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STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

August 23, 2010 - 10:09 a.m.
Public Utilities Commission
21 South Fruit Street
Suite 10
Concord, New Hampshire

DAY 1

MORNING SESSION ONLY

RE: Application of Laidlaw Berlin
BioPower for a Certificate of
Site and Facility for a 70 MW
Biomass Fueled Energy Facility
in Berlin, Coos County, New
Hampshire. (Hearing on the merits)

PRESENT:
Thomas Burack, Cmsr.
(Presiding as Chairman)

SITE EVALUATION SUBCOMMITTEE:
Dept. of Environmental Services

Amy Ignatius, Cmsr.
William Janelle, Asst. Dir.
Elizabeth Muzzey, Dir.
Harry Stewart, Dir.
Craig Wright, Asst. Dir.
Donald Kent, Administrator
Christopher Northrop
Michael Harrington

Public Utilities Commission
Dept. of Transportation
N.H. Div. of Historical Res.
Water Division - DES
Air Resources Division - DES
Dept. of Resources & Econ. Dev.
Office of Energy & Planning
Public Utilities Commission

* * *

Counsel for the Committee: Michael Iacopino, Esq.

COURT REPORTER: STEVEN E. PATNAUDE, LCR No. 52

1

2 ALSO PRESENT:

3 REPTG. THE APPLICANT:
4 (Laidlaw Berlin BioPower)Barry Needleman, Esq.
Gregory H. Smith, Esq.
Cathryn E. Vaughn, Esq.
(McLane, Graf, Raulerson
& Middleton)

5

6 REPTG. CITY OF BERLIN:

Peter D. Van Oot, Esq.
Merritt Schnipper, Esq.
(Downs Rachlin Martin)

7

8 REPTG. CLEAN POWER DEVELOPMENT:

James T. Rodier, Esq.

9 COUNSEL FOR THE PUBLIC:

K. Allen Brooks, Esq.
Peter C. L. Roth, Esq.
Senior Asst. Attys. General
N.H. Dept. of Justice

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* * *

WITNESS PANEL:

LOUIS T. BRAVAKIS
CARL S. STRICKLER
DAMMON M. FRECKER

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Laidlaw 1	Application of Laidlaw Berlin BioPower, LLC for Certificate of Site and Facility (12-16-09)	Premarked
Laidlaw 2	Supplement to Appendix P (03-10-10)	Premarked
Laidlaw 3	Waiver Request (Part d(4) of Application) (04-02-10)	Premarked
Laidlaw 4	Revised Electric Interconnection Construction Method (Part g of Application) (04-02-10)	Premarked
Laidlaw 5	Amendment to Application (p. 92) (05-07-10)	Premarked
Laidlaw 6	Amendments to the Application (08-16-10)	Premarked
Laidlaw 7	Amendment to Appendix A of the Application (08-16-10)	Premarked
Laidlaw 8	New Organizational Chart (08-16-10)	Premarked
Laidlaw 9	Testimony of Louis Bravakis (12-16-09)	Premarked
Laidlaw 10	Supplemental Testimony of Louis T. Bravakis (07-09-10)	Premarked
Laidlaw 11	Figure (h)(3)(iv) - 2 Existing Conditions - View from Community Street Ballfield	Premarked
Laidlaw 12	Figure (h)(3)(iv) - 3 Proposed Conditions - View From Community Street Ballfield	Premarked

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Laidlaw 13	Letter from Community EFSEC Advisory Committee (03-12-10)	Premarked
Laidlaw 14	Applicant's Responses to Clean Power Development's Data Requests (04-26-10)	Premarked
Laidlaw 15	Applicant's Responses to City of Berlin's Data Requests (04-26-10)	Premarked
Laidlaw 16	Applicant's Responses to N.H. Sierra Club's Data Requests (05-24-10)	Premarked
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Laidlaw 20	Applicant's Responses to Data Requests from First Technical Session (05-17-10)	Premarked
Laidlaw 21	Att. 1 to Applicant's Response to Data Requests from first Tech. Session - Biomass Power and Conventional Fossil Systems with and without CO2 Sequestration	Premarked

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Laidlaw 22	Att. 2 to Applicant's Response to Data Requests from First Tech. Session - A Comparison of the Environmental Consequences of Power from Biomass, Coal, and Natural Gas	Premarked
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Laidlaw 24	Att. 5 to Applicant's Response to Data Requests from First Tech. Session - Overall Site Layout & Materials plan	Premarked
Laidlaw 25	Att. 6 to Applicant's Response to Data Requests from First Tech. Session - Hazen Research Sample Identification Whole Tree Chips	Premarked
Laidlaw 26	Att. 7 to Applicant's Response to Data Requests from First Tech. Session - Biomass Availability Analysis - Five Counties of Western Massachusetts	Premarked
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Laidlaw 28	Atty. 9 to Applicant's Response to Data Requests from First Tech. Session - Annual Fuel Requirements at 87.5% Capacity Factor	Premarked
Laidlaw 29	Statement from Manomet on the Biomass Study	Premarked

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Laidlaw 30	Mass. Releases Study of Environmental Effects of Wood Biomass Electricity Proposals	Premarked
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Laidlaw 32	Letter from Mayor Grenier (07-12-10)	Premarked
Laidlaw 33	Testimony of Michael Bartoszek (12-16-09)	Premarked
Laidlaw 34	Amendment to Testimony of Michael B. Bartoszek (p.7-8) (05-07-10)	Premarked
Laidlaw 35	Supplemental Testimony of Michael B. Bartoszek (07-09-10)	Premarked
Laidlaw 36	Amendment to Testimony of Michael B. Bartoszek (08-16-10)	Premarked
Laidlaw 37	Applicant's Responses to Counsel for the Public's Data Requests (04-30-10)	Premarked
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Laidlaw 39	Power Purchase Agreement ***CONFIDENTIAL***	Premarked
Laidlaw 40	Power Purchase Agreement REDACTED - FOR PUBLIC USE	Premarked
Laidlaw 41	Comfort Letter from Hancock ***CONFIDENTIAL***	Premarked

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Laidlaw 42	Comfort Letter from KBCM ***CONFIDENTIAL***	Premarked
Laidlaw 43	Pro Forma ***CONFIDENTIAL***	Premarked
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Laidlaw 45	N.H. DES Sewer Permit (04-21-10)	Premarked
Laidlaw 46	N.H. DES Alteration of Terrain, Shoreland, Wastewater Sewer, and Industrial Wastewater Indirect Discharge Recommended Permit Conditions (04-21-10)	Premarked
Laidlaw 47	N.H. DES Industrial Wastewater Indirect Discharge Request (IDR) Approval (04-21-10)	Premarked
Laidlaw 48	Amended Air Permit Application (05-27-10)	Premarked
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Laidlaw 51	Testimony of Carl Strickler (12-16-09)	Premarked
Laidlaw 52	Amended Testimony of Carl Strickler (08-16-10)	Premarked
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Laidlaw 59	UK Approves World's Biggest (350MW) Biomass Plant: Will Power Half of All Homes in Wales	Premarked
Laidlaw 60	Sustainability Condition	Premarked
	* * *	
Berlin 1	Proposed Certificate Conditions	Premarked
Berlin 1A	Conceptual Landscaping Plan	Premarked
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Berlin 1C	Laidlaw Landscaping Scope (Drawing)	Premarked
Berlin 1D	Scope of Work for Subsurface Investigation	Premarked
Berlin 2	Pamela Laflamme Curriculum Vitae	Premarked
Berlin 3	Pamela Laflamme Prefiled Testimony	Premarked
Berlin 4	City of Berlin Zoning Ordinance	Premarked
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EXHIBIT NO.	DESCRIPTION	PAGE NO.
CPD 1	Prefiled Testimony of Melvin E. Liston	Premarked
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CPD 4	Applicant's Response to Public Counsel Data Request No. 14	Premarked
CPD 5	ISO-NE Reliability Actions Letter 8/16/2010 & 8/17/2010	Premarked
	* * *	
PC 1	Covenant not to sue in re: Acquisition of Berlin/Gorham Mills; the Mt. Carberry Landfill; and certain hydroelectric assets	Premarked
PC 2	U.S. EPA Region I Agreement for Addressing PCB Contamination at the T-1 Transformer Area	Premarked
PC 3	Agreement for the Leachate of Dummer Yard Leachate	Premarked
PC 4	Letter from Attorney General Dept. of Justice by Peter C.L. Roth to Barry Needleman (08-27-08)	Premarked
	* * *	
Sierra Club 1	Letter from N.H. Sierra Club by Arthur Cunningham	18

P R O C E E D I N G

1
2 CHAIRMAN BURACK: Good morning, ladies
3 and gentlemen. We are here today for a public meeting of
4 the Subcommittee of the New Hampshire Site Evaluation
5 Committee. As many of you already know, the Committee is
6 established by RSA 162-H. The membership of this
7 Subcommittee includes the commissioners or directors of a
8 number of State agencies, as well as designated senior
9 personnel from various State agencies. At this point, I
10 will introduce myself, and then I will ask the members of
11 the Subcommittee who are present at this meeting to
12 introduce themselves, by providing their names, their job
13 titles, and their State agency affiliations. My name is
14 Tom Burack. I serve as Commissioner of the State's
15 Department of Environmental Services. And, in that
16 capacity, by statute, I also serve as Chair of this Site
17 Evaluation Committee, and I designated myself to serve as
18 Chair of this Subcommittee.

19 So, with that, going to turn over to my
20 right, and ask the members of the committee --
21 subcommittee if they would please introduce themselves for
22 the record.

23 DR. KENT: Don Kent, with the Department
24 of Resources/Economic Development.

1 CHAIRMAN BURACK: And, Don, your title
2 there is?

3 DR. KENT: Administrator.

4 CHAIRMAN BURACK: Thank you.

5 DR. KENT: Of Natural Heritage Bureau.
6 Thank you.

7 MR. WRIGHT: Craig Wright, Assistant
8 Director for the Department of Environmental Services, Air
9 Resources Division.

10 DIR. MUZZEY: Elizabeth Muzzey, Director
11 of the New Hampshire Division of Historical Resources and
12 the Department of Cultural Resources and State Historic
13 Preservation Office.

14 DIR. STEWART: Harry Stewart, Water
15 Division Director, Department of Environmental Services.

16 MR. NORTHRUP: Chris Northrup, Principal
17 Planner, New Hampshire Office of Energy & Planning.

18 MR. JANELLE: Bill Janelle, Assistant
19 Director of Operations, New Hampshire Department of
20 Transportation.

21 MR. HARRINGTON: Michael Harrington,
22 Senior Regional Policy Adviser for the Public Utilities
23 Commission, and filling the roles of the PUC engineer in
24 these hearings.

1 CMSR. IGNATIUS: Amy Ignatius,
2 Commissioner here with the New Hampshire PUC.

3 MR. IACOPINO: And, my name is Mike
4 Iacopino. I am Counsel to the Committee.

5 CHAIRMAN BURACK: Thank you, all. Our
6 agenda today involves only one item: An adjudicatory
7 hearing in Docket Number 2009-02, Application of Laidlaw
8 Berlin BioPower, LLC, for a Certificate of Site and
9 Facility for a 70 megawatt biomass fueled energy facility
10 in Berlin, Coos County, New Hampshire. Today's meeting
11 was convened as the result of an Order and Notice of Final
12 Prehearing Conference and Public Adjudicative Proceedings
13 that I issued on July 21, 2010. Notice of today's public
14 meeting was published in the Union Leader, a newspaper of
15 general statewide circulation, on Monday, August 2, 2010.
16 Notice was also published in the Berlin Daily Sun, a paper
17 of general circulation in Coos County, on Wednesday,
18 July 28, 2010. Affidavits attesting to publication were
19 filed with the Committee, and they will become part of the
20 record in this docket.

21 I'm going to briefly now describe the
22 Application. On December 16, 2009, Laidlaw Berlin
23 BioPower, LLC, known as the "Applicant", filed an
24 Application for a Certificate of Site and Facility, which

1 we will refer to as the "Application". The Applicant
2 petitions the Site Evaluation Committee, otherwise known
3 as the "Committee", for a Certificate of Site and
4 Facility, which we will refer to as the "Certificate", in
5 order to site, construct and operate a renewable energy
6 facility, which we will refer to as the "Facility", in
7 Berlin, Coos County, New Hampshire. The Applicant
8 proposes to site, construct and operate a biomass fueled
9 facility nominally capable of generating 70 megawatts of
10 electric power. On January 26, 2010, I accepted the
11 Application as administratively complete and appointed a
12 Subcommittee to review the Application as provided in New
13 Hampshire RSA 162-H:6-a, III, and RSA 162-H:4, V,
14 providing for a designation of a subcommittee.

15 The facility is located in Berlin, at
16 the site of the former Fraser Pulp Mill, which was also
17 sometimes referred to as the "Burgess Mill". The site
18 contains existing structures and encompasses approximately
19 62 acres comprising the southern half of a 120-acre site
20 formerly used as a pulp production facility. The facility
21 is proposed to be located on the northern side of
22 Community Street, Coos Street and Hutchins Street, in
23 Berlin, known -- that general area will be known as the
24 "Site". The Androscoggin River runs along the northwest

1 boundary of the Site. The northeast border of the Site
2 abuts the remaining portion of the former Fraser Mill.

3 The Applicant proposes to convert and
4 upgrade the Site and to develop a biomass fueled energy
5 generating facility nominally capable of generating 70
6 megawatts of electric power. The Facility, as proposed,
7 will use whole tree wood chips and other low grade clean
8 wood as fuel. The Applicant proposes to convert an
9 existing boiler manufactured by Babcock & Wilcox at the
10 Site to a bubbling fluidized bed boiler that will use
11 whole tree wood chips as its primary fuel, and ultra low
12 sulphur diesel oil as auxillary fuel. In addition to the
13 boiler, the facility will consist of a steam turbine
14 generator, wood handing system, including a round wood
15 chipping facility, ash handling system, storm water
16 management systems, two re-circulating water systems for
17 steam generation and cooling, air pollution control
18 systems, including a flue gas recirculation system, an
19 upgraded electrostatic percipitator, and a selective
20 catalytic reduction system.

21 The Applicant also proposes to renovate
22 an existing 50,000 gallon ultra low sulphur diesel fuel
23 tank to store the auxillary fuel. In addition, the
24 Applicant seeks to construct a new switchyard adjacent to

1 the turbine building, consisting of a step-up transformer
2 and single breaker.

3 The new switchyard is proposed to be
4 connected to the existing East Side Substation 300
5 operated by Public Service Company of New Hampshire, known
6 as "PSNH". A new 115 kilovolt transmission line will be
7 installed. Portions of the transmission line will run
8 both underground and overhead. The underground portion of
9 the transmission line will be installed in the same
10 general corridor as an existing 18-inch diameter
11 fiberglass reinforced pipe formerly used to transport pulp
12 from the Site to Fraser's Paper Mill in Gorham, Coos
13 County, New Hampshire. The underground portion of the
14 transmission line will leave the site near the
15 intersection of Coos and Community Street, and generally
16 follow the route of the former rail bed from the south end
17 of the Site to the north end of Shelby Street. The
18 underground portion of the transmission line will then
19 travel within an existing easement along Shelby Street and
20 Devent Street. The transmission line will then transition
21 to overhead conductors from the east side of Devent Street
22 and terminate at the PSNH East Side Substation 300. The
23 underground portion of the transmission line is proposed
24 to run for an estimated length of 3,200 feet and the

1 overhead portion of the transmission line is estimated to
2 be 800 feet.

3 The Application contains a series of
4 site plans, maps, figures, photographs and drawings that
5 detail the nature and location of various aspects of the
6 facility.

7 The public will be represented in these
8 proceedings by duly appointed Counsel for the Public, K.
9 Allen Brooks and Peter Roth; both are Senior Assistant
10 Attorneys General. The parties to the adjudicative
11 proceedings are the Applicant, represented by Barry
12 Needleman, of McLane, Graf, Raulerson & Middleton; the
13 City of Berlin, represented by Peter Van Oot and Merritt
14 Schnipper, of Downs, Rachlin & Martin; Clean Power
15 Development, LLC, represented by James Rodier, Esquire;
16 the Coos County Commissioners; Wagner Forest Management
17 Limited; and the New Hampshire Sierra Club represented by
18 Arthur Cunningham, Esquire.

19 I have been advised that Wagner Forest
20 Management and the New Hampshire Sierra Club do not wish
21 to participate further in these adjudicative proceedings.
22 I have received a one-page letter from Attorney
23 Cunningham, which will be placed into the record and
24 marked as "Sierra Club Exhibit 1".

1 (The document, as described, was
2 herewith marked as Sierra Club Exhibit 1
3 for identification.)

4 CHAIRMAN BURACK: I have also been
5 advised that, with the exception of making a public
6 statement, the Coos County Commissioners do not wish to
7 further participate in the adjudicative proceedings.

8 I'm going to talk a little bit about the
9 procedure here that we're going to follow. In this
10 proceeding, we will first take appearances. We will then
11 address some miscellaneous matters, including a motion to
12 intervene that was filed on Friday of this past week by
13 Industrial Consultants, Inc.

14 I will then permit a period of public
15 comment to accommodate any members of the public who may
16 not be able to stay until the end of the proceeding. I
17 understand that the Mayor of Berlin, the Coos County
18 Commissioners, and Gestamp Biomass are all interested in
19 making public comments this morning. And, I would ask
20 that if any other members of the public are interested in
21 making brief comments that they just raise their hand at
22 this time?

23 (Show of hands.)

24 CHAIRMAN BURACK: One other individual,

1 two other individuals. Okay. Thank you very much.
2 Again, we will hear from each of these individuals, and
3 from any other members of the public who wish to speak. I
4 will ask each of the persons wishing to make public
5 comments to keep them brief and to the point. We will
6 then proceed with the evidentiary portion of the hearing.

7 In the evidentiary portion, the
8 Applicant will present its witnesses, along with any
9 prefiled testimony and exhibits. It is my understanding
10 that the Applicant will first present a panel of witnesses
11 including Louis Bravakis, Carl Strickler, and Dammon
12 Frecker. The Applicant will then present Michael
13 Bartoszek, followed by Raymond Kusche. The order of
14 further examination of the Applicant's witnesses will be
15 as follows: First, cross-examination by the City of
16 Berlin, then cross-examination by Clean Power Development,
17 followed by cross-examination by Counsel for the Public,
18 and then questions from members of the Subcommittee.

19 When the Applicant has rested its case,
20 we will then allow the City of Berlin to present its
21 witness, Ms. Laflamme, and the City's exhibits.

22 Ms. Laflamme will be examined in the following order:
23 Cross-examination by the Applicant, cross-examination by
24 Clean Power Development, followed by cross-examination by

1 Counsel for the Public, followed by questions from members
2 of the Subcommittee.

3 Once the City has presented its case,
4 Clean Power Development will present its witnesses and
5 exhibits. As I understand it, Clean Power Development
6 will present testimony from Mel Liston, followed by
7 testimony from William Gabler. The order of examination
8 for each of those witnesses will be: First,
9 cross-examination by the Applicant, then cross-examination
10 by Counsel for the Public -- I'm sorry, cross-examination
11 by the City of Berlin, followed by cross-examination by
12 Counsel for the Public, and followed by counsel -- by
13 questions from the Subcommittee.

14 When we have completed the evidence, and
15 I should note that I expect that this process will take
16 several days, I will consider allowing the parties to make
17 brief closing arguments. Thereafter, I will open the
18 floor once again to public comments. I will then close
19 the evidentiary portion of the adjudicative proceeding.
20 And, if appropriate, we may move into a deliberative
21 proceeding, at which time the Committee will consider the
22 merits of the Application; or, we may decide to adjourn
23 and schedule further hearings for the purpose of
24 deliberation or further meetings for the purpose of

1 deliberation.

2 I'd like to now address the Motion to
3 Intervene that was filed by Industrial Consultants, Inc.,
4 this past Friday, August 20, 2010. I should also note
5 that the Applicant this morning filed an objection to that
6 petition. Later today, I will issue an order denying the
7 Motion to Intervene of Industrial Consultants, Inc., on
8 various grounds, including that the interests asserted are
9 speculative, and that it is untimely, and that it would
10 interfere with the orderly and prompt conduct of the
11 proceedings. I should note, however, that the entity
12 filing that motion is certainly welcome to make public
13 comment in this proceeding.

14 I want to discuss several housekeeping
15 matters. First, I would ask that you would all please
16 turn off or silence all cellphones, pagers, beepers, and
17 other electronic equipment that you may have with you of
18 that kind. Take just a moment to give folks an
19 opportunity to do that, and make sure that I have done so
20 myself.

21 (Short pause.)

22 CHAIRMAN BURACK: Good. Second, I want
23 to welcome anyone, if they wish, to remove their jackets
24 or just do whatever they need to do to be comfortable

1 here, please do so. I should also note that there is a
2 water cooler, with cups, right outside the door here.

3 Next, I must ask the parties, the
4 public, and the press to understand that this is a
5 quasi-judicial proceeding, and that the State agency
6 officials sitting here on the Subcommittee will be the
7 decision-makers in this matter. And, accordingly, to
8 avoid any potential ex parte communications between any
9 individuals, again, whether parties, public, or the press,
10 and members of the Subcommittee, I must request that any
11 questions or comments or concerns about the proceedings be
12 directed solely to our legal counsel, the gentleman
13 sitting to my right, Michael Iacopino.

14 I also wish to recognize our
15 stenographer, Steven Patnaude, and I will also note for
16 all the parties that, in our afternoon sessions, Sue
17 Robidas will be sitting in as court reporter. Please
18 understand that it's the job of these individuals to make
19 a record of everything that is said here in this process.
20 And, so, I will ask folks to please not speak on top of
21 each other, but to speak loudly enough and clearly enough
22 so that you can be heard and understood by the
23 stenographer.

24 This morning our plan will be to proceed

1 until approximately 11:30 or so. We'll then take a brief
2 break. We will return for approximately another hour or
3 so of proceedings. And, then, we will take a lunch break,
4 probably of about an hour and a quarter in length, and
5 then we will resume. I expect that we will try wrap up
6 today, and probably each other day, around 5:00. I would
7 ask, if any of the parties to the proceeding, if they have
8 any time limitations or concerns with respect to their
9 schedules on any of the days throughout the week, if they
10 would please let Attorney Iacopino know as soon as
11 possible so we can do our best to try to accommodate any
12 of those issues.

13 So, having said all of that, let me now
14 ask the parties if they would please make their
15 appearances, starting with the Applicant.

16 MR. NEEDLEMAN: Good morning, Mr. Chair.
17 Barry Needleman, from McLane, Graf, Raulerson & Middleton,
18 on behalf of the Applicant. And, with me are my
19 colleagues, Greg Smith and Kate Vaughn.

20 CHAIRMAN BURACK: Thank you.

21 MR. BROOKS: Allen Brooks, as Counsel
22 for the Public.

23 MR. ROTH: Good morning. Peter Roth, as
24 Counsel for the Public.

1 CHAIRMAN BURACK: City of Berlin.

2 MR. VAN OOT: Peter Van Oot, counsel for
3 the City of Berlin.

4 MR. SCHNIPPER: Merritt Schnipper,
5 counsel for the City of Berlin.

6 MR. RODIER: Jim Rodier, representing
7 Clean Power Development.

8 CHAIRMAN BURACK: Thank you very much.
9 I'm now going to turn to public comment in this
10 proceeding. And, first, ask the Mayor of the City of
11 Berlin if he wishes to make a statement. And, again, I'll
12 ask all the individuals wishing to make statements to
13 please come forward to the rostrum here and introduce
14 yourself please.

15 MAYOR GRENIER: Mr. Chairman, members of
16 the Committee, my name is Paul Grenier. I serve as dual
17 capacity as a Coos County Commissioner from Berlin, but
18 I'm going to address you today as Mayor of Berlin. My
19 counterpart, Burnham Judd, will speak on behalf of the
20 issues for Coos County.

21 I rise in support of this project, and
22 the City rises in support of this project, providing that
23 the agreed upon stipulations be placed as a condition of
24 issuance for a site certificate. I'm pleased to announce

1 that the City of Berlin and Laidlaw Berlin BioPower have
2 reached a tentative agreement on its stipulations and
3 principles of agreement for the project in the City of
4 Berlin. As you know, a project of this size has impacts.
5 And, the agreement mitigates virtually all of the impacts
6 to the City. Laidlaw has been a stellar corporate
7 citizen/developer to work the issues out with. In my
8 years in public service, it's been a long time since I was
9 able to sit down and the City was able to sit down with a
10 developer and work out issues critical to the citizens of
11 the City. It's a welcome breath of fresh air as far as
12 I'm concerned for the community.

13 In a new development, this project is
14 going to create almost \$3 million of new market tax
15 credits, of which 2.25 million will benefit Coos County to
16 help small to medium size businesses who could benefit
17 from the project, access capital to make their businesses
18 able to supply needed fuel for the Laidlaw Berlin project.
19 Also, \$500,000 is set up to be used for the City of Berlin
20 for a community benefit project. There have been a number
21 of projects that we have looked at, but the City Council
22 has not taken a position on how that \$500,000 would be
23 best spent. But that's another significant impact that
24 would greatly benefit the City of Berlin.

1 I have some comments that I'd like to
2 make on a personal level, but I am here in my official
3 capacity as the City of Berlin. So, again, because the
4 stipulations have been finalized between the two parties,
5 the City would like to be on record as supporting the
6 project. Thank you.

7 CHAIRMAN BURACK: Thank you, Mayor.
8 Would now like to call upon I understand it's Commissioner
9 Burnham or Bing Judd, the Coos County Commissioners, you
10 wish to make a statement.

11 CMSR. JUDD: Thank you, Mr. Chairman,
12 members of the Committee. I hope you don't mind if I read
13 this. I can read better than I can remember, so...

14 My name is Burnham Judd and I'm Chairman
15 of the Coos County Board of Commissioners. The Board,
16 over a year ago, voted unanimously to support the
17 permitting, construction and operation of the Laidlaw
18 Berlin BioPower facility on what is known as the old
19 "Burgess Pulp Mill" site in Berlin.

20 This Project, when completed, will
21 employ 40 people directly on-site, and over 200 people in
22 the logging and wood procurement industry the outer
23 reaches of -- in the outer reaches of Coos County. The
24 northern areas of Coos County have been devastated by the

1 closures of the Fraser Pulp Mill in Berlin, the Wausau and
2 Groveton Paperboard Mills in Groveton, and the Ethan Allen
3 Furniture plant in nearby Beecher Falls, Vermont.

4 Our county has the highest tax burden as
5 a percentage of income anywhere in the state. And, with
6 the Laidlaw Project becoming a reality, there will be a
7 huge addition to the county's taxable valuation, helping
8 everyone in the county.

9 This Project, however, is about jobs.
10 For Coos County to be successful, it must take advantage
11 of its strength, that being the vast forest.

12 I urge all of you to support the
13 issuance of the site certificate for operation without
14 delay, so we can begin to rebuild our devastated economy
15 in Coos County. Thank you for your time and attention.

16 CHAIRMAN BURACK: Thank you very much,
17 Mr. Judd. Do you have a copy of your letter?

18 CMSR. JUDD: I can give you this.

19 CHAIRMAN BURACK: Very good. If you
20 could provide that to our stenographer, that would be very
21 helpful. Thank you. And, we will mark that.

22 Okay. Thank you very much. Next would
23 like to call upon Douglas Patch, Esquire, who will make a
24 statement on behalf of Gestamp Biomass.

1 MR. PATCH: Good morning, Mr. Chairman,
2 members of the Committee. My name is Doug Patch. I'm
3 with the law firm of Orr & Reno. And, I've been asked to
4 read into the record today, the public record, a letter on
5 behalf of Gestamp Biomass International, LLC. And, this
6 is a letter from Emilio Luis Lopez Carmona, who is the CEO
7 of Gestamp Biomass.

8 I am writing to you on behalf of Gestamp
9 Biomass International, a company of Gestamp Corporation,
10 to offer public comments with regard to the Application of
11 Laidlaw Berlin BioPower, LLC, for a Certificate of Site
12 and Facility to construct and operate a renewable energy
13 facility in Berlin. We appreciate the opportunity to
14 offer these comments.

15 Gestamp Corporation is a Spanish global
16 company with 20,000 employees, industrial steel
17 manufacturing related facilities in 25 countries,
18 including the United States, and a strong presence in the
19 renewable energy business in 10 countries, including the
20 U.S. Through its affiliate, Gestamp Renewables, Gestamp
21 is very much committed to the expansion of renewable
22 energy and has entered the American market to install, own
23 and operate wind, solar, and biomass energy facilities.
24 Gestamp's philosophy matches that of Clean Power

1 Development, in that it wants attractive projects that are
2 environmentally and socially responsible with a maximized
3 synergy with the surrounding community and industry.

4 Gestamp Biomass International, a subdivision of the larger
5 American effort, favors projects with the most efficient
6 combined heat and power design that match the long term
7 sustainability parameters of the regional working forest.

8 Gestamp has entered an exclusive
9 agreement with CPD to finance, own and operate the
10 projects developed by CPD in the Northeast sector of the
11 United States. CPD will have a long term interest in each
12 project and provide various ongoing services to the
13 projects during construction and operation. Gestamp has
14 committed to finance the Clean Power Berlin project as the
15 first Gestamp project to be built in the U.S. This
16 project will be a model of what Gestamp does elsewhere and
17 will showcase all the attributes it desires in a quality
18 facility.

19 Gestamp looks to the outcome of this
20 proceeding as a signal from New Hampshire as to its desire
21 to have an appropriate facility for Berlin, built and
22 operated by a company that has significant financial
23 resources and experience in the biomass business. Gestamp
24 is ready to start the CPD Berlin project as soon as issues

1 related to the market for the energy produced by the
2 project and fuel supply are resolved. Gestamp is very
3 concerned as to the fuel supply issue, not only as it may
4 impact the Berlin project, but the negative and limiting
5 effect it may have on other projects it hopes to do within
6 New Hampshire and surrounding states. Gestamp believes in
7 a smaller, more decentralized approach that will lead to
8 the development of more projects that will create
9 significantly more economic prosperity from a given fuel
10 resource.

11 Gestamp has numerous biomass projects in
12 other countries and it speaks from experience when it
13 brings to the Committee's attention the fact that
14 availability and price of fuel that can be delivered and
15 sustained is paramount to the long term success of a
16 biomass project. The initial Clean Power Berlin project
17 should be the beginning of a development process that
18 continues for many years as this project can bring in or
19 attract and encourage the industries that will function in
20 synergy with the CPD facility. Gestamp is very much
21 committed to making a difference in the economic
22 prosperity of the Berlin region and what that can mean
23 over time. As you consider the economic development of
24 the Berlin area, consider that the Gestamp/CPD approach

1 offers greater positive economic impact and job creation
2 for a given biomass resource, and very good synergy for
3 the struggling paper mill in Gorham, as well as the
4 ability to help bring new business to the region.

5 Thank you again for the opportunity to
6 provide comments during the course of this proceeding.

7 CHAIRMAN BURACK: Thank you, Attorney
8 Patch. And, we have a copy of the letter that you have
9 read from, and we will include this as an exhibit in the
10 record as well.

11 Okay. I believe I saw hands from two
12 other individuals who wish to make public statements.
13 And, Mayor Grenier, did I understand that you also wish to
14 make a personal statement as well? Okay. Thank you. So,
15 we'll hear first from the two individuals who previously
16 raised their hand, and then we'll come back to you,
17 Mr. Grenier. The gentleman on the right, sir, would you
18 please come forward and introduce yourself.

19 MR. FORTUNE: Good morning. I'm William
20 Fortune, President of Industrial Consultants Incorporated.
21 We take notice of Chapter 162-H:1, declaration of purpose
22 of your Committee. We also take notice that the Attorney
23 General's responsibility is to represent the public
24 interest in these matters. Pursuant to Chapter 162-H:1

1 and to RSA 541-A:32, we filed a Petition to Intervene.
2 Our purpose for requesting that we intervene is two-fold:
3 Efficiency and pollution.

4 First, there is a company in the State
5 of New Hampshire that has put together several existing
6 and proven technologies that will eliminate the burning of
7 biomass, an ancient, inefficient method of producing
8 energy, resulting in more pollution than the gasification
9 and the Fischer-Tropsch process. This new method will
10 reduce the relative amount of biomass needed by utilizing
11 some of the waste that is presently going into landfills.
12 And, this process has an efficiency of 75 to 80 percent.

13 As explained in our petition, if this
14 new process were to be used -- excuse me, sorry -- if this
15 new process were to use the 700,000 tons of wood chips
16 that Laidlaw proposed, it would produce 100 megawatts of
17 electricity, 100,000 gallons per day of clean diesel fuel,
18 and enough heat to heat, if not all, most of the City of
19 Berlin. But using all those wood chips is not necessary
20 to produce this amount of clean energy, because other
21 feedstocks, such as some wastes can be used.

22 This process will have a seven to one
23 reduction in NOx emissions compared to the Laidlaw plant.
24 And, the CO2 emissions would be reduced by a factor of

1 three. The sulfur emissions will be reduced by a factor
2 of ten. I want to repeat that. The sulfur emissions will
3 be reduced by a factor of ten.

4 The waste heat can be used to offset the
5 use of home heating oil, thus further reducing the
6 environmental impact. Clean diesel is a superior product
7 compared to bio-fuels. And, I believe Laidlaw is not
8 doing this. There is no need to blend synthetic diesel,
9 and it can be used directly down to minus 60 degrees
10 Fahrenheit. And, more importantly, this new process is
11 economically viable without government or taxpayer
12 subsidies.

13 Again, I want to emphasize the purpose
14 of this Site Evaluation and the duties of the Attorney
15 General. The acceptance of our Petition to Intervene will
16 allow us to input information to the evaluation process.
17 If this Committee rejects our Petition to Intervene, then
18 we must turn to the Office of the Attorney General and to
19 the courts, because the Laidlaw proposal is not in the
20 best interest of the State of New Hampshire and the
21 citizens.

22 Further, if Clean Power Development
23 prevails in these proceedings, their victory will be moot,
24 because we contend, as have others, that their burning of

1 biomass is not economically viable without more burden to
2 the taxpayers and the ratepayers. Also, it is not in the
3 best interest of the citizens of the State of New
4 Hampshire for environmental reasons.

5 If our petition is denied, we next turn
6 to the Office of the Attorney General. The attorneys from
7 the Attorney General's Office, at the pre-trial conference
8 on Friday last stated that they were not able or willing
9 to add another issue to their agenda, presumably because
10 their workload and time constraints of these hearings. In
11 view of this, we contend that the public will not be
12 properly represented as required by law.

13 If we are able to intervene, or if the
14 Attorney General is able to intervene properly, we contend
15 that a review of the new technology will render the
16 Applicant's application and their adversaries' objections
17 a moot issue. There is no need to delay the Laidlaw
18 project, because this new plant design can be substituted
19 for their present design. I want to make that clear, that
20 we intend not to delay this project in any way, but just
21 to change the method of using the wood chips. We take and
22 will take exception to the notion that this is a new
23 technology that has not been proven, and we will produce
24 evidence.

1 So, therefore, we request that this
2 Committee accept our Petition to Intervene and recess
3 these hearings to allow time for the Attorney General and
4 all parties involved to review the new process. We
5 propose that all parties come together during the recess
6 and resolve their issues without delay, in a way that will
7 avoid further litigation, and is beneficial to the parties
8 and to the citizens of the State of New Hampshire. Thank
9 you.

10 MR. HARRINGTON: Mr. Chairman?

11 CHAIRMAN BURACK: Yes, Mr. Harrington.

12 MR. HARRINGTON: Could I just ask a
13 question to repeat something? Excuse me.

14 CHAIRMAN BURACK: Mr. Fortune, would you
15 come back please. Hold on for a second.

16 MR. HARRINGTON: You had mentioned some
17 process, and I didn't catch what it was?

18 MR. FORTUNE: The Fischer-Tropsch
19 process.

20 MR. HARRINGTON: Could you say that a
21 little slower?

22 MR. FORTUNE: Yes. It's the -- well,
23 it's the gasification first.

24 MR. HARRINGTON: Yes.

1 MR. FORTUNE: And, then, the synthetic
2 gases are run through a Fischer-Tropsch process.

3 CHAIRMAN BURACK: Could you spell that
4 for us please?

5 MR. FORTUNE: I want to make sure I do
6 this correctly. If somebody could point out where it is?

7 CHAIRMAN BURACK: If not, --

8 MR. FORTUNE: F-i-s-c-h-e-r --

9 (Court reporter interruption.)

10 MR. FORTUNE: Bill, can you find that --

11 MR. ROLLINS: Yes. F-i-s-c-h-e-r dash
12 Tropsch, T-r-o-p-s-c-h. It's a process named after the
13 two German scientists who discovered it in the 1920s.

14 MR. FORTUNE: Did you all hear that?

15 CHAIRMAN BURACK: Yes, we did. Thank
16 you for --

17 MR. IACOPINO: What was the gentleman's
18 name who --

19 MR. FORTUNE: Yes, that's Bill Rollins.
20 He's of NovelEdge Technologies. He's the developer of the
21 -- of the process, and holds patents on some of the
22 processes that will be involved in this clean fuel
23 project.

24 MR. IACOPINO: Thank you.

1 CHAIRMAN BURACK: Thank you very much,
2 Mr. Fortune. There was another gentleman, I believe
3 towards the back, who asked to make a brief public
4 comment.

5 MR. EDWARDS: My name is Jonathan
6 Edwards. I'm from Berlin, New Hampshire. I'm here to
7 represent those who don't believe this project is in the
8 best interest of Berlin, Coos County, or New Hampshire,
9 for that matter. I'd like to encourage the Site
10 Evaluation Committee to take a trip to Berlin and tour the
11 land in close proximity to Berlin before making a decision
12 on this Application. I'm one of the guys on the ground
13 that sees forest devastation and talks to those who know
14 firsthand about this devastation. I'm a guy that used to
15 go cross-country skiing on this nation's oldest
16 cross-country touring center that had to move out of the
17 Success township, due to the fact that a logging
18 organization out of Maine moved into the area, I think,
19 and completely liquidated harvested the entire area. And,
20 that cross-country center now relocating to Milan.

21 There's a major initiative underway by
22 the Conservation Fund, headed by Nancy Bell, to bring
23 Success back the way it was. I talk on a regular basis
24 with loggers, both retired and currently in the business.

1 They can't believe what was done up there. In fact, the
2 other day I was talking to a retired logger, who was also
3 in a conversation with a Fish & Game officer, that were
4 telling me that they have never seen the rivers up there
5 in the spring as muddy as they are, because of the fact
6 that there are no trees that can suck up the water in the
7 spring anymore. It's affecting the fish, it's affecting
8 the wildlife. There is a major initiative by the Fish &
9 Game right now in the form of a petition to keep this kind
10 of practice from happening. And, I would encourage this
11 Committee, as they're making their decision, to really
12 carefully look at these things.

13 There is a land liquidator that moved in
14 from Maine to the Route 110 corridor in Berlin, and that
15 particular logger created changes in the Maine legislation
16 that don't allow that harvester to be in that area
17 anymore. This gentleman moved in, purchased thousands of
18 acres, in fact, from one our local senators who is now
19 supporting this biomass project, even though there's been
20 a lot of liquidation harvesting up in that area.

21 Thousands of acres were mismanaged. And, I manage a
22 wildlife reserve, 135-acre parcel next door to that. And,
23 we've personally witnessed the devastation that that
24 particular logger did.

1 So, I encourage this Committee to look
2 beyond the buffers in the Berlin area. Go up to Berlin.
3 I'm in the field of real estate. I get out into the
4 backwoods an awful lot, and I'm very familiar with what's
5 happening up there. When you start to see your friends
6 that are in Fish & Game and loggers themselves being
7 concerned about this thing -- these things, you understand
8 that it's not something to take lightly.

9 As an owner of one of the oldest real
10 estate firms in Berlin, and Chair of the Berlin Board of
11 Assessors, if I thought this biomass plant would
12 ultimately produce more positives than negatives, I'd be
13 all for it. The price of a two-family in Berlin and the
14 assessed value of that same two-family in close proximity
15 to the mill is \$28,700. That's the same price a
16 two-family sold for in 1975.

17 If you think that firing up an old plant
18 within feet of almost all of the City's population, I
19 encourage you to contact the cities of Biddeford and
20 Claremont, to name a few, to see what impact these have
21 had on real estate value.

22 I think you need to look at the whole,
23 big picture, when you have a state and when you have a
24 county and you have a city that is in tough economic

1 times. You need to also look at what impact this is
2 having, not only on the host city's value of their real
3 estate, but on the county as a whole. I encourage you to
4 speak to the tax collectors of the biomass sponsor towns
5 of Bethlehem and Whitefield. In just a few decades, both
6 towns are feeling the impact of what is happening to the
7 value of these biomass plants, in a downward direction,
8 and the impact these plants are having on the area's tax
9 base. I wonder what impact the closure of these plants
10 could have on Coos County's tax base, and the sponsor
11 towns and the sponsors' townspeople.

12 If it works, don't fix it. This grid
13 upgrade that we're talking about is hundreds of millions
14 of dollars. Electric rate increases. Whether we like it
15 or not, Canada is bringing power to the U.S. in a big way.
16 And, next door, we are analyzing whether or not to spend
17 millions on the Coos Loop? For what? The answer is "for
18 renewable energy." But too much of any one thing is too
19 much. Without a grid upgrade, northern New Hampshire can
20 have Noble Wind and a Clean Power biomass farm that blends
21 into the countryside, rather than a 300 foot stack
22 piercing out from the mountains like the jagged edges of
23 the Twin Towers after 9/11.

24 In closing, PSNH's Schiller Station is

1 reaching out further and further to obtain the wood
2 necessary to fuel its fire. And, yet, supporters -- and,
3 yet, supports a larger biomass facility the can wreak
4 havoc on everyone. Monopolies can create cancers. I
5 sincerely believe that this biomass project is the
6 iceberg, and Berlin and New Hampshire are the Titanic. No
7 one thought the Titanic would sink, and many don't
8 understand the concern over forest sustainability.
9 Liquidation harvesting behind the buffers and trees along
10 the roads is very much the same as the people on the
11 Titanic that were kept in the dark until they perished.

12 I'd like to thank this Committee for
13 truly taking a look beyond the buffers of your politicians
14 and roadways. Thank you very much.

15 CHAIRMAN BURACK: Thank you very much,
16 Mr. Edwards. Mr. Grenier, you wish to make a personal
17 statement.

18 MR. GRENIER: I'm going to speak now as
19 Paul Grenier, the private citizen in Berlin. I'm 55 years
20 old. When I graduated from Berlin High School in 1973, I
21 was one of 327 kids who graduated from Berlin High School.
22 My son graduated from Berlin High School in 2003. He was
23 one of 150 kids, or almost half, in one generation. And,
24 what created a loss of that many people was the fact that

1 we're losing our manufacturing base, and we're losing the
2 jobs in the community.

3 I listened to Mr. Edwards, what he told
4 the Committee, as far as liquidation harvesting in
5 Success. But what he didn't tell you was that the Bureau
6 of Prisons purchased 900 acres of that land, and they're
7 the ones that had most of that land liquidated so that
8 they could build their new prison. There's a lot of
9 cutting in Success. But there's a -- our proposal will be
10 to put all of that into a working forest conservation
11 easement and protecting high elevation areas, so that
12 people can recreate in perpetuity.

13 I'm in full support of this project,
14 because, finally, we will be able to add taxable value to
15 the City. The reasons why we have property value issues
16 is not because of its close proximity to the plant. I
17 personally live two blocks away. The problem in Berlin is
18 at one time we were 24,000 people, and now we're barely
19 10. And, all of these homes were built before 1925, and
20 were there to serve the folks who were working in the mill
21 within walking distance. Our problem is we don't have
22 people to fill these buildings. And, when that happens,
23 you have decay from within. The City has an aggressive
24 plan to deal with this urban decay and some of these

1 properties, but in no way is it related to the plant. In
2 fact, with the agreed upon stipulations, the City of
3 Berlin is finally going to be able to get a handle on
4 subsurface contamination. And, Laidlaw has worked very
5 closely with the City and with the City's legal
6 representation to put together a plan so we can finally
7 find out if and what type of contaminants are in the
8 ground because of 100 years of industrial activity
9 on-site. That site would never be able to be redeveloped
10 without having -- without having some type of interim
11 activity on that site.

12 So, you know, from a personal
13 standpoint, this is much needed economic activity. I
14 think that the City desperately needs the new tax revenue
15 that it's going to get from this plant. The City
16 definitely needs the new market tax credits that will
17 expire at the end of the year. So, this plant needs to be
18 in construction by the end of the year for the City to
19 receive full benefit of these market tax credits.

20 So, I personally urge this Committee to
21 issue a site certificate without delay. Thank you very
22 much.

23 CHAIRMAN BURACK: Thank you,
24 Mr. Grenier. Are there any other members of the public

1 who would like to make brief public comment here today?

2 (No verbal response)

3 CHAIRMAN BURACK: Seeing none, I'm going
4 to close the public comment portion of this proceeding.
5 And, going to now invite counsel for the Applicant, if you
6 would please begin the presentation of your case.

7 MR. NEEDLEMAN: Thank you, Mr. Chair.
8 I'd like to call Mr. Bravakis, Mr. Strickler, and
9 Mr. Frecker to the witness stand.

10 CHAIRMAN BURACK: Just going to take a
11 brief break here folks.

12 (Whereupon Louis T. Bravakis, Carl S.
13 Strickler, and Dammon M. Frecker were
14 duly sworn and cautioned by the Court
15 Reporter.)

16 CHAIRMAN BURACK: Attorney Needleman,
17 you may proceed.

18 MR. NEEDLEMAN: Thank you, Mr. Chair.
19 This first thing I'd like to do, if there's no objection,
20 on Friday, at the prehearing conference, we exchanged
21 exhibits and premarked them. And, what I would like to do
22 now is move to admit into the record Laidlaw Exhibits 1
23 through 56 and Number 60.

24 CHAIRMAN BURACK: Thank you. I will go

1 ahead and grant that motion.

2 MR. NEEDLEMAN: Thank you.

3 LOUIS T. BRAVAKIS, SWORN

4 CARL S. STRICKLER, SWORN

5 DAMMON M. FRECKER, SWORN

6 DIRECT EXAMINATION

7 BY MR. NEEDLEMAN:

8 Q. Let me begin with Mr. Bravakis. Mr. Bravakis, could
9 you state your name and position please.

10 A. (Bravakis) Lewis Bravakis. I'm Vice President of
11 Development for Laidlaw Berlin BioPower.

12 Q. You have in front of you Exhibits 9 and 10, which are
13 your prefiled testimony and the supplement to your
14 prefiled testimony. Do you see those?

15 A. (Bravakis) Yes, I do.

16 Q. And, before I ask you to adopt those, I want to ask
17 whether you have any changes or material additions to
18 that testimony?

19 A. (Bravakis) In reviewing these, the only change I have
20 is in my initial application. I understand that we
21 will now be using a bag house, rather than an
22 electrostatic percipitator. So, I'd like to make note
23 of that please.

24 Q. And, will that be addressed further?

1 A. (Bravakis) I believe it will. Technically, yes, if
2 questions arise.

3 Q. And, any material additions you want to mention to your
4 testimony?

5 A. (Bravakis) The only -- there are a couple. Mayor
6 Grenier announced the agreement with the City on
7 stipulations. We have and are working at finalizing a
8 sustainability policy with respect to fuel procurement,
9 which I don't believe was elaborated on in these
10 testimonies. And, we are also very close to finalizing
11 a fuel supply agreement with a large, very successful
12 fuel broker in New England for the entire facility.

13 Q. And, are you prepared to elaborate on that during the
14 course of the proceeding?

15 A. (Bravakis) Yes, I can, as much as I -- as much has been
16 developed at this point.

17 Q. Then, let me call your attention to Exhibit 9 and 10,
18 and subject to the changes and additions you just
19 mentioned, do you adopt that testimony as your own and
20 swear to it in these proceedings?

21 A. (Bravakis) Yes, I do.

22 Q. Thank you. Let me turn to Mr. Strickler. Could you
23 please state your name and position for the record.

24 A. (Strickler) Carl Strickler. I'm a Senior Vice

1 President and Chief Operating Officer for Fibrowatt,
2 LLC.

3 Q. And, you have Exhibits 51 and 52 in front of you, and
4 that is your prefiled testimony in this matter and your
5 supplement to that testimony, is that correct?

6 A. (Strickler) Yes.

7 Q. And, do you have any material changes or additions that
8 you'd like to make to that testimony at this point?

9 A. (Strickler) Yes, I do. I would like to make one
10 addition. Last week, the Project entered into an
11 agreement with Babcock & Wilcox to expand their role in
12 the Project. From, originally, as the supplier or the
13 company to convert the recovery boiler to a bubbling
14 bed boiler. The agreement we entered into last week
15 was to expand their role, to also provide for the
16 design, construction, start-up, and commissioning and
17 testing of the facility. This expanded role
18 strengthens the Project, as it provides a single point
19 of contact and responsibility to ensure the facility is
20 built according to our requirements, within budget, and
21 on time.

22 This will be an important element for
23 the financing of our project as well. B&W is a large
24 boiler manufacturer and construction company traded on

1 the New York Stock Exchange. It has executed similar
2 boiler conversion projects of the type that we're
3 planning here, and has undertaken similar large EPC
4 contracts of this type.

5 Lastly, B&W brings some unique
6 experience and a added benefit to the Project, as
7 several of the design personnel that are working on the
8 Project were also involved in the boiler upgrade
9 project carried out in 1995 by the Fraser Mill. We
10 provide that -- we believe that continuity is essential
11 to a successful conversion process.

12 To conclude, we believe that B&W's
13 involvement will contribute to a successful project.
14 And, we're very pleased to have them on board in this
15 role now.

16 Q. And, are you prepared during the course of the
17 proceedings to address questions pertaining to B&W?

18 A. (Strickler) Yes, I am.

19 Q. Subject to the changes that you just made, and calling
20 your attention to Exhibits 51 and 52, do you swear to
21 those and adopt them as your testimony in this case?

22 A. (Strickler) Yes, I do.

23 Q. Let me turn now to Mr. Frecker. Could you please state
24 your name and position for the record.

1 A. (Frecker) My name is Dammon Frecker. I'm the Vice
2 President of Energy and Industrial Services for ESS
3 Group, Incorporated.

4 Q. And, you have Exhibit 44 in front of you, is that
5 correct?

6 A. (Frecker) I do.

7 Q. And, that's your prefiled testimony in this matter.
8 And, do you have any material changes or additions to
9 that testimony?

10 A. (Frecker) I do not.

11 Q. Okay. Then, do you adopt that testimony as your own
12 and swear to it in this proceeding?

13 A. (Frecker) Yes, I do.

14 MR. NEEDLEMAN: Mr. Chairman, I will
15 tender this panel for cross-examination at this point.

16 CHAIRMAN BURACK: Very well. Thank you.

17 MR. ROTH: Mr. Chairman?

18 CHAIRMAN BURACK: Yes.

19 MR. ROTH: A small point of order. I
20 know this isn't our opportunity to cross-examine yet. But
21 one of the witness has -- or, actually two witnesses have
22 identified significant new documents and agreements that
23 have not previously been provided to the parties and are
24 not exhibits to the -- in the packages that have been

1 provided to everybody, including the Committee. And, it
2 seems to me that perhaps both of these agreements,
3 certainly one of them, goes right to the heart of their --
4 or, may go right to the heart of their managerial and
5 technical ability, capability to do this project. And, at
6 a minimum, we should have those documents in our hands
7 before cross-examination of those witnesses begins.

8 CHAIRMAN BURACK: Thank you, counsel.
9 I'm going to direct some questions here to you, Attorney
10 Needleman. What is, in fact, the status of the
11 sustainability stipulation, as well as the status of the
12 fuel supply agreement, as well as the agreement with
13 Babcock & Wilcox? And, would you anticipate being able to
14 make copies of those available to the Committee before we
15 close this proceeding this week?

16 MR. NEEDLEMAN: Let me take those one at
17 a time. With respect to the sustainability condition,
18 that is Exhibit Number 60 that we just moved in. We are
19 in discussions with Counsel for the Public about coming to
20 an agreement on that. They have provided us with their
21 views of what elements of that sustainability condition
22 should contain. And, though, we are certainly prepared to
23 discuss our proposed condition, we're also quite willing
24 to work with them during the course of this proceeding to

1 reach agreement on a condition that would be satisfactory
2 to both parties.

3 With respect to the agreement that
4 Mr. Bravakis mentioned pertaining to wood supply, I
5 believe that that agreement is still tentative. Though, I
6 do believe we certainly would be in a position to be able
7 to provide it to the Committee before the close of the
8 proceeding. I don't know, as I sit here, whether any
9 elements of that would be considered confidential. And,
10 so, I would ask the Committee's indulgence in dealing with
11 that, if necessary.

12 The third issue is with respect to the
13 Babcock & Wilcox agreement. I don't know whether that is
14 final or still in draft. It is final at this point?

15 WITNESS STRICKLER: Yes.

16 MR. NEEDLEMAN: I also believe we're in
17 position to provide that to the Committee, and we'll try
18 to do so shortly. And, I raise the same issue with
19 respect to confidentiality.

20 CHAIRMAN BURACK: Okay. Thank you. I
21 think the way we will proceed on these items, given that
22 we do not have all of them available to us at this time,
23 is that, certainly, we could have cross-examination with
24 respect to Exhibit 60, as it's been submitted at this

1 point, recognizing that there may need to be further
2 discussions among the parties, and there could be some
3 further changes to that document. With respect to the
4 wood supply agreement and the Babcock & Wilcox agreement,
5 I think what I would ask you to do is to submit those
6 certainly by the end of the day today, in whatever form
7 you can. If you wish to request confidential treatment of
8 those, obviously, you can do so. We will rule very
9 promptly on such requests. And, we may have to add some
10 additional time into our agenda for an opportunity for
11 people, once they have had a chance to review those
12 documents, to then do cross-examination.

13 And, I might note that I think there's a
14 very good likelihood that the Committee will choose to go
15 into closed session, involving only the appropriate
16 parties, in order for us to be able to review and ask
17 questions about any of these confidential documents that
18 have been submitted in the record. And, I might note that
19 I did previously issue an order this past Thursday
20 designating certain documents as being confidential
21 documents.

22 So, that's how I would suggest we
23 proceed on this. Commissioner Ignatius.

24 CMSR. IGNATIUS: Thank you. Mr.

1 Chairman, is it possible, because we're working in the
2 dark here a bit, on the wood supply agreement in
3 particular, that's a significant issue for all of the
4 parties, if there could be a more extensive summary of
5 what's contained in the agreement that is publicly
6 disclosable, in order to make any cross-examination more
7 meaningful? It's hard for people to cross-examine
8 something they have never seen, and for the Committee to
9 understand the import. Obviously, it was important enough
10 for the Committee -- excuse me, for the Applicant to
11 mention it just now. Presumably, you want us to take some
12 meaning from that. And, yet, if we're not able to have
13 that addressed until later on in the week, I think we'll
14 be getting a little off kilter.

15 So, if there can be any oral summary of
16 the key terms, to the extent that the Company feels it
17 can, I think that would be helpful to me.

18 CHAIRMAN BURACK: Thank you. And,
19 counsel --

20 WITNESS BRAVAKIS: You want me to do
21 that now?

22 CHAIRMAN BURACK: Is that something that
23 you feel you could do?

24 MR. NEEDLEMAN: I believe Mr. Bravakis

1 can do that.

2 CHAIRMAN BURACK: Okay.

3 WITNESS BRAVAKIS: What I can say --
4 should I do that now?

5 CHAIRMAN BURACK: I just want to just
6 make sure there aren't any other questions or concerns
7 about the process as I've proposed to handle this from the
8 Committee's standpoint -- Subcommittee's standpoint.

9 MR. VAN OOT: Mr. Chair?

10 CHAIRMAN BURACK: Yes.

11 MR. VAN OOT: Peter Van Oot, for City of
12 Berlin. If I could just ask Counsel Needleman. So, is
13 Exhibit 60 that's in -- that you submitted, I believe, at
14 the prehearing conference, is that the present exhibit for
15 the proposed sustainability condition or is there a
16 subsequent document?

17 MR. NEEDLEMAN: No, that's the present
18 exhibit.

19 MR. VAN OOT: Thank you.

20 CHAIRMAN BURACK: Thank you. I think it
21 would be helpful then if you could at this time, Attorney
22 Needleman, ask Mr. Bravakis to address the wood supply
23 agreement, in general terms or as much specificity as he
24 can provide. And, then, as soon as you're able to submit

1 the document to us, we'll then determine the procedural
2 process we'll use to take a look at that in greater
3 detail.

4 But, and just to be clear to all the
5 parties, in asking to have this addressed in general terms
6 now, we're not in any manner precluding the parties from
7 being able to -- or the Subcommittee from being able to
8 ask more questions about it and cross-examine on it.

9 MR. NEEDLEMAN: We will make an effort
10 to get it to you as soon as possible, hopefully before the
11 end of day.

12 BY MR. NEEDLEMAN:

13 Q. And, Mr. Bravakis, if you could, for the Committee,
14 summarize the key terms of that agreement.

15 A. (Bravakis) Yes. The agreement that we're contemplating
16 on finalizing very soon is with Cousineau Forest
17 Products, out of Henniker, New Hampshire. Cousineau
18 Forest Products I'm familiar with for many years, is
19 one of the largest, if not the largest, supplier of
20 biomass to many of the biomass facilities in the
21 Northeast, as well as some of the industrial facilities
22 and schools. I personally have grown to understand
23 this company to be a very capable company, and
24 encouraged our team to explore a supply agreement with

1 them, which we are working on finalizing now, to supply
2 100 percent of the supply to the facility for the 20
3 years term of the Power Purchase Agreement. Provided
4 that the supply, the material supply fits with the --
5 under the specifications listed in our Power Purchase
6 Agreement, as enumerated in the Renewable Portfolio
7 Standards in New Hampshire, and provided that the
8 supply, how they procure the fuel, fits within the
9 procurement policy, which we are now -- we have now
10 presented and are working on finalizing to be a
11 condition of our permit.

12 Beyond that, I prefer not to speak on
13 the business terms of the arrangement. But this is a
14 major and a very positive event for the Project. And,
15 we're very pleased to make this announcement.

16 CHAIRMAN BURACK: Do you have anything
17 further at this time.

18 MR. NEEDLEMAN: Just one question to
19 clarify.

20 BY MR. NEEDLEMAN:

21 Q. You were talking about the procurement policy. Has the
22 sustainability provision that we've proposed here as
23 Exhibit 60 been factored into that agreement?

24 A. (Bravakis) Yes. It's actually an attachment to the

1 agreement. And, it will remain an attachment to the
2 agreement.

3 Q. And, to extent that we agree to modify that provision
4 during the course of this proceeding, it could be
5 modified and made a part of that agreement as well?

6 A. (Bravakis) Absolutely.

7 CHAIRMAN BURACK: Just to be clear here,
8 the procurement policy that you referred to is the same as
9 what you're describing as "Exhibit 60", which is this
10 stipulation, is that correct?

11 MR. NEEDLEMAN: No, that's not. The
12 stipulation would be the large terms that the Applicant
13 would agreed to, in terms of sustainably acquiring its
14 fuel supply. It would develop a more detailed procurement
15 policy that would tie to that stipulation.

16 MR. IACOPINO: Is there a draft
17 procurement policy within the exhibits already?

18 MR. NEEDLEMAN: I don't believe so, no.
19 I don't believe that's been developed yet.

20 MR. HARRINGTON: Mr. Chairman, could I
21 just ask a question?

22 CHAIRMAN BURACK: Yes. I just want to
23 first confirm and clarify where you have Exhibit 60.
24 Okay. So, there is a -- Exhibit 60 is labeled as "Laidlaw

1 Berlin BioPower, LLC, Proposed Sustainability Condition"?

2 MR. NEEDLEMAN: That's correct.

3 CHAIRMAN BURACK: Thank you. Sorry, did
4 you have a question?

5 MR. HARRINGTON: Just a clarification.
6 You had said that, maybe I didn't understand what you had
7 said, the Amendment -- 60, is, it seems to me, is -- it is
8 the procurement sustainability conditions. So, those
9 would be imposed on the contract to provide the wood from
10 the company, I can't remember the name of the company --

11 WITNESS BRAVAKIS: Cousineau Forest
12 Products.

13 MR. HARRINGTON: Cousineau Forest. Is
14 that correct?

15 MR. NEEDLEMAN: That is correct.

16 MR. HARRINGTON: Okay. Thank you.

17 CHAIRMAN BURACK: Thank you. All right.
18 I'd now like to then, if you have nothing further,
19 Attorney Needleman, we'll -- we'll now proceed with
20 cross-examination of these witnesses by the City of
21 Berlin. Attorney Van Oot.

22 MR. VAN OOT: Thank you.

23 CROSS-EXAMINATION

24 BY MR. VAN OOT:

1 Q. Mr. Bravakis, I understand that you are the Vice
2 President for Development for Laidlaw Berlin BioPower,
3 LLC, is that correct?

4 A. (Bravakis) Yes, sir.

5 Q. And, in that capacity, you've been designated to
6 represent Laidlaw in these proceedings?

7 A. (Bravakis) Yes, sir.

8 Q. And, do I further understand that, in that capacity,
9 you have actively participated in, with your counsel,
10 in the negotiation with the City of Berlin on the
11 proposed stipulation that was referenced earlier in
12 this proceeding?

13 A. (Bravakis) That's correct.

14 Q. And, that proposed stipulation, although it has not yet
15 been adopted as a -- in this proceeding is identified
16 as the proposed certificate conditions in the City of
17 Berlin's Exhibit List as number "1", is that correct?
18 Is that what you understand?

19 A. (Bravakis) That's correct. I'm not sure if that's the
20 exact number.

21 Q. Yes. I'm just asking.

22 A. (Bravakis) But I believe so, yes.

23 Q. Thank you. And, are you fully familiar with the terms
24 and conditions of that draft stipulation as it's been

1 negotiated with your counsel and the City of Berlin?

2 A. (Bravakis) Yes, sir.

3 Q. And, once the stipulation has been finalized and
4 approved by the Applicant and its counsel, will you be
5 the representative of Laidlaw Berlin BioPower, LLC,
6 authorized to enter into and bind Laidlaw to the terms
7 and conditions of that stipulation?

8 A. (Bravakis) No, sir. That would be my colleague,
9 Michael Bartoszek, who is the CEO of Laidlaw Berlin
10 BioPower.

11 MR. VAN OOT: Okay. Thank you. That's
12 all the questions we have. Mr. Chair, we will be -- we
13 plan to introduce the stipulations through our witness,
14 Pamela LaFlamme. And, we'll do so we expect tomorrow,
15 when Ms. Laflamme testifies.

16 CHAIRMAN BURACK: Okay. Thank you. So,
17 you have nothing further at this time for any of these
18 witnesses?

19 MR. VAN OOT: No. We'll defer to the
20 State on the proposed sustainability condition. I guess I
21 just would -- I would ask one following question for the
22 witness.

23 BY MR. VAN OOT:

24 Q. Am I correct that the sustainability policy referenced

1 as Exhibit 60, is also referenced as a condition,
2 Stipulation Condition Number IV.8 in the draft
3 stipulations?

4 A. (Bravakis) I believe so, yes.

5 MR. VAN OOT: Okay. Thank you. No
6 further cross-examination, Mr. Chair.

7 CHAIRMAN BURACK: Thank you, counsel.
8 We'll now turn things over to Attorney Rodier --

9 MR. RODIER: Thank you.

10 CHAIRMAN BURACK: -- to cross-examine on
11 behalf of Clean Power Development.

12 BY MR. RODIER:

13 Q. Mr. Bravakis, in regard to the agreement with Cousineau
14 that you mentioned, I wanted to ask you, what was the
15 reference to the "PPA" all about, as one of the
16 conditions that Cousineau has got to abide by?

17 A. (Bravakis) Yes. In our Power Purchase Agreement, there
18 is a -- we are required to provide fuel of a certain
19 type of -- a certain characteristic, clean biomass
20 fuel, as defined by the New Hampshire Renewable
21 Portfolio Standard. So, Cousineau will have to adhere
22 to supply fuel that fits within that specification.

23 Q. Okay. Okay.

24 A. (Bravakis) That's all that has to do with.

1 Q. Okay. Before I leave Cousineau, do you know Norman
2 Jacques?

3 A. (Bravakis) I have met the gentleman. Yes, sir.

4 Q. And, what's he do?

5 A. (Bravakis) I do not know what he does.

6 Q. You don't know?

7 A. (Bravakis) You mean what his occupation is?

8 Q. This is Norman Jacques, who's in the wood supply
9 business?

10 A. (Bravakis) Yes, sir.

11 Q. You know him?

12 A. (Bravakis) I've met him twice, I believe.

13 Q. Had discussions with him?

14 A. (Bravakis) I'm sorry?

15 Q. Have you had discussions with him?

16 A. (Bravakis) Yes.

17 Q. Oh. But you don't know him?

18 A. (Bravakis) No, I said I met him twice. And, I had
19 discussions with him, yes, sir.

20 Q. So, are you going to use Cousineau, instead of Norman
21 Jacques?

22 A. (Bravakis) For what? I'm --

23 Q. Wood supply.

24 A. (Bravakis) Oh, wood supply. Yes, we're going to use

1 Cousineau Forest Products to supply the wood for the
2 Project.

3 Q. Okay. Let's go to Exhibit 9 please. And, I want to
4 direct you to Page 9 of Exhibit 9. Would you let me
5 know when you're there.

6 A. (Bravakis) I'm there.

7 Q. Okay. On Page 9, at the top of the page, it says "The
8 findings of the study", let's stop there. That's the
9 LandVest study?

10 A. (Bravakis) Yes.

11 Q. Is that the --

12 A. (Bravakis) I'm sorry?

13 Q. That's the December 2009 study, as amended, or -- well,
14 it's the December 2009 study that was in with the
15 Application?

16 A. (Bravakis) Yes, sir.

17 Q. Appendix P, I believe?

18 A. (Bravakis) I don't recall. If you give a minute, I can
19 dig it out.

20 Q. That's okay. That's not necessary. So, the LandVest
21 study says "current demand for low-grade biomass remain
22 constant at 6 million tons per year." What do you
23 think the phrase "remain constant" refers to?

24 A. (Bravakis) If I recall, in our effort to look at this,

1 we were -- we were making an assumption that the
2 current demand for biomass, if the assumption were made
3 that the current demand for biomass from the -- in what
4 LandVest identified as the primary source of supply
5 were to remain constant, I believe that's what that's
6 talking to, referring to.

7 Q. So, over the next 20 years, the assumption is it will
8 remain constant at 6 million a year?

9 A. (Bravakis) I don't think that's realistic. I think,
10 for the purpose of this exercise, that was made as a
11 point in time.

12 Q. Okay.

13 A. (Bravakis) Looking at the current consumption, and then
14 making an assumption, as best as one can, about the
15 future. But I believe it's unrealistic to think that
16 would remain constant for 20 years.

17 Q. Okay. So, now, let's go to the Addendum.

18 A. (Bravakis) Okay.

19 Q. And, would you remind me, in particular, when was the
20 Addendum filed? Was it May?

21 MR. RODIER: Mr. Chairman, is it okay if
22 I'm seated when I'm addressing --

23 CHAIRMAN BURACK: Yes, if that's easier
24 for you to --

1 MR. RODIER: The book is a little
2 clumsy.

3 CHAIRMAN BURACK: Just to be clear here,
4 the Addendum, can we identify an exhibit number for this?

5 MR. RODIER: Yes, this is Exhibit 2.
6 This is Laidlaw Exhibit 2.

7 WITNESS BRAVAKIS: Give us a second
8 please. We'll try to find the date of when it was filed
9 actually.

10 BY MR. RODIER:

11 Q. Actually, it's dated, I'm sorry. The cover letter says
12 March 10th, 2010. It's Tab 2.

13 A. (Bravakis) Okay. Thank you. March 10th, 2010.

14 Q. Thank you. Would you turn to Page 4 please.

15 A. (Bravakis) I'm sorry, I didn't hear the question.

16 Q. Page 4.

17 A. (Bravakis) Oh, okay.

18 Q. Page 4. And, let me know when you have it.

19 A. (Bravakis) I'm there.

20 Q. Okay. Page 4, there's a success -- there's a section
21 here labeled "Conclusion". Do you have that?

22 A. (Bravakis) Yes, I do.

23 Q. Okay. Let's look at the first paragraph. This study
24 actually says "that the consumption of low-grade fiber

1 within 100 miles...is approximately 5,948,670 tons."

2 Did I read that correctly or did I paraphrase that
3 correctly?

4 A. (Bravakis) Yes.

5 Q. So, that's pretty close to 6 million?

6 A. (Bravakis) Yes.

7 Q. So, that's where the 6 million comes from?

8 A. (Bravakis) Yes.

9 Q. Okay. Now, the LandVest study relies a lot on FIA
10 data, does it not?

11 A. (Bravakis) It relies on both FIA data and harvest
12 reports.

13 Q. Okay.

14 A. (Bravakis) They took both, and they interpolated
15 between them, both of them. And, I would like to say
16 that there is not a LandVest representative here today,
17 due to a scheduling conflict. Somebody will be here
18 tomorrow, if we need to get some further enumeration on
19 the details of their methodology in the study.

20 Q. Okay. But, it is true, as a general matter, that the
21 LandVest study relies on -- relies heavily on FIA data,
22 not just with respect to removals, but generally
23 speaking?

24 A. (Bravakis) When I spoke Haijin Sin [sic], Haijin,

1 H-a-i-j-i-n, Sin, S-i-n, we discussed this, and he said
2 he used a combination of FIA data and reporting data in
3 the States of New Hampshire, Vermont, and Maine.

4 Q. Okay. Well, I was asking you a question in specific
5 regard to removals, and I was just asking you a general
6 question, but let's move on. The FIA estimate, though,
7 of low-grade removals currently is about 6.1 million,
8 is that correct?

9 A. (Bravakis) If that's in the report, that's correct.

10 Q. Would you look at the bottom of Page 3, under the
11 section "State and FIA Removals Data". Why don't you
12 just read the first two sentences.

13 A. (Bravakis) "The FIA estimate of total low-grade
14 removals from [the] study area is 6.127362 green tons."
15 And, there is a footnote that says "It is the sum of
16 15 percent of sawtimber, all pulpwood, and 50 percent
17 of [the] tops and branches from the FIA removals."
18 And, they refer to "Appendix II".

19 Q. So, for the purpose of our discussion, if we say
20 existing consumption, which is -- that can be used
21 interchangeably with removals, can't it? When you're
22 talking about removals and existing consumption, we're
23 talking 6 million tons a year, is that right?

24 A. (Bravakis) Yes.

1 Q. And, those -- and, we're talking low-grade biomass.
2 And, what's the typical -- what moisture content are we
3 talking about?

4 A. (Bravakis) I'm sorry?

5 Q. What's the moisture content?

6 A. (Bravakis) Can range anywhere from 45 to 50 percent.

7 Q. Okay. So, let's turn now to -- we know, we've
8 established that current consumption now, in 2010, is
9 6 million tons. Let's turn to the consumption of the
10 facility. Now, I notice on Exhibit -- let's go to
11 Exhibit 10. And, do you have Exhibit 10?

12 A. (Bravakis) I do.

13 Q. Page 1.

14 MR. IACOPINO: Mr. Rodier, can you --
15 does the Committee all have the volume with the first set
16 of Exhibits 1 through 47?

17 MR. JANELLE: No.

18 MR. IACOPINO: Does anybody else not
19 have it? I think, when I was putting them out, I think I
20 passed them --

21 MR. JANELLE: Okay.

22 MR. IACOPINO: You can continue, Jim.
23 I'm sorry.

24 MR. RODIER: Okay. Thank you.

1 BY MR. RODIER:

2 Q. So, if you would focus on Lines 10 and 11,
3 Mr. Bravakis, and there, to quickly paraphrase you,
4 we're saying that the project is going to use "750,000
5 tons a year"?

6 A. (Bravakis) Yes, sir.

7 Q. Roughly 45 percent moisture content, is that fair?

8 A. (Bravakis) Yes, sir.

9 Q. So, does that mean that, well, let's see if we can add
10 up 6 million and 750,000, I guess that would mean that
11 you would need to have available biomass in excess of
12 6,750,000?

13 A. (Bravakis) Are you asking me if the market will
14 increase from 6 million to 6,750,000 tons?

15 Q. No. I'm saying, we have existing consumption of
16 6 million, right?

17 A. (Bravakis) If I could enumerate, are you saying six
18 million in the primary source of supply that's being --
19 as the demand in the area we've identified?

20 Q. I'm talking about whatever the -- what the LandVest
21 study is that you relied on. We had just agreed it was
22 6 million.

23 A. (Bravakis) The reason, if I might -- if I may, the
24 reason I say this is because, although 6 million tons

1 of biomass is consumed in its primary source, it
2 doesn't necessarily follow that, if our plant comes on
3 line, that number will jump from that primary source of
4 600 -- 750 -- 6,750,000 tons. And, from my research
5 and studying of this, what we've always understood is
6 that, originally, before this plant was proposed and
7 when the paper mills were operating, there was a
8 consumption of 1.3 million tons of wood that came into
9 the three plants in Berlin, --

10 MR. RODIER: Mr. Chairman, I object.
11 This answer is completely non-responsive to the question
12 of "what is the sum of 6 million, existing consumption,
13 plus 750,000 from the Laidlaw plant?"

14 CHAIRMAN BURACK: I'm going to allow --
15 I hear your objection, but I'm going to allow him to
16 continue.

17 WITNESS BRAVAKIS: Thank you, Mr.
18 Chairman.

19 BY THE WITNESS:

20 A. (Bravakis) The reason I'm presenting a long-winded
21 answer to your question is that I don't think it's
22 simply a matter of adding the two up. And, the reason,
23 because the way the wood moves in the Northeast isn't
24 simply you add -- when a new facility comes on, you

1 add. When the mills in Berlin and Groveton and Gilman
2 shut down, 1.3 million tons was removed from that
3 market. But that didn't mean that 1.3 million tons
4 wasn't cut and harvested. It just went elsewhere. It
5 went -- and, so, the wood sheds were shaped differently
6 at that time. So, when 750,000 tons comes on line, you
7 can't -- we haven't made the assumption that that
8 simply means the consumption, the demand in that shed
9 will go up to 6.75 million. Because there might be a
10 facility in Maine that benefited when the Berlin Mill
11 shut down, but now that they have to travel a little
12 further, they will extend their wood shed where it was
13 when the mills were operating.

14 So, it's just -- what we've learned in
15 talking to not only LandVest, but a number of the
16 brokers who handle wood, that the way the wood moves is
17 largely a function of the market and demand, as well as
18 the trucking efficiencies throughout the Northeast.
19 So, it's all connected. When a plant in the north, in
20 Maine, uses less, then there might be a shift away from
21 there into our markets.

22 So, the answer to your question is, that
23 if you add 6 million and 750,000, it is definitely
24 6.75 million. But I would not assume that that means

1 that that all comes from that shed. There will be a
2 shifting and a movement, maybe a realignment to the way
3 it was before, before the mills went out.

4 Does that help, Mr. Rodier, at all, to
5 understand that?

6 BY MR. RODIER:

7 Q. Let's go back, Mr. Bravakis, back to the conclusion
8 here. I thought we had gotten by the first paragraph,
9 where the existing consumption, within 100 miles of the
10 wood basket used by LandVest, is approximately
11 6 million a year. We've agreed on that, haven't we?

12 A. (Bravakis) Yes.

13 Q. Okay. Second paragraph. LandVest goes on -- why don't
14 I ask you to read the second paragraph.

15 A. (Bravakis) On what page please?

16 Q. I'm sorry. We're back on Page 4 of Exhibit --

17 MR. ROTH: I think it's 2.

18 BY MR. RODIER:

19 Q. Exhibit 2.

20 A. (Bravakis) In Exhibit 9? Or, the Addendum?

21 Q. I'm sorry. I may have misspoken. I meant to say
22 "Exhibit 2, Page 4."

23 A. (Bravakis) So, that's the Addendum?

24 Q. Yes.

1 A. (Bravakis) Okay. Thank you. Page 4?

2 Q. Yes. We were just here, and now I want to go back to
3 it.

4 A. (Bravakis) Yes. I understand.

5 Q. Okay. Would you read the second paragraph.

6 A. (Bravakis) Okay. "As discussed in our 12/14 report,
7 our estimate of the available and sustainable low-grade
8 fiber within the study area is between 6.7 and 7." --
9 it's actually "6.709500 and 7,233,000 tons per year,
10 depending on utilization standards. As demonstrated
11 through this refined analysis, it is our estimate that
12 the range of low-grade fiber available within the study
13 area, above and beyond current consumption, is 760,830
14 to 1.284330 green tons per year."

15 Q. Okay. So, let's -- well, rather than you -- we know
16 it's about 6 million. To make the math simple, they've
17 done the math. Let's say that the current use is
18 actually 5,948,670, okay? Even though your testimony
19 said "6 million", so that we can make this clear here,
20 we'll use the number that's slightly less than they --
21 that LandVest came up with, okay?

22 A. (Bravakis) Uh-huh.

23 Q. And, again, that's 5,948,670, isn't it? Okay. Then
24 they're saying that -- and, so, we've got that number

1 as a given, existing use, and we've agreed 750,000 tons
2 that the Laidlaw facility was going to consume at
3 45 percent moisture, didn't we?

4 A. (Bravakis) Yes.

5 Q. We agreed on that. So, can you -- could you possibly
6 add those up for me? Is that possible?

7 A. (Bravakis) I don't have a calculator, but --

8 Q. Could somebody do that, and we'll come back to it when
9 that number is ready?

10 A. (Bravakis) Yes. We can add that up for you, I'm sure.
11 I've got my technical expert here. We can --

12 Q. Can we do it now? Well, why don't you and I keep
13 going.

14 A. (Bravakis) Okay.

15 Q. And, when they have the number -- okay. So, we're
16 talking about "what is the sum of 750,000 and
17 5,948,670?" Okay.

18 A. (Bravakis) Okay.

19 Q. And, I heard what you said about "it's not" -- "this is
20 not an accurate science just to add these two numbers",
21 the existing consumption plus Laidlaw. But let's just,
22 as a hypothetical, assume that the Site Evaluation
23 Committee finds that you can add those two, you can add
24 5,948,670 and the 750,000 to find out what the

1 consumption would be after the Laidlaw plant is
2 completed, okay? Let's just say -- and, so, I'm going
3 to ask you questions based upon that hypothetical.

4 A. (Bravakis) I'd be glad to answer those. But I would
5 reiterate, I don't necessarily agree with the
6 assumption, but I'd be glad to answer the questions.

7 Q. I know you don't agree with my hypothetical. I think
8 the record's pretty clear that you don't. So, now we
9 shift to --

10 A. (Bravakis) If I may, the number is actually 6,023,670,
11 when you add the -- is that right?

12 A. (Strickler) No.

13 A. (Bravakis) No, we added it wrong.

14 A. (Strickler) Doesn't look right to me.

15 Q. I think we need the Economics Department, I think.

16 A. (Bravakis) I apologize for the snafu.

17 Q. All right. Let's --

18 A. (Bravakis) He's not our accountant. He's our
19 environmental engineer.

20 A. (Strickler) That's why we got the check and the double
21 check here.

22 A. (Bravakis) And, the answer is?

23 Q. You want to take the lunch hour to figure it out?

24 A. (Bravakis) I think we can -- we got it.

1 Q. Oh, you got it?

2 A. (Bravakis) Okay. It's -- thanks, Carl, Dammon. It's
3 6,698,670 tons per year.

4 Q. Well, that's pretty close to 6.7, isn't it?

5 A. (Bravakis) Yes.

6 Q. Okay. So, now, the question would become "is that
7 available?" I mean, if you're looking at this, that's
8 the next question in the process, right? This is going
9 to be the consumption, 6.7 million. So, the next thing
10 is, if we want to look at availability or
11 sustainability or whatever, we've got to ask the
12 question "is that going to be available?" Am I right?
13 Is it that simple?

14 A. (Bravakis) If you're asking me whether our studies and
15 analysis has indicated that there's that much wood
16 available within 100 miles of Berlin, I would say
17 "yes".

18 Q. Okay. And, I forgot. Did we read -- we read into the
19 record the first sentence here, did we not? And,
20 anyway, that first sentence says that LandVest is
21 saying that 6.7 million is available on the low end and
22 7.233 million is available on the high end?

23 A. (Bravakis) That is correct.

24 Q. So, just barely. I mean, it's almost exactly the same

1 number.

2 A. (Witness Bravakis nodding affirmatively).

3 Q. Plus, you know, you agreed it was 6 million, which is
4 greater than 5.948. So, if we actually use the 6
5 million, there's not enough wood available, using the
6 low end of the LandVest range, is there?

7 A. (Bravakis) I don't agree with the basis of that
8 conclusion. And, that is assuming that the wood sheds
9 don't reshape to their original form, once our plant
10 gets up and running.

11 Q. Okay. So, let's move on here then.

12 CHAIRMAN BURACK: Attorney Rodier, let
13 me -- how much more questioning do you think you have for
14 these witnesses?

15 MR. RODIER: Well, you know, I've only
16 got like another hour. I know you want to take -- you
17 want to take a break? I could probably get it done before
18 lunch, if you want to go to 1:00.

19 CHAIRMAN BURACK: Steve, how are you --
20 I'd like to take a ten minute break here.

21 MR. RODIER: Yes.

22 CHAIRMAN BURACK: Why don't we, let's
23 take a ten minute break, till ten minutes of 12:00, and
24 then we'll come back till probably to somewhere around

1 12:30, quarter of 1:00, something in that range. Okay?
2 So, we're going to recess for ten minutes.

3 (Whereupon a recess was taken at 11:40
4 a.m. and the hearing resumed at 11:57
5 a.m.)

6 CHAIRMAN BURACK: Okay. We're going to
7 go back on the record now. And, Attorney Rodier, before I
8 turn things back to you to continue your
9 cross-examination, I understand that, Attorney Needleman,
10 you have some clarification that you need to get -- wish
11 to seek with respect to witnesses. And, did you have some
12 issues relating to the documents that we discussed earlier
13 that you wish to discuss now?

14 MR. NEEDLEMAN: Yes. Very briefly. I
15 was going to ask both Mr. Bravakis, with respect to the
16 Cousineau agreement, and Mr. Strickler, with respect to
17 the Pre-EPC Contract, to just clarify precisely what
18 documents we have at this moment and the status of those,
19 because I'm not sure that was clear before. And, then, I
20 wanted to say that we are working to get those documents,
21 and expect to have them to the Committee today.

22 CHAIRMAN BURACK: Okay. Thank you. So,
23 do you wish to put specific questions to each of these
24 gentlemen? If you do, please go ahead and do so.

1 DIRECT EXAMINATION (resumed)

2 BY MR. NEEDLEMAN:

3 Q. Mr. Bravakis, could you just clarify precisely what the
4 state is of the agreement that you are working on right
5 now with Cousineau.

6 A. (Bravakis) Yes. I would characterize it in draft form,
7 unsigned. And, we are close to finalizing the terms,
8 but we are not there yet. So, it's a draft, unsigned
9 agreement at this point.

10 Q. And, Mr. Strickler, you made reference to an EPC
11 contract with Babcock & Wilcox. Could you clarify
12 precisely what document we actually have at this point
13 and the status of that document.

14 A. (Strickler) Sure. The agreement that was -- I referred
15 to in my testimony was an agreement called the "Pre-EPC
16 Contract", which is the -- comes before a final, full
17 EPC contract that we would have for the engineering and
18 construction of the facility. And, that Pre-EPC
19 Contract has been executed, which would then leads --
20 will lead that effort or that work that's -- the scope
21 of work that's described in that would then lead to a
22 full EPC contract.

23 CHAIRMAN BURACK: Thank you.

24 MR. NEEDLEMAN: Nothing further.

1 CHAIRMAN BURACK: Okay. Thank you very
2 much. Attorney Rodier, do you wish to continue with your
3 cross-examination? And, we'll go for at least half an
4 hour or so, and we'll see how we're all doing, and make a
5 determination from there whether we can finish up --

6 MR. RODIER: Okay.

7 CHAIRMAN BURACK: -- finish up your
8 cross on these issues before lunch or we'll take a lunch
9 break.

10 MR. RODIER: All right. Thank you very
11 much, Mr. Chairman.

12 CROSS-EXAMINATION (resumed)

13 BY MR. RODIER:

14 Q. Now, Mr. Bravakis, we've talked about, under the
15 LandVest study, again, back on Page 4 of Exhibit 2,
16 6.7 million tons of low-grade fiber is available. Do
17 you have that in mind? I'm looking at Paragraph 2,
18 Page 4 of Exhibit 2.

19 A. (Bravakis) It's actually 6.7 to 7.23.

20 Q. Okay. I'm looking at Page 4 of Exhibit 2. I see where
21 it says "6,709,500". Are we on the same page?

22 A. (Bravakis) If I could read it, if I may?

23 Q. Yes.

24 A. (Bravakis) "As discussed in our 12/14/09 report, our

1 estimate of available and sustainable low-grade fiber
2 within the study area is between 6." -- "6,709,500 and
3 7,233,000 tons per year, depending on utilization
4 standards."

5 Q. Okay. I mean, I'm looking -- that's just lower than
6 the number I've got here. I'm looking at Exhibit 2 in
7 the book that says "6,709,500". But what was -- what
8 is the number we should be using? Read that again.
9 Six --

10 A. (Bravakis) Would you like me to read it again?

11 Q. You can just read the -- what I call the "low end".
12 You can take -- if you want to read the whole sentence
13 again, that's fine, too.

14 A. (Bravakis) Okay. In the "Conclusion" of the Addendum
15 that LandVest did for us, it says -- I believe the area
16 of interest that you're referring to says "As discussed
17 in our 12/14/09 report, our estimate", this is LandVest
18 speaking, "of the available and sustainable low-grade
19 fiber within the study area is between 6,709,500 tons
20 and 7,233,000 tons per year, depending on utilization
21 standards."

22 Q. Okay. That's what I've got.

23 A. (Bravakis) Okay.

24 Q. Now, I want to ask you next what the qualifier

1 "depending on utilization standards" means. But,
2 first, I want to ask you about the earlier LandVest
3 study. They did a LandVest -- LandVest did a study
4 for, well, the North Country Council in 2008?

5 A. (Bravakis) I believe they did, yes.

6 Q. Yes. Did they not find that there was 640,000 tons
7 available?

8 A. (Bravakis) You know, I'm really -- that wasn't a study
9 that we were involved in. So, I would prefer that
10 LandVest would answer any questions on previous
11 studies.

12 Q. All right. So, if we went to the Appendix P, part of
13 the Application, you would not be able to readily find
14 the reference to the 2008 --

15 (Court reporter interruption.)

16 BY MR. RODIER:

17 Q. Let me get -- let's make this a little simpler here.
18 You're saying you will defer to LandVest, and they will
19 have somebody here?

20 A. (Bravakis) If you're -- let me see if I understand your
21 question. If you're asking me to explain a study that
22 LandVest did for another entity, the North Country
23 Council, I'm not prepared to do that. I can talk about
24 the study that they conducted for us, and I'd be glad

1 to do that.

2 Q. Yes.

3 A. (Bravakis) But I would direct you to contact them
4 directly, or the North Country Council, to talk about
5 studies that they did for them.

6 Q. Okay. Well, I was just asking about your knowledge of
7 what they found in this study for North Country
8 Council. And, you're saying you really don't know what
9 their finding was. Would --

10 A. (Bravakis) That's not what I'm saying.

11 Q. Well, that's what I'm asking.

12 A. (Bravakis) Okay. Well, if you're asking me my
13 knowledge, my understanding of the conclusions of that
14 study was that, within a two hour drive of Berlin,
15 there was between 600 and 900,000 tons available of low
16 grade for additional users. And, that's my
17 understanding of it.

18 Q. And, what was the number? I'm sorry, I was distracted.

19 A. (Bravakis) The high range was 900,000. And, I don't
20 have the study before me. I think the lower range was
21 actually lower than six. So, there's a pretty wide
22 range.

23 Q. Yes. Okay. So, what -- it looks like what happened
24 here is that the low end of the range of the study that

1 LandVest did for the North Country Council was not
2 enough to fit Laidlaw into the picture. So, they were
3 asked to go back and say "well, increase the two hour
4 drive to three hours, and see if you can come up with a
5 higher number." Is that what happened?

6 A. (Bravakis) Not to my recollection, no.

7 Q. All right. Let's -- okay, we were going to go to
8 utilization standards next. Now, is that the -- the
9 "utilization standards", is that the issue of whether
10 it's what, 50 percent utilization or 70 percent
11 utilization?

12 A. (Bravakis) The way I understand utilization standards
13 is most of the lower end products in a timber harvest
14 are produced in response to existing markets. So, in
15 the Berlin area, historically, the existing markets
16 were predominantly pulp and paper manufacturing
17 facilities. Pulp and paper manufacturing facilities,
18 for the most part, accept round wood. And, they accept
19 round wood, I've been told, down to rat tail size.
20 Typically, this round wood, which means trees devoid of
21 all the tops and branches and limbs, are taken either
22 directly to the pulp and paper -- the pulp plant, in
23 fact, pulp facilities or to processing facilities to be
24 made into a paper grade chip.

1 What that means with respect to
2 utilization is that the tops and branches that would be
3 very suitable to be part of a mix for a biomass plant
4 are not harvested, they're left in the woods. If a
5 biomass plant shows up, very likely the contractor, and
6 it's happening, will start utilizing those tops in
7 response to the market, because now he has a market
8 that can chip up that previously a waste product. So,
9 when you have a biomass plant, along with pulp and
10 paper facilities, you get the utilization of the
11 pulpwood, which is a higher value product, plus you get
12 the utilization of the tops and branches, which
13 previously, if the biomass plant wasn't there, would
14 have not -- would have remained in the woods. And, in
15 talking to a number of not only consultants, but folks
16 who have deep and extensive knowledge of this, they're
17 saying that, what they see when biomass plants come,
18 get set up, is that the contractors either will
19 purchase chippers or they will harvest in a manner
20 where they will, instead of leaving the tops and
21 branches in the woods to rot, they will stockpile them,
22 and then hire a chipping contractor to come in and chip
23 them for this, the lowest of the markets, the whole
24 grade chip -- the whole tree chip.

1 Q. Okay. Would you agree with me that the low end of the
2 LandVest range is based upon a 50 percent utilization?

3 A. (Bravakis) Yes.

4 Q. Would you agree that the high end of the Laidlaw range
5 is based upon a 70 percent utilization?

6 A. (Bravakis) Yes.

7 Q. Okay. Are you aware of any forest industry standards
8 or protocols that recommend a minimum amount of -- you
9 were talking about tops and things like that, that
10 would recommend a minimum amount be left on the forest
11 floor?

12 A. (Bravakis) What our research has uncovered is, although
13 New Hampshire does not have a policy that makes such a
14 recommendation, a number of other states in the nation
15 do. And, we have uncovered some information prepared
16 by the Forest Guild that described how the range
17 usually is, at a minimum, I believe Maine is 15 or 20
18 percent, other states are up to 30 percent, which means
19 that, rather than leaving 50 percent in the woods,
20 because there is no market there to accept it, and the
21 other extreme would be to take it all out. So, good
22 harvesting practices would require to leave some of
23 those tops in to replenish the nutrients lost in the
24 soils. And, the states that do have those policies

1 recommend usually 20 or 30 percent. We took the higher
2 range, at 30 percent, and that's -- and LandVest did,
3 and we talked, and that's where they came up with the
4 better utilization.

5 Q. Right. Now, the better utilization of 70 percent, that
6 really doesn't exist now. That, what you're saying, in
7 a competitive situation, that number could be achieved.
8 Is that what you're saying?

9 A. (Bravakis) Well, I'm not sure what you're defining as
10 "competitive situation". What I'm suggesting is that,
11 when the market shows up, the suppliers will satisfy
12 that market. That has historically been the situation
13 in Berlin. My experience and knowledge of logging
14 contractors is that when they -- when they deploy their
15 equipment in the woods and have a harvesting operation,
16 they want to utilize everything that they possibly can.

17 Q. Right.

18 A. (Bravakis) And, it makes sense, so that they can return
19 more -- create more revenue for their effort. That's
20 what I'm saying.

21 Q. So, it's going to cost a little more to get the
22 70 percent from 50 percent?

23 A. (Bravakis) I'm sorry?

24 Q. Isn't it going to cost a little more to get up to

1 70 percent from 50 percent?

2 A. (Bravakis) No, I don't agree with that at all.

3 Q. Okay. So, what you're saying is -- then is that the
4 current utilization is about 50 percent, but you think
5 the market is going to show up, once the Laidlaw
6 project has got built, and that's going to increase it
7 to 70 percent?

8 A. (Bravakis) What I'm trying to say, and let me see if I
9 can rephrase it, --

10 Q. Well, I'm kind of asking you what you did say.

11 A. (Bravakis) Right. I'm trying to explain it for you.

12 Q. Okay.

13 A. (Bravakis) If I may? What I'm trying to say is that a
14 logging contractor, who's supplying round wood to a
15 pulp mill is in the process of cutting the tops and
16 branches right now and leaving them in the woods. If a
17 biomass plant, whether it's our plant or another plant,
18 is within a trucking distance proximity to that logging
19 contractor, he will then reconsider whether or not he
20 should harvest those tops and branches, which he has
21 already harvested and leaving in the woods, to create
22 more revenue for him.

23 Q. Okay.

24 A. (Bravakis) So, that -- and, by doing so, he's utilizing

1 more of the tree. And, typically, biomass plants
2 utilize the waste, the lowest product in the harvesting
3 spectrum, if you will, and that's the tops and
4 branches. And, from -- but nobody really goes in to
5 cut forestland just for the tops and branches.

6 Q. I understand.

7 A. (Bravakis) It's an integrated process.

8 Q. I understand that. It's almost like a byproduct, is
9 what you're saying?

10 A. (Bravakis) Exactly. It's a waste product.

11 Q. Okay. Now, we talked about the 6 million baseline of
12 existing consumption now. There's not much room for
13 any new use, is there? I mean, we're never going to
14 have another paper mill move to New Hampshire. There's
15 just not enough wood after Laidlaw.

16 A. (Bravakis) I'm not sure I understand the question.

17 Q. Well, the existing consumption level is 6 million tons
18 a year. The low end of the LandVest range is about
19 6.7. You're going to use 750. No room for anybody
20 else, is there, at the -- focusing on the low end of
21 the range?

22 A. (Bravakis) If you're asking me to agree with that
23 statement, I don't agree with that.

24 Q. Okay.

1 A. (Bravakis) And, if you'd like me to explain why I don't
2 agree with it, I'd be glad to do it.

3 Q. Well, let me ask you a question then. Is there any
4 room for anybody to move into the North Country and,
5 you know, another biomass plant, for example, or
6 somebody else that uses low grade fill -- low-grade
7 biomass?

8 A. (Bravakis) That would really depend on their analysis
9 and their determination of what the markets are and
10 what the opportunities are. It's not really for me to
11 say what another entity would -- they would have to
12 conduct their own studies and do their own analysis,
13 just like we have.

14 Q. Well, somebody could read the transcript of this
15 proceeding and say "well, there's 6.7 available,
16 6.7 million available. And, with Laidlaw, the
17 consumption is going to go up to over that." So, if I
18 was a guy who was going to build a pellet plant, there
19 are quite a few of them that are interested in the
20 North Country, would be reasonable for this person to
21 say "hey, there's no fuel." Would you agree?

22 A. (Bravakis) No, I wouldn't.

23 Q. Okay. All right. There's certainly no room for CPD,
24 is there?

1 A. (Bravakis) Are you asking me that question?

2 Q. Yes.

3 A. (Bravakis) That's up to CPD to determine, not up to me.

4 Q. Okay. So, if CPD were to look at the LandVest study
5 and what you're going to use, you think that CPD and
6 its bankers could say "hey, there's enough for us,
7 too." Is that what you're saying? That would be
8 reasonable?

9 A. (Bravakis) In all due respect, I really can't answer
10 for CPD or their bankers --

11 Q. I see.

12 A. (Bravakis) -- and what they might -- how they might
13 analyze any studies.

14 Q. Okay. But, I guess the general point I'm making,
15 there's no new uses here? That this whole study is
16 based upon no new uses? None? No new pulp companies,
17 no new pellet factories, and certainly no CPD, is that
18 right? Their numbers?

19 A. (Bravakis) That wasn't the purpose of the study, no.

20 Q. One question here on the sustainability stipulation
21 that we heard about. Certainly, in LandVest coming up
22 with their numbers, they haven't seen the
23 sustainability conditions, have they?

24 A. (Bravakis) They have. They have been involved, and all

1 along.

2 Q. They've seen the deal that you've got?

3 A. (Bravakis) We've consulted with them, yes.

4 Q. And, it hasn't affected -- it will not affect these
5 results that we're putting into the record here?

6 A. (Bravakis) No.

7 Q. Okay. Let's turn to --

8 MR. RODIER: And, Mr. Chairman, I am
9 winding down here.

10 BY MR. RODIER:

11 Q. Let's turn to Schiller. Let's look at Exhibit 2, Page
12 2.

13 A. (Bravakis) Exhibit 2, Page 2. If you'd please give me
14 a minute to find that.

15 Q. Sure. Sure.

16 A. (Bravakis) Okay. Thank you. I've got it here,
17 actually.

18 Q. So, let's look at the line that says "PSNH Schiller
19 Station".

20 A. (Bravakis) Okay.

21 Q. Could you just go quickly across that table and just
22 tell us what the columns are, and et cetera, so that we
23 have just a quick rudimentary understanding.

24 A. (Bravakis) Sure. For those of you, and I guess the

1 Committee sees this, we have the "plant name", as in
2 "PSNH Schiller Station". The "type" is a "power
3 plant". The "Consumption (in green tons)" is
4 "450,000" tons per year. The "Radius" of which they
5 draw is "75 miles". "Areas in the" -- "Acres in [our]
6 study area" is "3,536,302". "Areas [Acres?] for Each
7 Facility" based on the radius is "4,336,563".
8 "Geographical Analysis" is "81.55 percent". And, the
9 "Wood Assigned" is "183,479" tons per year.

10 Q. Okay. And, how do you calculate the "wood assigned"
11 amount?

12 A. (Bravakis) The way that was arrived at is two-fold.
13 One is the LandVest modeler did a model that he
14 explains, and it's actually more complicated than I can
15 understand, but he looks at overlapping areas where you
16 make an assumption that a plant of certain size draws
17 from a circle of a certain miles, and they looked at
18 where these plants would overlap. And, if they found
19 an area that, say, three plants overlapped that
20 exceeded the amount that that could be sustainably
21 harvested in that area, then they made an assignment of
22 who would draw from that area and who wouldn't. And,
23 based on that, they said, for example, the Schiller
24 Station will draw X amount of tons from our area. That

1 was -- that was the first step in our analysis. We
2 understand that this market, the market -- the wood
3 market today can be different from the wood market next
4 week, because of the trucking dynamics. So, we felt
5 that we really needed to get some intelligence to over
6 -- to take a look at this from people who actually move
7 the wood and see the wood, and to say "Okay, this is
8 theoretical. You've taken so much here and there for
9 these different plants. Is that actually true?"

10 So, we sat down with Curt Richmond, from
11 Cousineau Forest Products, who supplies to Schiller,
12 supplies to New England Pellet, supplies to a number of
13 these plants, and we asked him "is this actually true?"
14 And, we had him put some refinements on this, based on
15 actual real-world movement of fuel and wood. And, we
16 learned some things. We learned, for example, that
17 Schiller draws a lot of its wood down in Massachusetts,
18 because their proximity to Route 95, and there's no
19 markets in Massachusetts, and they're before the plants
20 in Maine. So, it makes sense that the trucks would
21 stop in there, rather than go all the way up to
22 Massachusetts [Maine?] to find markets for wood, clean
23 biomass in Massachusetts. So, he applied a refinement
24 to this based on his experience. And, we then, without

1 actually going to every facility and trying to have him
2 describe all their suppliers. It's, in actuality it's
3 not circles, it's more like amoebas or gerrymanders,
4 where you reach into areas where there's less
5 competition. You take advantage of trucking
6 efficiencies. A lot of the wood beyond 75 or 80 miles
7 moves because trucks need backhauls. And, it's a very
8 complicated and a dynamic situation of the way wood
9 moves in the Northeast, is what we learned. And, so,
10 that is how we came up with our best estimate of the
11 wood assigned in our primary source of supply.

12 Q. Okay. Now, I really recall, in the technical session,
13 the gentleman who was there from LandVest said, if you
14 multiply 81.55 percent, which is in the "Geographical
15 Analysis" column, if you multiply that by the column
16 "Consumption of Green Tons", that that's how you
17 determine the "Wood Assigned" column. Did I -- is my
18 recollection faulty?

19 A. (Bravakis) As I was trying to explain, maybe I --

20 Q. I just want a simple answer.

21 A. (Bravakis) -- maybe I lost it in my long-winded answer.
22 That was our first cut at it.

23 Q. All right. That's all I wanted.

24 A. (Bravakis) But then we asked -- We weren't satisfied.

1 We said, "is that" -- "we need to get a reality base on
2 that."

3 Q. All right.

4 A. (Bravakis) So, that's what we did. It should have been
5 actually enumerated more in their study, and I
6 apologize.

7 Q. All right.

8 A. (Bravakis) But they should have talked about Cousineau
9 coming in and putting some intelligence on that. But
10 that's the way the evolution of these numbers --

11 Q. Because that "Wood Assigned" number would double,
12 wouldn't it not, roughly?

13 A. (Bravakis) I'm sorry.

14 Q. The "Wood Assigned" number for Schiller would double?

15 A. (Bravakis) If we stopped at the first analysis, --

16 Q. Yes.

17 A. (Bravakis) -- yes, you're correct.

18 Q. Okay. Now, you're saying Schiller's going to get their
19 wood from the south. So, are you going to be saying
20 that the wood that's consumed by the Laidlaw facility
21 is not going to affect the price of wood at Schiller?

22 A. (Bravakis) You know, it's very complicated for me to
23 make a prediction on how the market will evolve in
24 this. I've learned -- I've learned that this is a very

1 complicated and dynamic market. And, I don't think you
2 can make a simple statement like that. Simply because,
3 as the markets show up, people come up and supply them.
4 It's one of the reasons that I like biomass energy is
5 because the fuel supply is locally produced, with,
6 really, virtually few barriers to entry.

7 Q. Yes.

8 A. (Bravakis) So, you can get a supply coming on board
9 that can diminish markets. Right now, there's a big
10 glut of wood on the market. And, from what we
11 understand, it's going to stay that way for quite a
12 while. So, I wouldn't be comfortable making a
13 statement like that.

14 Q. Okay. So, then, I guess that would mean that the
15 consumption of 750,000 tons a year at Laidlaw, in
16 Berlin, could affect the price of the wood that Public
17 Service buys for Schiller?

18 A. (Bravakis) I guess, if you want to make that
19 conclusion, feel free.

20 Q. Okay.

21 A. (Bravakis) I don't know -- I mean, it could affect it,
22 it could not affect it, how much it could affect it,
23 upward or downward, I would have a very difficult time
24 putting a stamp of approval on what happens in Berlin.

1 Q. Okay. So, now I'm starting to see a relationship here,
2 because Cousineau is going to buy the wood for Laidlaw,
3 that currently buys it for Schiller, I think I heard
4 you say?

5 A. (Bravakis) No, Cousineau supplies a lot. And, they're
6 a small supplier to Schiller, so --

7 Q. Now, that was a simple question. I said Cousineau is
8 going to be procuring wood for both plants, is that
9 right?

10 A. (Bravakis) They supply -- as far as I understand, they
11 supply wood to the Schiller Station, yes.

12 Q. Okay.

13 A. (Bravakis) And, we're talking to them about supplying
14 for us, yes.

15 Q. Did Public Service tell you you had to use them?

16 A. (Bravakis) No, sir.

17 Q. Okay. In the PPA, doesn't it say that Public Service
18 is going to reimburse you for the wood that you
19 consumed in Berlin, at whatever the price of wood is
20 consumed at Schiller, is that correct?

21 A. (Bravakis) There is -- wait. Can you repeat the
22 question again?

23 Q. Under the PPA, for the word -- for the wood that is
24 burned and consumed in Berlin, you are going to pass

1 through to PSNH the same price per unit for the cost of
2 the wood PSNH incurs at the Schiller Station?

3 MR. NEEDLEMAN: Mr. Chairman, before
4 Mr. Bravakis answered, I'd just like a clarification. We
5 have submitted a version of the PPA to this Committee,
6 which is the same version that has been submitted to the
7 PUC. And, portions of both of those are redacted as
8 "confidential". And, I would just like it clarified
9 whether the portion that Mr. Rodier is referring to is, in
10 fact, public or not?

11 MR. RODIER: It's public. I can show it
12 to you, if you like? I mean, I will represent that it's
13 public. I mean, I'm amazed that they, themselves, don't
14 know. Somebody with Laidlaw has to know whether that is
15 public or not.

16 CHAIRMAN BURACK: Attorney Needleman, do
17 you have any reason to believe that what's being referred
18 to is not in the public record?

19 MR. NEEDLEMAN: I have no idea what
20 portion he's referring to, and I'm not completely
21 conversant, which is why I wanted a clarification.

22 CHAIRMAN BURACK: Can you clarify --

23 MR. ROTH: It's 6.1.2 of the PPA.

24 CHAIRMAN BURACK: I'm sorry. Attorney

1 Roth, you're suggesting this is at Section 6.1.2 of the
2 PPA?

3 MR. ROTH: Of the PPA. That's Exhibit
4 40.

5 CHAIRMAN BURACK: Exhibit 40?

6 MR. RODIER: Well, that's very helpful.

7 CHAIRMAN BURACK: Thank you. Let's give
8 folks a moment please to find that.

9 MR. RODIER: And, that's 6. what?

10 MR. ROTH: 6.1.2(a).

11 MR. RODIER: Yes. That's what I'm
12 talking about. May I proceed, Mr. Chairman?

13 CHAIRMAN BURACK: I just want to confirm
14 that all members of the Subcommittee were able to find
15 where this is in the exhibits? Please proceed.

16 BY MR. RODIER:

17 Q. Okay. Mr. Bravakis, was I right or wrong about you
18 getting paid in Berlin for the wood that you consume --
19 reimbursed by PSNH for wood that you consume at the
20 same price that PSNH incurs for the Schiller plant?

21 A. (Bravakis) That's incorrect.

22 Q. Okay. What am I missing? I think that's what it says
23 to me in that contract, does it not? You see the
24 reference to "Schiller" in there?

1 A. (Bravakis) Yes, I do.

2 Q. Okay. I know the Committee doesn't want us to get into
3 the details of the PPA, and I certainly don't propose
4 to do that. But can I get a brief explanation then?
5 Let me say this. "The WPA will reflect the difference
6 between the actual dollars per ton Biomass Fuel cost
7 that PSNH paid for Biomass Fuel at its Schiller Station
8 facility." That's "The Wood Price Adjustment will
9 reflect the average dollars per ton Biomass Fuel cost
10 that PSNH paid for Biomass Fuel at [the] Schiller
11 Station facility." Go ahead, answer.

12 A. (Bravakis) What we pay in Berlin has nothing to do with
13 that. We are responsible for our own payment. There's
14 no connection whatsoever, to answer your question.

15 Q. Okay. But I wasn't asking you what you paid. I was
16 asking you what you get reimbursed by PSNH at what
17 amount?

18 A. (Bravakis) So, assuming -- I guess I need to understand
19 your question with respect to wood pricing. That are
20 you saying that, if we pay \$30 a ton for wood, and the
21 market is different, that Schiller actually reimburses
22 us for what we pay for wood? Is that what you're
23 asking me?

24 Q. Yes. That's what I think that says.

1 A. (Bravakis) No, that's not correct.

2 Q. What doesn't -- but let's just say then -- this is
3 useful. Let's just say that the cost of wood, southern
4 New Hampshire, at Schiller is 35.

5 A. (Bravakis) Uh-huh.

6 Q. And, you're paying, through Cousineau, you're paying
7 30. What does this clause mean?

8 A. (Bravakis) I'm sorry.

9 Q. What does this contract provision mean?

10 A. (Bravakis) With respect to what we pay in Berlin,
11 nothing.

12 Q. I'm asking what Public Service pays you in Berlin?
13 That's all I'm trying to ask.

14 A. (Bravakis) With respect to our price of wood?

15 Q. Yes.

16 A. (Bravakis) There's no connection.

17 Q. What's the purpose of this clause? The WPA is based
18 upon the price of wood that PSNH incurs at Schiller.

19 A. (Bravakis) That's correct.

20 Q. Okay. Take us from there. You're saying it's got
21 nothing to do with anything. And, the contract says
22 that the WPA, which is the wood price adjustment, is
23 based on the price that PSNH pays at Schiller?

24 A. (Bravakis) Right. And, if I understand your question,

1 you're trying to suggest that somehow we get reimbursed
2 for whatever we pay in Berlin, and that's simply not --
3 not the fact. That's not true.

4 Q. Well, okay. Why don't we -- I mean, you can't do any
5 better in clearing up or clarifying this clause in the
6 contract, right?

7 A. (Bravakis) I'm trying to -- with all due respect, I'm
8 just trying to answer your question.

9 Q. Well, let me try it one last time. What is the purpose
10 of this clause? What is its effect? Why is it in the
11 contract? What does it do? Can you answer that?

12 A. (Bravakis) Before I answer that, I would -- I think
13 that's probably getting into some substantive matters
14 of the Power Purchase Agreement. And, I'd like to
15 confer with my colleagues before, to see how much of
16 that we would like to talk about, --

17 Q. I can see it's a --

18 A. (Bravakis) -- with respect to CPD's intervention.

19 MR. RODIER: I can see it's a touchy
20 subject. So, on that note, I think what I will do here is
21 rest my cross-examination.

22 CHAIRMAN BURACK: Okay. So, Attorney
23 Rodier, you have no further questions at this time for any
24 of these witnesses, cross-examination, based on materials

1 that have been provided to date, is that correct?

2 MR. RODIER: Oh, I'm sorry. I thought
3 -- I was just dealing with Bravakis. You want me to go to
4 the others now?

5 CHAIRMAN BURACK: How much additional
6 time do you think you have for these other folks?

7 MR. RODIER: I really don't have
8 anything for Mr. Frecker. I don't know, did I get your
9 name right, I'm sorry?

10 WITNESS FRECKER: That's fine.

11 MR. RODIER: Okay. And, I've got a
12 little for Strickler, not much. I could fit it in, if,
13 you know, --

14 CHAIRMAN BURACK: Okay. Very good. Let
15 me check with -- why don't we go ahead and see if we can
16 get through your cross-examination of Mr. Strickler here.

17 MR. RODIER: Okay.

18 BY MR. RODIER:

19 Q. Mr. Strickler, I want to refer you to Exhibit -- would
20 you just quickly identify Exhibit 52 please.

21 A. (Strickler) That's my testimony amended of August 16th.

22 Q. I'm sorry. I zoned out for a second.

23 A. (Strickler) It's my amended testimony as of
24 August 16th.

1 Q. Okay. This is the amended testimony?

2 A. (Strickler) Yes.

3 Q. And, I wanted to refer you to Page 2.

4 A. (Strickler) Yes.

5 Q. And, there, at the top of Page 2, you say "I will
6 oversee and ultimately be responsible for final design,
7 construction and operation of the Berlin Project." Is
8 that correct?

9 A. (Strickler) Yes.

10 Q. And, then, you say in red, this is what you added:
11 "Under contract with NewCo, Homeland is to provide
12 [the] service to the Applicant for development, design,
13 construction, and operation of the Berlin Project."
14 Correct?

15 A. (Strickler) That's right.

16 Q. So, you're going to be reporting to NewCo?

17 A. (Strickler) Homeland's arm, yes, we will report to
18 them, as a service provider to them.

19 MR. RODIER: I'll stop right there.

20 Nothing further.

21 CHAIRMAN BURACK: You have nothing
22 further at this time? Okay. Very well. We're going to
23 take a recess for lunch here. I just want to get a sense
24 from counsel for the parties, do you think we can do this

1 in an hour or do you think we need an hour and a quarter
2 for lunch? You think we can do this, you can be okay in a
3 hour?

4 MR. RODIER: Sure.

5 CHAIRMAN BURACK: Everybody else can
6 work with an hour? Okay. I'm just looking at the clock
7 in the back of the room here, which says it's, and that's
8 probably pretty close to accurate, it says 12:35. Let's
9 reconvene here at 1:35. So, we'll stand adjourned until
10 that time.

11 (Whereupon the Day 1 Morning Session
12 recessed for lunch at 12:35 p.m. The
13 Day 1 Afternoon Session to resume
14 under separate cover so designated.)
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