps those
16 blinking lights turnoff until aircraft approaches, so it
17 preserves the dark-night sky, which is important.
18 Coming from around here, I know that. We heard concerns
19 about the Ford County's wind farm delay in the
20 operational ADLS operating system. Again, we want to do
21 this right. Mr. Carlson told you yesterday we're using
22 a different manufacturer in Piatt County. You know,
23 that's a marketing improvement, I would say. And we
24 also -- I think importantly, we welcome the County's
25 oversight of this towards the oversight of the progress

1 towards installation and operation of the ADLS. We can
2 provide reports as to progress. We would also -- we
3 would also entertain negotiating certain deadlines and
4 benchmarks to get the ADLS up and running. We're
5 committed to ADLS, committed to it.

6 I'm going to move on to sound and shadow
7 analysis. Shadow first. Mr. Runner explained that
8 shadow flicker -- this was almost a month ago --
9 Mr. Runner explain the shadow flicker modeling -- he
10 explained the modeling that was done. That they modeled
11 61 turbines, so more than what will be built, and the
12 WECS ordinance allows up to 30 hours of flicker on a
13 primary structure in a calendar year. The definition of
14 "primary structure" is on the slide, too. It's
15 important. I know we had some questions about that, but
16 it includes things like residences, commercial
17 buildings, hospitals. It excludes hunting sheds,
18 storage sheds, pool houses, attached garages and bars --
19 and barns.

20 As Runner showed and Minder confirmed for you, the
21 project complies. As we all know, the County considered
22 this provision this summer in lowering the limit to 15
23 hours. The County decided against that amendment. The
24 ordinance states and the expectation is that the project
25 will comply with the 30-hour limit. That's what was

1 designed. That number didn't come out of thin air. I
2 know you heard a lot of testimony. I won't get into it.
3 It didn't come out of thin air. It's an industry
4 standard. What's important is that it's memorialized in
5 the ordinance, and you just can't amend in this
6 proceeding. It's kind of like a speed limit, where the
7 highway is 55, could be 30. It could be less, that
8 might reduce accidents, but there's a balance that goes
9 on here. You have to get from point A to point B.
10 Everybody drives cars. So we have to come up with
11 something reasonable. The State decided 55 was a
12 reasonable speed limit on the highway. AIMA decided 30
13 hours is reasonable for shadow flicker.

14 Now the study will be updated with the final 50
15 turbines prior to building permits being issued. We've
16 given the preliminary site plan, we've shown the study
17 so far, we'll update it for building permits and show
18 ultimate compliance. It's an important compliance to
19 have, and the project will comply.

20 Go to the sound, please. So Mr. Duncan showed
21 and Mr. Minder confirmed that the project complies with
22 the standards provision. Minder and his team actually
23 validated the model that Duncan did, which is great.
24 It's great. Counties don't usually hire engineers to
25 validate sound modeling. The fact that Piatt County did

1 really demonstrates commitment to this process. So we
2 know the model works. We all agree the model
3 demonstrates that all receptors are within IPCB limits,
4 even with 21 more turbines than will actually be built.
5 And Duncan didn't just model receptors at houses, he
6 modeled receptors throughout the entire project area.
7 This is also pretty unique for these primary receptors
8 that were approaching the limit. He looked at them on
9 an aerial map, he reviewed sound at the boundaries of
10 the yards, and he testified under oath, quote -- I want
11 to quote this. He said, "We specifically observed all
12 of the yards where the sound levels approached the IPCB
13 limits within a few decibels, and none of those yards
14 had levels in exceedance of the IPCB limits." End of
15 quote. He noted no yard deviated more than one decibel.
16 So he did his due diligence to make sure the classic use
17 of the land, the yards around the houses, were not being
18 infringed upon.

19 There's other safeguards built into the models.
20 If you can put on the next slide. It's a short slide,
21 which makes this even better, a better model. Modeling
22 adds a two-decibel buffer to the sound profile of the
23 turbine, meaning all the numbers that you see in the
24 charts are two decibels higher than what it had
25 actually. So this is really to reduce any close calls.

1 I got to tell you, Goose Creek, Apex and Vestas all have
2 a very significant financial interest in making sure
3 that they do not exceed IPCB limits when it's built. It
4 would be a litigious disaster for them all. They're
5 going to make sure that they meet those standards.

6 Second, the second safeguard built in is the
7 modeling 71 turbines, and this is important that
8 turbines bunched together are louder than one turbine
9 alone. So when you put all 71 in, instead of the 50
10 that will actually be built, you produce more sound, and
11 if you comply with that, then you'll comply with the 50.
12 This is actually particularly relevant to the Gallaghers
13 under Receptor 120, and I want to show why.

14 So the Gallaghers we'll call Receptor 120, and
15 that, that right there, you can see, you know, they came
16 pretty close at 1,000. So they came within two
17 decibels. They came within three to 500.

18 If we could go to the next slide, please. So
19 again -- right, okay, they're on the edge. So hopefully
20 you guys can see this. So 120 is right there, that's
21 the receptor, and you can see the turbines right here,
22 51, 57, 56, that were close to them, and that was
23 causing their limits to come close. This cluster. And
24 I'll state again that's 120. Can everybody see? I want
25 to make sure.

1 Can you go to the next slide? This, by the way,
2 was -- this was at a five -- okay, no, that was just the
3 site plan.

4 Okay. Go to the next one, please. Sorry. Okay.
5 So this is them right here. It's not numbered, but you
6 can compare the two maps and you can see again this is a
7 cluster of three. You can see that dotted line, that's
8 the limit, and it's close on this map. This is at 500
9 hertz. Can you see that right there?

10 Next slide, please. This is at 1,000 hertz. So
11 again, you see the cluster of three. That's their
12 Receptor 120. Again, that dotted line. When you zoom
13 in real close, they're compliant, but again it was
14 within two decibels. They were close.

15 Why am I showing you this? I told you there was
16 71 turbines modeled, 61 for which we're applying. That
17 cluster of three right there are not one of the 60 that
18 we're asking to build. So when you look at our site
19 plan, their property is right here, and those three
20 would have been right here, but they're gone. So this
21 is really good news for the Gallaghers. Those three
22 turbines that were really getting them closest to the
23 IPCB limits have been removed from the site plan. They
24 were not applied for. We won't build them. The next
25 closest turbine is this one, and it's almost a mile

1 away. It doesn't effect their property.

2 Another safeguard built in -- it assumes that all
3 the receptors are downwind. We heard a little bit about
4 that actually that all -- being downwind is louder.
5 Actually I heard that from Mr. Hartke earlier, and so
6 the model assumes that all receptors are downwind, even
7 though that's -- it's impossible. Meteorologically it
8 can't be the case. Also it assumes no vegetative or
9 other screening, no trees, no fences, or anything like
10 that. That will dampen sound. Screening was one of the
11 mitigating efforts suggested by Mr. Minder, particularly
12 with Mr. Gantz' property close to the substation and
13 whether it's a fence or tree line or a berm, that's
14 something that Goose Creek is amenable to. It's willing
15 to discuss with Mr. Gantz and happy to work with the
16 County and with the Gantz family, a vegetative buffer
17 that might dampen the sound from the substation, if it's
18 a problem. There will be a fence there already, but
19 maybe a paneled fence, if it's more appropriate, or a
20 tree line, something, but we want to do it right. Going
21 back to that, we want to do it right, and we're willing
22 to work with the land owner and the County to get it
23 done.

24 So finally Mr. Koziar testified last night that
25 turbines that are close calls with final -- with final

1 engineering like Mr. Gantz or others that are within a
2 couple dB's, Goose Creek is willing to commit to
3 post-construction monitoring at those locations to
4 confirm that the project complies with IPCB limits. We
5 want to do it right. We want to make sure if it's a
6 close call we get -- that we ensure that it's correctly
7 done afterwards, that there are no mistakes. Again,
8 they're highly motivated to make sure that's correct.

9 The RSG study on IPCB limits do give consideration
10 to the homes and families effected by sound as to the
11 health and enjoyment of those homes. That was further
12 demonstrated by Dr. Ellenbogen. You'll remember him.
13 He testified about Health Canada about a month ago.
14 He's the medical doctor, a sound and sleep specialist.
15 We asked Dr. Ellenbogen to provide an opinion, because
16 he is so highly credentialed. He is a highly
17 credentialed practitioner. He had an honorable in
18 clinical practice. He evaluates patients on a
19 day-to-day basis, including the Navy Seals. He's just
20 the best authority we could find, and his opinion is
21 based on clinical experience in the largest, most
22 comprehensive study conducted to date on the impacts of
23 wind turbine sound on humans. His opinion is based on
24 Health Canada, which proved this, is that sound must be
25 higher than the level set by the IPCB to cause sleep

1 disturbance or health impacts, and also Dr. Ellenbogen
2 testified based on Health Canada that infrasound doesn't
3 effect health. The so-called wind turbine syndrome was
4 entirely debunked. It's not a condition accepted in the
5 medical community. He would know. The book that wrote
6 about it was based on six families, self reporting.
7 It's just not valid. It's not a valid study.

8 Now the County in opposition hired Dr. Punch.
9 Dr. Punch is an audiologist. He not a medical doctor.
10 He's not an epidemiologist. He can't diagnose. He
11 can't give opinions on causation. At least one court
12 has excluded his opinion on causation based on
13 unreliable literature. One of those pieces of
14 literature, by the way, was the Wind Turbine Syndrome
15 book I just mentioned. Dr. Punch's opinion is based on
16 his own paper, which was published on a website, and an
17 outdated WHS study from 2009, and other non-peer
18 reviewed articles, is that this board should limit sound
19 to significantly less than IPCB limits. Dr. Punch also
20 testified multiple times that compliance with his
21 recommendation would be impossible. That's really
22 important. Because in other words, meeting those
23 limits, meeting those impossible limits and accepting
24 them here would be a back door to make the project
25 impossible. We appreciate his honesty on this point, of

1 course, but this is really where his true colors shown
2 through. He's paid by opposition groups around the
3 country to convince ZBAs like yours to implement
4 restrictions that he knows are impossible and that kill
5 projects. That's his role here. He 's never gone to
6 IPCB to suggest limits. He knows they would be rejected
7 because they're impossible to comply with.

8 He also relied on Dr. Schomer, an Illinois-based
9 acoustician, recommended lower limits, but Dr. Schomer
10 is long retired. He wasn't present here. Schomer was
11 never able to persuade IPCB to amend their regulations,
12 and as you heard from the testimony, Dr. Schomer
13 actually confirmed in his testimony before another
14 county board that Health Canada was one of the best
15 studies out there.

16 So move to property values, please. We'll talk
17 about property values for a moment. MaRous presented as
18 an Illinois appraiser, currently licensed. He did a
19 master analysis of homes around wind farms, which means
20 he found similar homes, both around wind farms and
21 further away from wind farms and compared the sales to
22 determine if the prices were impacted. He compared
23 sales in Illinois, which is why we asked him to present
24 his study. In Illinois counties Tazewell, McLean,
25 LaSalle, Lee, Macon, Livingston, Logan and also looked

1 at other rural states like Iowa, Indiana, Michigan,
2 Minnesota, South Dakota, Ohio, Kansas. That sales data
3 is in his report, in his conclusion -- next slide,
4 please -- his conclusion, quote, "Therefore the
5 conclusion is that there does not appear to have any
6 measurable negative impact on surrounding residential
7 property values due to the proximity of a wind farm."
8 After he collected all of his data, he also analyzed
9 agricultural land sales, which is important. Overall,
10 he said, quote, "It appears that here there is little to
11 no relationship between agricultural land values and the
12 location of wind farms, with productivity being the
13 driving force on the land values; however, wind farm
14 lease revenue does appear to increase the marketability
15 and profitability of the land, benefiting the lease."
16 Which makes sense. He also surveyed appraisers and
17 assessors, and this is very relevant here.

18 He surveyed Illinois assessors in 18 counties
19 which wind farms are in operation, and he found a number
20 of things, and we have four or five bullet points here.
21 Without exception, the interviewees reported there was
22 no market evidence to support a negative impact upon
23 residential property values as a result of the
24 development of or the proximity to wind farm facilities.
25 In the past 18 months, the assessor's offices had not

1 experienced a real estate tax appeal based on wind
2 farm-related concerns in assessed values. The data from
3 the assessors did not show a negative impact upon the
4 residential values. Residential assessed values have
5 fluctuated between counties as influenced by the market
6 with no regard to the proximity to a wind farm. That
7 reliance on assessors and appraisers in Illinois really
8 distinguishes Mr. MaRous from the opposition's expert
9 Mr. Kielisch. Mr. Kielisch markets himself to objectors
10 of wind farms and to landowners in condemnation
11 proceedings. Of course condemnation is not an issue
12 here. His mantra is "perception is reality". We've
13 heard that. I would suggest that data is the reality,
14 that we have to look at the data that Mr. MaRous has
15 provided, his actual studies, his matched PERI analysis,
16 his interviews and surveys of the assessors in Illinois
17 counties with wind farms. Mr. Kielisch relies on some
18 data from Wisconsin during the height of the housing
19 market crash. He relies on a survey of real estate
20 agents of varying degrees of experience. That method is
21 unreliable. One federal court found it was unreliable
22 and excluded it. Mr. Kielisch -- and by the way, we had
23 Ms. Coil, I believe, she also testified about asking
24 some realtors their opinions. I don't blame -- I don't
25 blame her for doing that research, I think that's an

1 important part of their diligence. I respect -- I
2 respect her opinion for doing so, and I actually respect
3 the opinions of those real estate agents who she talked
4 to, Russ and Nick Taylor, fixtures of Mahomet actually.
5 I went to school with Justin and Jordan. But they
6 didn't do a study, and they didn't collect the data, and
7 they haven't surveyed 18 assessors across Illinois, and
8 that's what makes MaRous' report the one on which we
9 should rely.

10 Let's go to environment, please. We heard some
11 testimony last night about environmental impacts. Goose
12 Creek hired WEST to conduct bird, bat and other species
13 studies. Goose Creek also has coordinated with U.S.
14 Fish and Wildlife Service and the Illinois Department of
15 Natural Resources regarding potential impacts, conducted
16 a number of surveys and assessments. Those studies
17 result in a robust table of habitat avoidance measures
18 set out in table 3.13-1 on page 34 of the application,
19 and I put it up here so you could see it and find it
20 later if you need to. But the table notes there -- sort
21 of in response to last night, the table notes there are
22 no bald eagle nests within two miles of the project.
23 That's something they studied that they thought was
24 important. We know it's important. That's what they're
25 required by law to look at, and that's what we have

1 done. So no nests.

2 And Goose Creek is implementing other optional
3 measures of mitigation, like curtailing the turbines
4 during wind conditions and seasons when bats are most
5 likely to be at risk. So they're do that optionally,
6 voluntarily.

7 Some environmental conclusions. We're on the next
8 slide. And just to summarize. Can you go back one,
9 please? No bald edge nests within 2.4 miles of a
10 purposed turbine. You know, small portions of concern
11 for which they were accounting for. You know, they're
12 sited to avoid potential impact. Construction will
13 coordinate.

14 Next slide, please. This is also important. Apex
15 through its conservation grant program will contribute
16 \$1,000 per megawatt to support local or regional
17 wildlife conservation, reforestation or restoration,
18 protection of sensitive habitats, such as grassland or
19 wetland and other environmental conservation initiatives
20 in or near the project communities like this one.

21 The people that work at Apex, they're in this line
22 of work because they care about the environment. They
23 care about renewal energy, and they care about the local
24 communities in which they work. So they voluntarily put
25 up funds to help generate this type of impact, and they

1 take the environmental impact seriously.

2 Let's talk about construction and safety for a
3 moment. This has been pretty straightforward, so I
4 won't spend a lot of time on it. Adam Carlson -- who
5 actually also grew up in the area. We were talking
6 about high school last night. He graduated a little bit
7 after I did. He had a family farm near wind turbines
8 and expressed how easy it was to know he would be
9 managing this construction project. He explained how
10 construction would be managed. He and others are in
11 continuing communications, as you heard last night, with
12 the drainage district and township roadway officials,
13 and he's working to finalize the design and engineering
14 of the layout.

15 A core value that Apex has is safety. Core.
16 Jason Conely walked through those safety protocol and
17 emergency procedures, and the emergency management
18 agency has signed off on the draft emergency management
19 plan, which is Appendix F3. So we feel that the
20 emergency and safety is being addressed. I know there
21 are questions about things about ice throw/plate throw,
22 and that's why we brought in Dr. Jonathan Rogers, who
23 provided a report, and he testified that the chances of
24 throw occurring and hitting a non-participating resident
25 are astronomically low, like one in 64,400 years, and

1 with contaminate measures being in place in this
2 project, which they will be, he testified that the risk
3 is essentially zero. So, again you want to do it right.
4 Goose Creek will shut down turbines when icing or
5 thawing conditions are detected. That's -- that won't
6 be an issue, and the risk is effectively zero. There
7 have been questions about Apex's commitment to operate.
8 And I just want to say a few words on this, and we have
9 some slides that I won't read to you, but they'll be in
10 your packet. They're good questions, but the truth of
11 the matter is that Apex is committed to the project.
12 It's an owner and operator of assets around the country.
13 It recently partnered with Ares, an investment firm
14 Ares, and Ares provides Apex the capital and resources
15 it needs to own and operate. That's the business model
16 now. That is their intent is to own and operate. They
17 will be here for the long term. That's the intent.

18 So, I've summarized most of the evidence. I said
19 I wasn't going to go through every little detail, and I
20 won't. And as I mentioned at the beginning, the
21 compliance with the WECS ordinance is based on an
22 evaluation of seven factors in the zoning ordinance,
23 which Mr. Keyt provided to you. We addressed each of
24 those seven factors in detail in the application, pages
25 3 to 8. I encourage you to find them there. It's

1 interesting to note that the Piatt County Zoning
2 Ordinance is consistent with the document read, which
3 was approved by the attorneys earlier. It does not
4 establish these as technical standards that must be met
5 to approve a special use, but rather factors for your
6 consideration and for adoption of conditions that you
7 feel are appropriate to better ensure that they're met.
8 So again, I'm not going to walk through these five pages
9 of explanation that we have in the binder or the
10 numerous hours of testimony and thousands of pages of
11 expert reports that support our satisfaction of these
12 standards. However, in our slides, we do identify each
13 standard, we bullet point the facts supporting it, and
14 I'll just take a few minutes to show a few of these
15 slides.

16 So that first slide we're just looking at had the
17 seven standards. I told you in the beginning that the
18 theme really is to ensure the health, safety, general
19 welfare of the county. So all of those items that we
20 talked about, all the sound, the shadow, the health, all
21 of the studies, the property value, all of it is to
22 ensure that county residents are being protected and
23 we're going to do our best and we are trying to do it
24 right, and with your help and with your partnership, we
25 can make sure that we do it right.

1 In this first standard is essentially that. I
2 won't read all these to you, but you'll see them later
3 when you deliberate.

4 We can go to the next one. The second standard
5 relates to the injurious -- special use will not be
6 injurious to the use and enjoyment to the other property
7 in the immediate vicinity for the purposes already
8 permitted nor substantially diminish the property value.
9 That's why we went through Dr. MaRous' report. That's
10 why we spent a lot of the time explaining how little of
11 a footprint the property actually -- or the footprint
12 actually is, and that's why we spent a lot of time that
13 we do not impact surrounding properties.

14 Next slide, please.

15 Similarly, special use will not impede the normal
16 use and orderly development and improvement of
17 surrounding properties. Again, just that's how the
18 project is designed, and that's why we spend all that
19 time designing the project like we did, and there's more
20 fact and factors here, but again, I won't read them all.

21 Next slide, please.

22 Adequate utilities, access roads, drainage, and
23 other necessary facilities. As Carlson testified, we
24 are working with the drainage districts. We're working
25 with the road township commissioners and the road

1 districts to make sure that this is all satisfied. We
2 want to make sure that the county is protected and
3 satisfied here.

4 Kind of a similar factor, provide ingress and
5 egress to minimize traffic congestion to the public
6 streets. Of course with the Road Use Agreement that
7 will all be taken care of.

8 Establishment of maintenance and operation of the
9 special use will be in performance with the preamble to
10 the regulations in the district where the special use is
11 located. And that -- those twin aims I read to you in
12 the beginning. Those are strongly met, strongly in this
13 case.

14 And finally number seven. Special use shall in
15 all respects conform to the applicable regulations of
16 the district, and that's why we have taken such pain to
17 go through the entire WECS ordinance and make sure that
18 we have complied with each and every single standard
19 that you've set out, and we've demonstrated that we
20 have.

21 There are a few at the end of the zoning ordinance
22 that weren't mentioned, but I think it's worth noting.
23 They are part of your ordinance, so in addition to
24 complying with the procedures for obtaining a Special
25 Use Permit described above, a person applying for such a

1 permit must also present satisfactory evidence that the
2 proposed use of the real estate will not have a
3 deleterious effect of the soil such that the land could
4 not later be restored for agricultural use. That would
5 be in the decommissioning plan, but, you know, these
6 things when they are decommissioned, the soil will be
7 restored. That's a commitment that we'll make in the
8 decommissioning that AIMA requires and can certainly be
9 a condition to the Special Use Permit, that the proposed
10 use will have minimal negative impact on the use of
11 surrounding lands. That mirrors one of the other
12 factors that we looked at, and that the granting of the
13 proposed use will not encourage the spread of uses other
14 than the proposed and will not encourage mixed uses in
15 the same general area. That one is a little confusing,
16 but I think what it means is that sometimes you have a
17 development and from that development more developments
18 spur. This is actually the opposite. By installing the
19 wind farm, as I said earlier, it preserves the
20 agricultural and the rural culture of the community.

21 So I said an hour. Pretty close. In conclusion,
22 thank you again. Thank you seriously for the time,
23 effort, attention, patience, you've shown me now and
24 you've shown us through this process and everybody has
25 shown each other. The professionalism the hearing

1 officer spoke of early is tantamount to this process.
2 The Goose Creek team has been working in this community
3 for a long time. Many of them have attended many nights
4 of hearings. We're all very excited, and I say that
5 with true honesty, very excited to bring this project to
6 Piatt County, me in particular. And we hope and we ask
7 for this the ZBA to make a recommendation to the County
8 Board to approve the Special Use Permit. Thank you
9 again for your time.

10 MR. KAINS: Thank you, Mr. Jacobi.

11 Courtnay, do you need a break?

12 Okay. We're going to go forward.

13 Mr. Luetkehans, your closing statement, please.

14 MR. LUETKEHANS: Courtnay, I told you to slow me
15 down if I need to -- if you need to. Also, I have a
16 tendency to walk around a little. So if I am not heard
17 on the mic, someone yell at me. Otherwise, I might be
18 better off sitting down so you can actually hear me.
19 We'll try it like this.

20 First of all, like Mr. Jacobi and like everybody
21 else who has spoken to you tonight, we do thank you for
22 your time. This is not a fun process. We understand
23 that. I understand it. And you've been, the ZBA and
24 County Board Hearing Officer, even Mr. Keyt -- no --
25 have been exemplary and your attention to detail and

1 having as many county board members as you have had is
2 really a nice sight.

3 I kind of started doing this in 2015 by accident.
4 Clearly I'm not from this area. I am, you know, looked
5 at as the "big city kid" because I lived in the "burbs",
6 but throughout those years, I've gotten to -- in the
7 last seven years gotten to really understand, I believe,
8 the people who live in these areas. They've been kind
9 enough to put me up in a little farmhouse in the middle
10 of what would be the wind farm, and I've been lucky
11 enough to see these vistas that everybody is concerned
12 about and why people live here. And in fact if I could
13 make a living down here, I would probably be down here,
14 too, but good luck. So, the burden -- let's get a few
15 things straight. The burden of proof is on the
16 applicant. It is not on the objectors even though it's
17 a special use. The burden of proof is on the
18 applicants. They need to prove that they meet the
19 special use standards. They need to prove that they
20 meet the WECS standards. We'll walk through that and
21 I'll show you how they have not proved those.

22 Let's talk about the Patrick Engineering analysis.
23 We heard that a little bit. First of all, I have never
24 hired Patrick Engineering on a wind farm. I did not
25 hire them in Livingston County. That was Livingston

1 County that hired them, and I have never met Mr. Minder
2 until last night. I deal with Patrick Engineering for
3 sure. I deal with their Chicago office. I didn't even
4 know Mr. Minder's name until two days ago, three days
5 ago. And as I said, I did not hire them in Livingston.
6 And what Patrick Engineering told you is they didn't do
7 a deep dive here. They -- as they said, "the standards
8 appear to be met". They said that a number of times on
9 that one slide "appear to be met". Don't let --
10 Mr. Jacobi would like you to make that a controlling --
11 to control your decision here. That doesn't control
12 your decision. This is your decision, your
13 recommendation, and a decision by the County Board. You
14 have the final say, not Patrick Engineering, not
15 Mr. Minder, and I'm going to walk through the seven
16 standards that Mr. Keyt talked about as well as some
17 others, and I'll kind of go through it, and I don't have
18 a PowerPoint, so I apologize, you know. I may be from
19 up north, but I'll still an old man who can only do
20 certain things.

21 Standard No. 1. And these are kind of
22 paraphrased so we don't have to read every word: Will
23 not be detrimental to public health, safety, morals,
24 comfort, or welfare. Correct. Ellenbogen, Schomer's
25 transcripts, Punch, and Mr. Duncan all testified about

1 the Health Canada site. Here's what we know about the
2 Health Canada site. We know that they removed the most
3 vulnerable from that study. We know no one under 18, no
4 one over 79 were part of the study. You know, it's not
5 45, 50, 55 year olds we're as worried about as we are
6 our children and most vulnerable, our senior citizens.
7 It did not include the most -- or the people who had to
8 move out of the home. Those were excluded, too. That
9 kind of messes up your study, don't you think? And we
10 heard Dr. Ellenbogen, Mr. Schomer, Mr. Duncan talk about
11 no direct health effects up to 46 dBA. Mr. Duncan also
12 said there were no properties in the project at 46 dBA.
13 We know that's wrong. You saw on Dr. Punch's
14 PowerPoint, and it wasn't disputed, that there are
15 properties at 46 dBA and above, and they're not the
16 Gallagher family, that's not one of them. Removing
17 those three turbines, that's nice, but that doesn't
18 change the effect on all these other families, all these
19 other residents of Piatt County. And that calculation
20 -- because all that is is a math calculation, it's not
21 anything -- it's a math calculation based on 022
22 Illinois Judicial Branch Sexual Harassment Prevention
23 Training PowerPoint numbers, show three properties at
24 least at 46 dBA and above.

25 Also noted under Health Canada, 13.9 percent of

1 the people in the Health Canada study from 40 to 46 dBA
2 had high annoyance. Now, we kind of talked about this a
3 little bit. I'm sure I'm annoying to a lot of people in
4 this room. That's not what "high annoyance" is. High
5 annoyance is something the health world sees as a
6 problem. Both Dr. Schomer in that transcript and Dr.
7 Punch both testified that high annoyance is an adverse
8 health effect. It's very interesting when you hear Dr.
9 Ellenbogen testify. I've heard him testify eight, ten
10 times in my life, you know, and we know, their experts
11 are paid by them, they only testify for them. My
12 experts only testify for objectors. I don't know who
13 we're kidding. I'm not going to lie about it. I'm not
14 even going to pretend. We know what -- each guy has an
15 opinion. We use the guys who support our position. I'm
16 not going to use Dr. Ellenbogen, he's on the other side
17 of every one of these hearings, but we know that Dr.
18 Ellenbogen always says, direct health -- direct health
19 or adverse health effects. Direct. He doesn't talk
20 about the indirect. He talks about direct. Okay. What
21 we know is that -- and we'll get into this a little
22 more. If I'm -- we've heard at 46 dB is like me talking
23 to you, not on the microphone but in the same room with
24 me talking to you. If you're trying to sleep at two in
25 the morning and I start talking to you intermittently,

1 that's sure going to effect your sleep. Right? I mean,
2 I know my spouse doesn't wanted to hear me at two in the
3 morning. And effective -- effecting someone's sleep is
4 an adverse health effect. It effects everything we do.
5 It effects our stress. It effects our learning. It
6 effects our children going to school the next day. What
7 we also know about Health Canada is it was a two-year
8 study. No studies have been done to show what the
9 effect is for 20 to 30 years. That's what we're talking
10 about here. And we're talking about re-powering. We
11 might be talking about 50 years. Now that's a new
12 Special Use Permit, so -- but this plan as of itself
13 would be 20 to 30 years. Dr. Schomer was one of the
14 preeminent experts in the field. He started out
15 representing wind farms, wind turbines -- wind
16 companies, excuse me. And he testified in the
17 transcript that was admitted into evidence by the
18 applicant, that about 38 dBA is the maximum that should
19 be allowed for health purposes. I heard tonight
20 somewhere that Dr. Punch said he agrees with 38 because
21 it would never allow a wind farm. I missed that
22 somehow. If that happened, I missed it. I'd like to
23 see the transcript, because I never heard that the other
24 night. Here 20.4 percent of the receptors, as shown on
25 page 43, again just a mathematical calculation, are

1 above the 38 dBA limit. That's on Punch's PowerPoint,
2 Objector Exhibit 8, page 43. Also it's important to
3 remember that the dual frequency sounds are not included
4 in the IPCB regs.

5 Finally, Dr. Schomer has testified on numerous
6 occasions. One time in the transcript that the
7 applicant put in that IPCB quantitative decibel levels,
8 those 39, 41, 45, were never intended for wind turbine
9 noise. This was in the '70s. None of us were thinking
10 of wind turbine noise in the '70, especially not at this
11 level. Maybe you had one that you were using for a
12 mill, like in the old days, but you weren't having fifty
13 600 footers. And he also testified in that transcript
14 that those same limits are not sufficient to protect
15 human health.

16 Standard No. 2. Not injurious to the use and
17 enjoyment of the property in the immediate vicinity, or
18 would substantially diminish or impair property values.
19 It's a two-part standard. I'll try and take it a piece
20 at a time. The first is use and enjoyment. We'll talk
21 about that. Let's -- and the second is property values.
22 To use and enjoyment, one thing Dr. Ellenbogen refused
23 to answer was whether the noise from these turbines
24 would have an effect on people's enjoyment of the
25 property. I don't think there's any doubt they're going

1 to have an effect on people's enjoyment of the use of
2 their property. I don't live, you know, as -- in this
3 area, the rural agricultural area, but I know my
4 favorite thing to do in the summer is sit out on the
5 patio and listen to the quiet and whatever else there
6 is. I at least have that. Out here, that's a large
7 part of why these people moved here, why we all -- why
8 people live here in general, besides the fact that they
9 are making a living here. But people come here for that
10 enjoyment of their outside life. So to say there's not
11 going to be an effect on that, that's just silly. We
12 know that, common sense, will effect our enjoyment if
13 they have to listen to this industrial-type noise go
14 swoosh, swoosh, swoosh.

15 Also, we know that the aerial application cost
16 will go up as much as 50 percent for farm lessees and
17 maybe non-participating property owners.

18 As to property values, Mike MaRous said no effect.
19 Okay. Kurt Kielisch said huge effect. He said
20 residential value loss is 35 percent in the footprint.
21 Residential value lost within a mile, 22 percent.
22 Agricultural values lose 8.5 percent within the
23 footprint. If you're not a participating property
24 owner, obviously that changes the whole calculation, but
25 we're not talking about the participating property

1 owners, we're talking about the people who are effected
2 that live nearby and work nearby.

3 Mr. Gershon tried on cross-examination to devalue
4 Mr. Kielisch's testimony a number of ways. Let's kind
5 of talk about those. The fact -- and we heard it from
6 Mr. Jacobi's use of a realtor survey. You have in your
7 packet Mr. MaRous' report. I ask you to look at page
8 128 and 129 of his report. He does the exact same thing
9 and relies upon realtor surveys in talking to realtors.
10 And then we just heard that's the wrong thing to do.
11 Well, if it is, it's good for the goose, good for the
12 gander, but you can't say it's a bad thing to do it and
13 then have your own expert do the same thing. We heard
14 Mr. Gershon ask Mr. Kielisch: Are you in compliance
15 with the USPAP? That's U.S. property appraisal
16 something, okay. I can't remember the acronym. He
17 said, "No, I'm not." Mr. Gershon tried to make a big
18 deal out of it. Remember, I asked Mr. MaRous the exact
19 same question one time: Is this report in compliance
20 with USPAP? No, it's a consulting report, it doesn't
21 have to be. They want to make mountains out of things
22 that their own expert is doing.

23 ADLS not in place in the comps Kurt Kielisch used.
24 No doubt. Same thing for Mike MaRous, exact same thing.
25 Those are all prior ADLS. We're seeing ADLS come in

1 now. We don't know what the effect of that is. We
2 heard tonight that MaRous did a PERI analysis of the
3 Illinois property. He did. Kurt Kielisch did the exact
4 same thing. They came up with a different answer.
5 Here's what Mike MaRous did admit that I found really
6 interesting. Solar farms in order not to effect values
7 need to be screened. Those are solar farms, they're 10
8 feet high, 14 feet high at most when they're up at their
9 fullest, and they can be screened. To say that solar
10 farms effect value if they're not screened but wind
11 turbines don't, 600-foot monstrosities, that's silly
12 again. Who are we kidding? What are we trying to hide
13 here?

14 Another thing we know about wind turbines is that
15 at least some people -- and you heard from a lot of
16 people come in here -- don't want to live near them.
17 I'm not saying everybody, but every time you take
18 someone out of that calculation, you effect value. You
19 effect demand, and as I remember from my freshman econ
20 class, supply and demand. If you take out demand, it
21 changes your supply. It changes your ability to sell at
22 a certain number, and that's what you're doing here. It
23 doesn't take MaRous, it doesn't take Kielisch to tell
24 you that, it takes our common sense.

25 Number 3, will not impede normal and orderly

1 development in the area. I find it really kind of
2 interesting. I've never heard this theory I heard
3 tonight. This is going to keep industry from coming
4 into these areas because the wind turbines are already
5 there. Well, I don't understand that. First of all, if
6 I want to put up a distribution center, I don't care if
7 there is a wind turbine. It's a completely different
8 issue, unless I'm worried about it falling down. But
9 I'm not worried about living in it. But it will impede
10 development. It impedes development of residential
11 properties. People aren't moving subdivisions closer to
12 wind turbines.

13 Number 4, adequate utilities, access roads,
14 drainage and/or other necessary facilities will be
15 provided. Not a lot here. We don't really know what
16 the access roads are going to be. We don't know the
17 drainage. They don't have agreements with anyone.
18 We're going to get there. I don't know what that means.
19 But I do know I heard Emily Lattz come and testify --
20 that's two nights ago, last night, I'm sorry, I'm
21 drawing a blank, but lives in Ford County amongst a wind
22 farm that Apex was building last year. It's over. We
23 now hear they're going to keep them, but six months ago,
24 eight months ago they sold. They sold the most recent
25 one they built in this area. Ms. Lattz talked about

1 problems with traffic, the problems with road closure,
2 the problems with sound, all those things. She lived
3 it. And she came from Ford County just to tell you
4 about it. She doesn't have a dog in this fight. She
5 came to be honest with you and tell you what she's had
6 to live with, and she came subject to public
7 testimony/cross-examination.

8 Number 5, adequate measures will be taken to
9 minimize traffic issues. The only thing you heard from
10 Mr. Jacobi and I think about the only thing that's in
11 the testimony about traffic is: We're going to have a
12 road agreement. Okay. They have to have a road
13 agreement. What does that road agreement do? It
14 requires them to repair the roads. I assume -- and I
15 shouldn't assume, but where I'm at, if you have a huge
16 development, you have a traffic study. Okay. I want to
17 know how is this going to effect traffic. What's it
18 going to do to traffic during construction, after, and
19 in this case hugely construction and decommission,
20 right? Here's what we said -- we heard, no traffic
21 impact analysis or study has been done. How are you
22 supposed to analyze Standard 5? You have no chance of
23 analyzing 5. Not one, because they didn't give it to
24 you. They didn't even try. If they did, maybe it ends
25 up clean, maybe it ends up there is going to be issues

1 and you can then put conditions on how to solve those
2 issues or maybe you can't solve the issue, but at least
3 you need to know that. And you haven't had that
4 opportunity. They haven't provided that. Why? I don't
5 know, but they refuse to do it. Your job is to decide
6 if the adequate measures are in place to minimize
7 traffic issues. You can't do it, unfortunately.

8 Number 6, we'll be in compliance with the
9 preamble to the regulations in the district.
10 Requirements or regulations, I don't remember which, so
11 I apologize. One is safe and effective health effects.
12 We've discussed the negative health effects here. I'll
13 discuss them a little more in my closing. It just
14 hasn't been shown to be safe for those living nearby.

15 The second one is economics. Facilitating
16 economic opportunities for, quote, "local residents",
17 end quote. Local. So that takes us to Dr. Loomis. I'm
18 not going to talk about real estate taxes. That is not
19 proper for these types of cases. For zoning cases, you
20 can't base your decision on that, and I'll cite you
21 Concerned Citizens versus City of McHenry, 76 Ill.App 3d
22 798. It's not something you can consider. Okay.

23 So let's talk about local residents and their
24 economic opportunities. Not Illinois residents, local
25 residents. We heard Dr. Loomis talk a lot about

1 Illinois residents and all these opportunities people
2 are going to get. A lot of them for construction.
3 Maybe nearby counties. We didn't hear one idea whether
4 any of these people live in Piatt County, work in Piatt
5 County. We don't know what those opportunities are
6 going to be. We just don't know. Again that's not my
7 job to prove, it's their burden of proof.

8 Remember, even under their own calculation, only
9 30 percent of the participating property owners are
10 actually, quote, "local residents", which is the people
11 the ordinance is concerned, and I admit that people who
12 are participating property owners are going to get
13 economic incentive -- make more money because of it.
14 Let's be honest, we know that. They're not doing it
15 otherwise. However, even these 30 percent, you know
16 what those addresses are we heard? They're addresses
17 for tax bills. We heard people say throughout and you
18 guys would probably know this better than me because
19 I'm, as I said, not a farmer, but I do represent some
20 farmers. Those tax bills, where do they go? They're
21 not going to Florida. They're going to the farm manager
22 who lives here or has an office here, at least a lot of
23 time, right? They're in control of the farm. That's
24 not who's making the money. That person might live in
25 Iowa. They might live in Champaign. They might live in

1 Rock Island. We don't know. They might be in Florida.
2 Kind of where I hope I am in a few days, right? But we
3 don't know that they live here. We don't know what that
4 number of participating property owners who actually
5 live here, because Mr. Loomis didn't do that. He did
6 where the tax bills are sent. Construction jobs, no
7 idea how many will be here, he said that. Also Dr.
8 Loomis' calculation is not a net job calculation.
9 Let's get that really clear. There's no net jobs here.
10 We don't know what that is. He doesn't do that. So we
11 don't know if we're adding eight jobs and losing ten.
12 Adding eight jobs, losing three. We just don't know.

13 Also, how much in opportunity dollars are lost in
14 Piatt County if property values in the wind farm do not
15 go up, they stay -- they decrease or they stay level.
16 There's money that those people who live here and farm
17 here cannot get.

18 Okay. We'll conform to the regulations in the
19 district. That's Number 7. That requires compliance
20 with the IPCB standards. There's two standards in the
21 regulations you heard about the other night. One is
22 numeric, that's what you've heard a ton about. The
23 section is qualitative on quality of life. Apex never
24 mentions that anywhere, not one time. The report
25 doesn't even attempt to deal with the standard, and as

1 we saw, it will effect a significant number of nearby
2 residences. We talked about 46 dBA. I don't want to go
3 through that again, and if you look at Dr. Punch's
4 report again, just a mathematical -- simple addition and
5 division, even though I don't understand it. You have
6 at least three receptors R-115, it's exactly at 46;
7 R-846 is at 46.4; and 1104 is at 46.8. Those are Apex's
8 calculations, that's their model. Those are 46 and
9 above. Even I can do that math. Also, remember that
10 these numbers are at the receptor points. That's not
11 where you measure. That's not where you model.

12 I'm going to submit objectors -- it's labeled
13 Objector's Exhibit 31. It's not really an exhibit, per
14 se, as it is a legal memo. It's four pages, I think.
15 And instead of me going through all of the standards,
16 you can have an opportunity to look at it. Trust me,
17 Mr. Jacobi has seen 95 percent of this memo before in
18 other cases. It's not a surprise. You model and
19 measure at the property line of residential properties,
20 and if it's a mixed use, you measure at the area where
21 people live, right? I may own 40 acres, I live on five
22 that I don't farm, that's where you model and measure.
23 That was not done here. We heard: Oh, we have a
24 contour map that shows all that. I ask you really
25 closely look at those pages. I think he said page 15.

1 If you can find and understand where the contour map
2 ends and the residential property starts, more power to
3 you. You can't.

4 We heard Duncan say: Well, I did it, but, you
5 know, I checked it. Well, you know that's the standard,
6 that's the place you have to measure. If they were so
7 clear, they would have provided that to you instead of
8 modeling at a receptor in the middle of a home. Not
9 even at the edge of the property, to even at the edge of
10 the house. In the middle of the house they put a dot.
11 That doesn't tell you anything except maybe the
12 bathroom. They knew the right place to model was not
13 the middle of the home. They could have given you those
14 contour maps and they didn't. What were they hiding?
15 They showed you the Gallagher family, and they kind of
16 cherry-picked it because they took away three turbines
17 from that one. That doesn't do anything for the other
18 people who are at this edge of this limit. We don't
19 know what they are. That's not my job. It's their job
20 to prove it, and they didn't. One more piece of very
21 important evidence not given to you.

22 Here the Patrick Engineering confirmed Apex's
23 sound modeling that showed it was above IPCB numerical
24 limits. You heard Mr. MaRous, they modeled at the same
25 place that Apex did. They just confirmed the actual

1 calculations, did not take the step of modeling at the
2 property line because that wasn't their assignment.
3 They were just checking Apex's work. We also heard
4 based upon Patrick Engineering's report that even based
5 on modeling at the middle of the house, Patrick
6 Engineering said mitigation should be taken for the
7 higher sound level properties. Last night -- I think it
8 was last night, yeah. This board gave Apex a chance to
9 say definitively they would comply with Patrick
10 Engineering's recommendation. What did you hear? You
11 didn't hear it, "We'll look at it. We'll talk about it.
12 We'll think about it." If there's IPCB -- if there's a
13 violation, trust me, the IPCB will get involved. Let me
14 tell you how the IPCB gets involved -- and this is just
15 the process, it's the regulations. You have to measure
16 -- you have to measure and then you have to file suit.
17 You have to file a complaint with the IPCB. Now not
18 only do you have to find one to measure it, I have to go
19 find a lawyer and file a complaint at the IPCB. That's
20 their responsibility.

21 This is just window dressing when they say
22 they're committed to the community. For two to three
23 years they've been giving out these grants. And they
24 call it "longstanding involvement". That's not
25 longstanding involvement. Heck, I've been involved in

1 this here for about the last year. I don't call that
2 longstanding involvement. It's an add campaign, kind of
3 reminds me of ComEd. I don't know if you have ComEd
4 advertisements. We do up north, and I'm always just
5 amazed by it. ComeEd, it essentially, at this time 10
6 years ago, was a monopoly, absolute monopoly. When I
7 turn on my TV once every two days and I'd see an add by
8 ComEd. They still do it, I just don't watch TV as much,
9 and I'm like, why are they advertising? They're a
10 monopoly, and they're using my money to tell me how
11 great they are. That's what you have here.

12 Also last time I was at a batch plant, it makes
13 noise. It makes significant noise, trucks, the plant
14 itself, backup beepers. We don't know where it's going
15 to be. How is that included in the sound analysis? It
16 wasn't, because they don't know where it's going to be.
17 Is that going to be next to Mr. Gantz' house, too, or
18 Mr. Garrett's house? I don't know. You don't know
19 because they didn't provide that information. Why not?
20 How hard is it to tell you where the batch plant is
21 going to be and put that in the sound analysis? Not
22 real heard.

23 Okay. Besides the failure regarding sound -- and
24 I promise I'm trying to move this. Let's talk about
25 shadow flicker, and this is going to get a little in the

1 weeds, but I would ask that when you deliberate, you
2 look at your WECS ordinance. Your ordinance requires
3 Apex to have conducted, quote, "an analysis on the
4 potential -- potential shadow flicker onto adjacent
5 properties". Okay. What did Apex present to you? And
6 that potential means maximum, right? I mean, what's
7 possible. Mr. Runner testified, as he admitted, that
8 they did average shadow flicker hours because all he had
9 was average data. That's not maximum. That's not
10 potential. That's an average. That might be true if
11 I'm at 27 hours per year, that might be the average.
12 One year I might be 32, one year I might be at 22. That
13 32 year is a violation of the ordinance. Again, they
14 did not comply with what your ordinance requires them to
15 do.

16 And even what they did do is they picked a
17 one-by-one box in the middle of the home. Not that hard
18 to at least do the four walls of a home. I mean, I
19 shouldn't pick them out, but I saw the Gallagher home --
20 I saw the Gallagher home. It's a nice-sized home,
21 right? I mean, the Gallaghers have obviously been
22 successful. Good for them. But this isn't a 50-by-50
23 home. This is a 1,000-square-foot ranch. Those shadow
24 flicker numbers change as you get further away from the
25 center of the home. We just don't know what those are.

1 This failure alone of not complying with the mandatory
2 requirement of your WECS ordinance requires this special
3 use application to be denied. This isn't optional.
4 This isn't one you weigh. This is a mandatory
5 obligation in your WECS ordinance.

6 Comprehensive plan. That's not one of the things
7 Mr. Keyt gave you, but I will tell you, and I think
8 Mr. Keyt when you deliberate will tell you that that is
9 one of what we call the "LaSalle factors", the
10 "LaSalle/Sinclair factors", which I think you've
11 probably all heard of being on the ZBA. One of these
12 things, does it comply with the comprehensive plan? How
13 does it fit into your comprehensive plan?

14 The Objector's Exhibit 1, we haven't talked about
15 it yet, but it's in evidence, and that's the Piatt
16 County covenants, and I'm going to take a few places and
17 quote. Page 21: One of the objectives: Seek to avoid
18 unnecessary conversion of agriculture land to
19 non-agricultural land uses. It doesn't sound like this
20 complies with that.

21 Page 22, Section 1.9: Protection of natural
22 resources and existing land uses. Again, doesn't
23 comply.

24 Page 28, top of the page: Important to maintain
25 moral character and ecological systems. Elements of

1 particular importance are, among other things listed,
2 are viewsheds, farmland. This takes out viewsheds and
3 farmland in that whole part of the county. And I
4 understand farmland, yeah, it takes, but the viewsheds,
5 that's something your comprehensive plan says is
6 important to the people of this county, and you heard it
7 from these people on a regular basis. And we're just
8 going to take them away?

9 Page 29, Piatt County values -- quote, "values
10 its variety of residents and the rustic living that
11 rural housing provides", end quote. We know that
12 there's not going to be residential development go into
13 the middle of this new development. That value is not
14 part -- is not helped, it's hurt by this development.
15 The project does not comply with the comprehensive plan
16 standards.

17 Decommission. We heard language in the ordinance
18 that a decommission plan must be in place before
19 construction permit is issued. It does say that, no
20 doubt about it. You know what they didn't cite to you,
21 the other part under Section 59(b)(4), all studies and
22 reports, quote, "demonstrating compliance with the
23 ordinance are required as part of the special use
24 application". One of those is the decommissioning plan.
25 So it's unclear, I agree, but, you know what, again,

1 they're not giving you all the information. You heard
2 Mr. Minder say, "I don't have enough. I don't know." I
3 asked: How many feet of -- how much access roads are
4 you going to have? We don't know. I asked: Is that
5 because they haven't been designed yet? Oh no, they've
6 been designed. Then tonight we heard: Oh no, they
7 weren't designed. What's the truth? He said he had
8 every access road located. Tonight I heard no. Like
9 other parts of the application, Apex is trying to sneak
10 this one past the goalie.

11 ADLS. Apex said you should put in deadlines.
12 Okay. What happens when they don't meet them? Ford
13 County requires that they have ADLS. They're operating
14 them without ADLS. What is Ford County going to sue?
15 You going to sue? What, are we buying a lawsuit? Do
16 what you say. Say what you do.

17 Okay. I would just ask that you listen to what
18 they have avoided telling you or providing to you. They
19 have failed to meet their burden of proof, and I'm not
20 going to go through all of them again, but most
21 obviously, shadow flicker, sound, health and safety,
22 traffic issues minimized, property values -- which just
23 defies common sense -- and it's in conflict with the
24 comprehensive plan. Those show that this project is not
25 in compliance with the special use standards and are

1 inconsistent with the WECS ordinance and must be denied,
2 and we ask that you recommend that to the County Board,
3 and again, I'm sorry how long I went, but I do want to
4 thank you for your time, and I hope I was not awful to
5 you. Okay. Thank you.

6 MR. KAINS: Thank you, Mr. Luetkehans.

7 Courtnay, how are you doing?

8 COURT REPORTER: Fine.

9 MR. KAINS: All right. Because the Applicant does
10 have the burden of proof, as has been discussed this
11 evening, the burden of proving all seven factors,
12 Mr. Jacobi, you have the final bite at the apple in
13 closing statement. Your rebuttal, please.

14 MR. JACOBI: Thank you, sir.

15 First off, the exhibit, Objector's Exhibit No. 31.
16 Mr. Luetkehans has obviously been sitting there with it
17 all day long. We went through this exercise of exhibits
18 right before this closing argument, wasn't brought up
19 and now it's sprung on me during closing argument. I
20 object to it just on the pure basis of timeliness. I
21 haven't had a chance to review it. Now it's being
22 thrown in the laps of the ZBA. It's improper.

23 MR. KAINS: Mr. Luetkehans, are you moving to
24 admit that?

25 MR. LUETKEHANS: No, I'm not. I'm just putting it

1 as part of the legal. I could walk through it orally to
2 all of you, and I was trying to avoid the time. So
3 that's all I was doing. It's a legal argument, and it's
4 not any -- it's not evidence by any way, shape, or form.

5 MR. JACOBI: Then why has it been passed out to
6 the ZBA? Why is it marked Objector's Exhibit 31,

7 MR. KAINS: Gentlemen, here's what we're going to
8 do. The members of this board are lay people and,
9 fortunately for them, they are not attorneys. If they
10 even read this, it would be difficult to understand.
11 I've practiced law for 31 years. This would be
12 difficult for me to understand; however, Mr. Keyt can
13 look at it. It's not coming in as evidence. It is part
14 of argument, but I'm going to direct members of the
15 board, you don't have to look at this. It's not
16 evidence. Everything stated in closing statements,
17 Mr. Jacobi's original closing statement, Mr. Luetkehans'
18 closing statement, and the rebuttal statement that is
19 coming from Mr. Jacobi, are not evidence. They are
20 closing statements summarizing the evidence. This may
21 summarize some legal arguments. Mr. Keyt can look at
22 it. I'm not even going to look at it. I'm the umpire.
23 So, Mr. Keyt can look at it, and if he has anything to
24 say to his client, members of this board, then so be it,
25 but this board doesn't have to consider what has been

1 marked as Objector's Exhibit No. 31. It's not coming in
2 as evidence, and it should be disregarded.

3 With that said, Mr. Jacobi, you have every
4 opportunity now to rebut arguments made by
5 Mr. Luetkehans.

6 MR. JACOBI: Is it in the record? If it's in the
7 record, we should have an opportunity to respond to it.
8 If it's not in the record, we can all throw it away.

9 MR. KAINS: It's not in the record.

10 MR. LUETKEHANS: I would object to it not being in
11 the record. You can deny it, but it should stay in the
12 record because it is a legal argument. It is part of my
13 closing. It's not part of anything other than my
14 closing. Now if you want, I'll read the darn thing and
15 have no problem reading it, it's just going to delay
16 this hearing another 15 minutes.

17 MR. KAINS: Mr. Keyt.

18 MR. KEYT: The only thing that I would suggest is
19 to give Mr. Jacobi or Apex an opportunity to respond to
20 it and only to send that to me. If we're going to
21 exclude the ZBA members, it wouldn't necessarily go to
22 them, but then that would give Mr. Jacobi an opportunity
23 to respond or Apex an opportunity to respond to it.
24 They can send that just to me, and I can review that. I
25 think that would probably be appropriate since it's come

1 up now in the closing, and they obviously weren't aware
2 of it, and to give them an opportunity to respond,
3 provide their own legal brief, which I would say if
4 anybody wants to provide one, that would be appropriate.

5 MR. LUETKEHANS: I do want to say they have been
6 aware. They brought up this issue of measuring at the
7 property line and residential area, so it's not this is
8 a new issue. I understand what Mr. Keyt is saying. I
9 have no problem, but I do want for the record to make
10 that statement.

11 MR. KEYT: Understood.

12 MR. KAINS: All right.

13 MR. JACOBI: We'll file a response with Mr. Keyt.

14 MR. KAINS: Mr. Keyt makes an excellent point.
15 Mr. Luetkehans makes an excellent point. This is just
16 part of his closing argument, but because this was just
17 raised now, I will give Mr. Jacobi the opportunity to
18 respond to this. By the way, folks, so you know what
19 we're talking about, this is a memorandum of law
20 regarding noise emissions. It lists case law,
21 summarizes a number of cases. It's a four-page legal
22 memorandum of law submitted by Mr. Luetkehans. It's not
23 evidence. It's part of his closing argument or closing
24 statement. Therefore, I will allow Mr. Jacobi to file a
25 responsive pleading to be submitted to Mr. Keyt, and

1 also when you e-mail it, copy Mr. Luetkehans on your
2 e-mail response. So -- and again, it will be considered
3 as part of closing argument. If it's something that
4 because this is closing statement or closing argument,
5 it goes to Mr. Keyt, and he can discuss, probably will
6 discuss when we meet again on the board's decision
7 night, any aspects of this that he deems appropriate.

8 Is that all right with you, Mr. Keyt?

9 MR. KEYT: Yeah, that's fine.

10 MR. KAINS: All right. Very good.

11 Anything further with respect to the memorandum of
12 law?

13 MR. JACOBI: No, sir.

14 MR. KAINS: Very good. Time for your rebuttal
15 statement, Mr. Jacobi.

16 MR. JACOBI: Thank you.

17 Engineer Minder, who stood up before you under
18 oath, 100 hundred percent said he did a deep dive in the
19 WECS ordinance and in the application. I mean, when
20 Mr. Luetkehans asked, I waited for that answer, I hoped
21 for a "yes", and I got a "yes". He did a deep dive.

22 This is your decision, but you hired, the County
23 the hired Mr. Minder to help you. That's why the County
24 paid an independent engineer is to do that analysis and
25 to ensure that the application is meeting the WECS

1 ordinance. He says that it did. You can rely on
2 Mr. Minder.

3 You know, comments on Schomer. Schomer called the
4 Health Canada study the best study. He testified to
5 that under oath. Health Canada cannot seriously be
6 challenged. It's a validated study. It's the largest
7 study committed on sound ever. And that's why Dr.
8 Ellenbogen relies on it. And Dr. Punch 100 percent said
9 under oath that the standards he was suggesting were
10 impossible to meet. Mr. Luetkehans maybe wasn't paying
11 attention or didn't hear it or was doing something else,
12 but that's what was said, and we'll have the transcripts
13 to back that up. He's trying to get you to change the
14 standards into something that we cannot meet. He's
15 trying to get you to change the standards to something
16 that's impossible for us to meet because it will kill
17 the project. That's his goal. And if you change the
18 standards mid-hearing like this, then what you've done
19 is you've made a text amendment without text amendment
20 process. It just can't be done. We're entitled to rely
21 on the ordinance standard. That's what's fair to the
22 applicant. That's what we're asking for is for that
23 fair treatment.

24 It's funny that you bring up the realtor, the
25 realtor surveys. MaRous' report included I can't

1 remember how many volumes of comparative analysis.
2 Volumes of them, but what we liked best are those
3 assessor surveys. In Illinois, 18 counties where wind
4 turbines existed, totally independent people that deal
5 with it every single day that see the house prices. A
6 court of law -- this isn't a federal court, I know that,
7 but a federal court did throw out that realtor survey
8 that Mr. Kielisch relied on. Mr. MaRous has a far more
9 robust presentation than that, and the comparison study
10 that Kielisch relied, Wisconsin 2008 to 2013, I think it
11 was, right at the height of the recession.

12 Mr. Luetkehans would ask you to rely on common
13 sense, just like Mr. Kielisch asked to you rely on
14 common sense, and that's because they don't have the
15 data to back it up like I do and like Apex does, like
16 Apex hired Mr. MaRous to presents those studies. They
17 don't have the data, so they want you to think common
18 sense solves the problem for them. It doesn't.

19 You know, we hear a lot about, you know, Apex
20 hasn't -- or Goose Creek hasn't done this, Goose Creek
21 hasn't done that. Goose Creek is following your WECS
22 ordinance to a T. That's what they're required to do.
23 We don't need road use agreements. We can't have them
24 yet because we don't know where the turbines are going
25 to be yet. Once we know where the turbines are going to

1 go, then we'll know what roads we need to access, and
2 then we'll be able to engage in an actual road use
3 agreement. In the meantime, we're negotiating with your
4 township supervisors, with your road districts, and with
5 the County. And we don't know where the access roads go
6 exactly yet, because we don't know what turbines we're
7 going to have yet. When we do, we'll know what access
8 roads exactly we need -- and also the land owners --
9 still working with land owners to see what they want.
10 We want to make sure that they're consistent with the
11 land owner use.

12 We heard about people coming from other counties
13 to tell you about their experiences. Dr. Hepler came
14 here from Logan County, too. If you'll recall, he had
15 very persuasive testimony on all of the wonderful
16 benefits that Logan County has experienced, and I want
17 you to remember that testimony. He's the one that
18 submitted the letters as well. Those letters said he
19 talked to the assessor, no property value effects. He
20 talked to the public health department, no health
21 impacts. He didn't have any agenda. He's just here to
22 try to provide information to you. What he did say is:
23 If you're going to do it, do it right. And as I said in
24 the beginning, we agree with that.

25 The road agreements require far more than road

1 repairs, and you can relay on your road engineers to
2 negotiate those and to make sure that they work for your
3 County, that the County is protected on that. We heard
4 about Factor 5 about the lack of a road use -- or the
5 lack of traffic a study. We don't need one. There's
6 not enough traffic, one. Two, we have had testimony on
7 how few vehicles will be used. You know, so you don't
8 need to present a traffic study when you have credible
9 testimony, credible evidence showing that, you know, on
10 an operations and maintenance basis, there's not any
11 traffic impact, there's very few traffic. During
12 construction, that's what the road use agreement is for,
13 and the road use agreement will help guide traffic
14 during construction, what roads we can use, what are the
15 weight limits, what we have to pay, what we have to
16 repair, when we can use them, all that can be negotiated
17 in the road use agreement.

18 You can consider property taxes, by the way. I
19 heard Mr. Luetkehans cite a case. I've heard him cite
20 it before. It's wrong. You can rely on -- not that the
21 case is wrong, I mean Mr. Luetkehans' interpretation of
22 the case is wrong. You can rely on property taxes as
23 one of the elements in deciding the benefits of the
24 County, and we've seen a lot of property taxes that will
25 benefit the County.

1 Other economic opportunities for locals. You
2 know, I think, you know, the union representatives that
3 were here that night that all stood up that packed the
4 room would disagree with Mr. Luetkehans that there will
5 be no local job benefits. Now, the unions -- the unions
6 control that, of course, but we will use union labor,
7 and the unions will engage their members. And those
8 jobs will support the County, and the money that comes
9 in there will support the County, and the tax dollars
10 will support the schools and the hospitals.

11 We heard a little bit about the qualitative
12 element of sound, and I walked through that in my
13 presentation, but Eddie Duncan testified on sounds.
14 Jeff Ellenbogen testified on health impacts, and all of
15 it ties together. When you meet the IPCB regulations,
16 there are no health impacts, then you're satisfying all
17 of those qualitative elements.

18 The contour maps, I love this. So I tried to show
19 you contour maps. I had several more I was going to
20 show you and it was so strenuously objected to that
21 they've been thrown out of the record, not even as
22 demonstrative evidence. I wanted to show them to you,
23 and if we had a different ruling, I would show you all
24 of them. The fact of the matter is that the sound study
25 demonstrates that we meet all the limits. The engineer

1 confirmed that, and although the maps are a little small
2 in the book, you can tell. You can tell that we meet
3 all the limits, and your expert sat there and testified
4 and told you he looked at all the property yards
5 aerially, he measured them all and he quantified them
6 all, and he determined that we meet all the limits. And
7 for those that are close, we'll do post-construction
8 modeling, and that's important. I told you the grave
9 disaster that will happen if we miss those limits. We
10 will make sure that we hit those limits.

11 I didn't quite understand the argument on shadow
12 flicker, because the report is quite clear, we
13 demonstrated that shadow flicker satisfies the WECS
14 ordinance. The WECS ordinance says: Applicant shall
15 conduct an analysis on the potential shadow flicker on
16 adjacent properties as part of the approval process.
17 That's exactly what the report does. And Jake Runner
18 also testified -- and I asked him this, because I knew
19 it would come up. You use that one-by-one box in the
20 middle of the house, does that matter for the side of
21 the house? Does it matter for the yard? And what he
22 testified was: No, you don't get -- I think he said it
23 was .4 difference when, you know, you move -- I forget
24 the distance -- to the end of the yard. He said: I
25 looked at it. There was no variance great enough for

1 the shadow flicker to be impacted moving that box, you
2 know, outside of that house. And because of that, he
3 didn't need to -- he didn't need to do anything further
4 on it. And when you read the report, you can see that
5 that's true. It's completely complied with.

6 The comprehensive plan we have spent a lot of time
7 on. The fact of the matter is the comprehensive plan is
8 satisfied because your County passed an ordinance
9 approving this project, approving these types of
10 projects, I should say. Your County passed an ordinance
11 approving wind farms. That means wind farms are
12 consistent with your comprehensive plan. The
13 comprehensive plan would have been considered, should
14 have been considered and was considered in full when the
15 County decided to pass this ordinance. If wind farms
16 were consistent with the comprehensive plan, then they
17 wouldn't be allowed at all. But they're allowed as
18 special uses.

19 And finally, the decommissioning plan. This was a
20 bit of a stretch. So Mr. Luetkehans agrees that we
21 don't need a decommissioning plan before construction
22 permits, but then points you to Section 5(b)(4), which
23 requires all studies, reports, certifications and
24 approvals demonstrating compliance with this provision
25 of this ordinance. While a decommissioning plan, first

1 off, is none of those. It's none of those things. And
2 you've also heard testimony over and over and over again
3 that a decommissioning plan will be entered into
4 compliant with the operable section of your ordinance,
5 13 -- Section 13. The STEM paragraph in Section 13
6 which requires it at instruction. That's what we need
7 to comply with. That's the more specific provision,
8 which prevails over the general provision. So that's
9 the provision we need to comply with and we do and we
10 will, and we'll work with the County and with Minder and
11 whoever else you hire to negotiate the decommissioning
12 plan to make sure that it is to your satisfaction.

13 The hour is late, so I will wrap it up. I
14 appreciate again your time. I know that I get the last
15 word. So I'll just say one more time to the entire
16 board, to the attorneys, to the members of the public
17 who show up each and every night, and also to
18 Mr. Luetkehans, I appreciate the professionalism and the
19 work that everyone has done to make this a fair process.
20 So thank you.

21 MR. KAINS: Very good. Thank you, Mr. Jacobi.

22 Well, folks, the next step is for this board to
23 have an in-depth discussion and decide whether the
24 special use permit application will receive its
25 recommendation, yes or no, before it is sent to the

1 Piatt County Board.

2 In order to have the board engage in the in-depth
3 discussion, earlier tonight Mr. James Reed said he urges
4 the ZBA to dive deep into the issues. Couldn't be more
5 right. Thank you for that comment, Mr. Reed, and
6 Mr. Stillabower said to the board: Make sure you look
7 at every little piece of information. We appreciate
8 that comment as well.

9 For this board to go and do the deep dive that it
10 needs to do and to look at every piece of information,
11 the board is going to need time to review all of the
12 exhibits that have been admitted into evidence, to
13 review transcripts of each night, 14 nights of hearings.
14 They've got a lot of work to do, folks. Our next
15 hearing is scheduled -- our next session of this hearing
16 is scheduled for January 3rd. We also have nights
17 reserved in this room for January 5, January 10, and
18 January 12. I've had a discussion with Mr. Keyt. I
19 have not talked with the chairman, but Mr. Chairman, it
20 would be my recommendation that the board has a motion
21 that they consider to remove the nights of January 3, 5,
22 10, and 12, because we only need one more night, but I
23 think it's going to take this board ample time, and I
24 think this board wants ample time, and I think everybody
25 in this courtroom wants the board to consider everything

1 and do a deep dive, and so, Mr. Chairman, first of all,
2 I think there ought to be a motion entertained with
3 respect to removing or striking those dates, January 3,
4 5, 10, and 12, from the public hearing calendar, and
5 then after that is done, then a discussion about adding
6 a date toward the end of January, at which time the
7 board can discuss, debate, and decide, and also at that
8 time the board will have had ample time to review all of
9 the letters and e-mails that have been sent. Keri will
10 copy them for all board members because they need to be
11 able to have those to consider as well. And they will
12 be read into the record at the start of the next session
13 toward the end of January before the board has its
14 discussion.

15 So Mr. Chairman, first of all, if the board would
16 entertain the possibility of a motion to striking
17 January 3, 5, 10 and 12.

18 MR. WAX: Board members, we are open to a motion
19 and second to strike those dates.

20 MR. LARSON: So move.

21 MR. LOVIN: Second.

22 MR. WAX: We have a motion and a second.

23 Any discussion?

24 Rollcall, please.

25 MS. NUSBAUM: Mr. Chambers?

1 MR. CHAMBERS: Yes.

2 MS. NUSBAUM: Mr. Foran?

3 MR. FORAN: Yes.

4 MS. NUSBAUM: Mr. Harrington?

5 MR. HARRINGTON: Yes.

6 MS. NUSBAUM: Mr. Lovin?

7 MR. LOVIN: Yes.

8 MS. NUSBAUM: Mr. Larson?

9 MR. LARSON: Yes.

10 MS. NUSBAUM: Mr. Wax?

11 MR. WAX: Yes.

12 MR. KAINS: Thank you, gentlemen.

13 Keri has been so helpful in getting this room
14 reserved. She has contacted this building facility
15 manager. This room is available on the night of
16 Tuesday, January 24th. It is also available on the
17 night of Wednesday, January 25th.

18 Mr. Chairman, I think a motion needs to be
19 considered, maybe entertained and discussed to schedule
20 the final session of this public hearing for one of
21 those two evenings, January 24 or January 25.

22 MR. WAX: First, is it -- from Mr. Keyt, is one
23 of those dates more preferable to you than the other?

24 MR. KEYT: I don't think -- I don't think either
25 one is a problem for me, so either night is fine.

1 I would suggest, Courtney, how long would it take
2 you to turn around your transcript? I'm putting you on
3 the spot.

4 COURT REPORTER: A week or so.

5 MR. KEYT: And we still have other transcripts to
6 receive in. I think so far we've received three or
7 four. I'm not a hundred percent sure. I think we
8 received three for sure, maybe four transcripts of the
9 fourteen, and then we'll need to get this one as well.
10 It's my understanding we'll probably get those within
11 the first week of January, perhaps second week, which I
12 think would provide enough time both to do the findings
13 of fact or prepare a draft of them and get the zoning
14 board all of the transcripts and exhibits, so either the
15 24th or 25th is feasible.

16 MR. WAX: Either one in your opinion provides
17 ample time?

18 MR. KEYT: Either one I think would be ample
19 time.

20 MR. WAX: Okay. We're open to a motion for
21 whatever date you prefer. Which one would you prefer?

22 MR. LARSON: Let's do the soonest one.

23 MR. CHAMBERS: 24th would be preferred for me.

24 MR. WAX: Okay. Okay. Is that a motion?

25 MR. CHAMBERS: Yeah, I'll the make the motion

1 then for scheduling the 24th.

2 MR. WAX: 24th. A motion to schedule the 24th.

3 A second?

4 MR. LOVIN: Second.

5 MR. WAX: Any discussion on this, on the meeting
6 on the 24th of January at 6:00 p.m. at this location?

7 MR. WAX: Okay. No discussion.

8 Rollcall, please.

9 MS. NUSBAUM: Mr. Larson?

10 MR. LARSON: Yes.

11 MS. NUSBAUM: Mr. Harrington?

12 MR. HARRINGTON: Yes.

13 MS. NUSBAUM: Mr. Foran?

14 MR. FORAN: Yes.

15 MS. NUSBAUM: Mr. Lovin?

16 MR. LOVIN: Yes.

17 MS. NUSBAUM: Mr. Chambers?

18 MR. CHAMBERS: Yes.

19 MS. NUSBAUM: Mr. Wax?

20 MR. WAX: Yes.

21 MR. KAINS: Very good. So January 24th is a
22 Tuesday, 6:00 p.m. At this very building in this very
23 room, we will start with the reading of all written
24 correspondence that's been submitted to this point.
25 There will be no other written correspondence received

1 by the board. It will be all read on the night on
2 January 24th commencing at 6:00 p.m. Following that,
3 the board will have a discussion with respect to the
4 seven factors and then a vote that night.

5 Unlike the jury system in this country, the
6 board's discussion and deliberations and determination
7 will be done right here in front of everyone. That's
8 the fair way to do this.

9 Mr. Jacobi, you have something?

10 MR. JACOBI: One thing I wanted to confirm that
11 ex parte communications are not allowed with the board.

12 MR. KAINS: Excellent point. An ex parte
13 communication is an individual in the general public or
14 a member of the applicant's team, Apex or Goose Creek
15 Wind, not to have any discussion -- or anybody on the
16 other side, Mr. Luetkehans or any of his clients, not to
17 have any discussions about this matter with any member
18 of the Zoning Board of Appeals. That would be
19 considered an ex parte communication. Those are not
20 allowed, because this board needs to have clear in its
21 mind the factors as they relate -- as the evidence
22 relates to the factors. So all communications with
23 these folks regarding the substance of this hearing.
24 You can talk to them about the weather, about the
25 grocery store, the price of gas, when is the next

1 hearing. You can have discussions, but we're not going
2 to have any e-mails, writings, any verbal discussions
3 with any members of the board because they have to be
4 fair and impartial. That's the whole goal of this; it
5 has been since the beginning, and as we conclude night
6 fourteen and have one session remaining, yes, there will
7 be no ex parte communications. In the event there is,
8 the board should bring that to my attention and we will
9 then have a discussion in public about what we're going
10 to do with respect to that discussion and any things
11 that may have been said in order to persuade one way or
12 the other any member of the board. We could take
13 sanctions as much as striking their testimony and any
14 questions they may have asked of any witnesses.

15 All right. Very good point.

16 Mr. Jacobi, anything further?

17 MR. JACOBI: No, sir.

18 MR. KAINS: Mr. Luetkehans?

19 MR. LUETKEHANS: No.

20 MR. KAINS: Mr. Keyt?

21 MR. KEYT: No.

22 MR. KAINS: Mr. Chairman, with your consent, the
23 board is in recess until January 24th, 2023, at 6:00
24 p.m. in this very room. Thank you.

25 Merry Christmas.

1 (END OF PROCEEDINGS.)
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CERTIFICATE OF REPORTER

I, Courtney Orman, CSR #84-004628, reported in machine shorthand the proceedings had in the above-entitled cause and transcribed the same by computer-aided transcription, which I hereby certify to be a true and accurate transcript of the proceedings had.

Courtney Orman

Official Court Reporter

License No. #084-004628

Dated this 29th
of December, 2022.

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