

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

August 24, 2010 - 9:05 a.m.
Public Utilities Commission
21 South Fruit Street
Suite 10
Concord, New Hampshire

DAY 2
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:

SITE EVALUATION SUBCOMMITTEE:

Thomas Burack, Cmsr.
(Presiding as Chairman)

Dept. of Environmental
Services

Amy Ignatius, Cmsr.

PUC

William Janelle

DOT

Elizabeth Muzzey

N.H. Div. of Hist. Res.

Harry Stewart

Water Division - DES

Craig Wright

Air Resources Div - DES

Donald Kent

DRED

Christopher Northrop

OEP

Michael Harrington

PUC

* * *

Counsel for the Committee: Michael Iacopino, Esq.

COURT REPORTER: SUSAN J. ROBIDAS, LCR NO. 44

1 ALSO PRESENT:

2 REPRESENTING LAIDLAW BERLIN BIOPOWER, APPLICANT:

3 Barry Needleman, Esq.
4 Gregory Smith, Esq.
5 Cathryn E. Vaughn Esq.
(McLane, Graf, Raulerson &
6 Middleton)

7 REPRESENTING CITY OF BERLIN:

8 Merritt Schnipper, Esq.
9 (Downs Rachlin Martin)

10

11 REPRESENTING CLEAN POWER DEVELOPMENT:

12 James T. Rodier, Esq.

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15 COUNSEL FOR THE PUBLIC:

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Carl S. Strickler
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1 P R O C E E D I N G S

2 CHAIRMAN BURACK: Good
3 morning, everyone. We're going to call to order
4 the second day of proceedings in the SEC Docket
5 No. 2009-02, Application of Laidlaw Berlin
6 BioPower, LLC for a Certificate of Site and
7 Facility. Again, my name is Tom Burack, and I am
8 the Commissioner of the Department of
9 Environmental Services and serve as the Chair of
10 the SEC, as well as the Chair of this
11 Subcommittee.

12 Before we resume questioning
13 this morning, I would like to take care of a few
14 housekeeping matters. First, I'm going to ask
15 that all of the participants in the proceeding
16 today please do their best to use microphones.
17 That will be of great help to Ms. Robidas, our
18 stenographer, and to Mr. Patnaude, who will be
19 here with us this afternoon.

20 Also, we'll ask folks and
21 remind folks to please do as I'm about to do,
22 which is to turn off your cell phones or put them
23 to vibrate.

24 And now I would like to turn

1 things to Attorney Iacopino, counsel to the
2 Committee, who is going to describe some new
3 exhibits that we will be entering into the
4 record.

5 MR. IACOPINO: Thank you,
6 Mr. Chairman.

7 Yesterday there were several
8 record requests made to the Applicant by the
9 Committee, and we've been provided with a number
10 of documents. The first document has been marked
11 as Committee Exhibit No. 1 and is entitled,
12 "Applicant's Responses to Committee Record
13 Requests." I'm going to pass those out to the
14 Committee. They're not marked, so you may want
15 to put your own number markings on them.

16 CHAIRMAN BURACK: Again, this
17 is Committee Exhibit No. 1?

18 MR. IACOPINO: That's correct.

19 CHAIRMAN BURACK: Thank you.

20 (Committee Exhibit 1 marked for
21 identification.)

22 MR. IACOPINO: The second
23 exhibit that we have is marked as Committee
24 Exhibit No. 2. It's entitled, "LandVest Research

1 Report, Timber Supply Study for the North Country
2 of New Hampshire," prepared for North Country
3 Council, Inc., November, 2008." And that's
4 Committee Exhibit No. 2, which I'm now passing
5 copies out to the Committee as well. And again,
6 the ones I'm passing out don't have the markings
7 on it.

8 (Committee Exhibit 2 marked for
9 identification.)

10 The third Committee exhibit,
11 or Committee Exhibit No. 3, is entitled, "Vermont
12 Wood Fuel Supply Study and Examination of the
13 Availability and Reliability of Wood Fuel for
14 Biomass Energy in Vermont." And that is
15 Committee Exhibit No. 3, which I'm passing out
16 now as well.

17 And by the way, if there's an
18 extra copy that comes around, that's mine.

19 (Discussion off the record.)

20 (Committee Exhibit 3 marked for
21 identification.)

22 MR. IACOPINO: The next
23 exhibit is marked as Committee Exhibit No. 4. It
24 is entitled, "Biomass Fuel Availability, Berlin,

1 New Hampshire, Prepared for Clean Power
2 Development, May 2008," prepared by Innovative
3 Natural Resource Solutions, LLC. And I'll pass
4 that around as well.

5 (Committee Exhibit 4 marked for
6 identification.)

7 Committee No. 5, Exhibit
8 No. 5, is a -- consists of three page -- well,
9 six pages. And it's entitled, "Modeling Projects
10 Summary Report for NHTOA and," by Todd Caldwell,
11 L.E. Caldwell Company. And that's Committee
12 Exhibit No. 5, which I'm passing out to the
13 members of the Committee.

14 (Committee Exhibit 5 marked for
15 identification.)

16 And finally, Committee
17 Exhibit 6 is an exhibit entitled, "A Forest
18 Resource Model of the States of New York,
19 Vermont, New Hampshire and Maine," prepared for
20 the North East State Foresters Association. It's
21 dated March 22, 2001. And I'm passing out copies
22 of that to the Committee as well.

23 (Committee Exhibit 6 marked for
24 identification.)

1 As I indicated, Mr. Chairman,
2 these are the record requests that came from the
3 Committee yesterday, as I understand it, and they
4 were provided by the Applicant to us this
5 morning.

6 Did any extra copies make it
7 to your end here, Amy?

8 MS. VAUGHN: I have another
9 set if you need it.

10 MR. IACOPINO: The Caldwell
11 study is -- I think we're missing sufficient
12 copies of that.

13 MS. VAUGHN: Sure.

14 MR. IACOPINO: I don't know
15 yet. We have one more copy of Exhibit No. 5.
16 Okay. I think -- does that --

17 CHAIRMAN BURACK: That should
18 do it.

19 MR. IACOPINO: Okay. That
20 should do it. Thank you.

21 MR. NEEDLEMAN: May I
22 approach?

23 CHAIRMAN BURACK: Yes, you
24 may.

1 (Discussion off the record.)

2 CHAIRMAN BURACK: The next
3 thing I'd like to point out is that we have
4 received -- I'm not sure where all that is coming
5 from. Can everyone hear me okay?

6 All right. We have received
7 this morning a document entitled "Assented-to
8 Motion for Protective Order and Confidential
9 Treatment for Pre-EPC Contract and Draft Biomass
10 Fuel Supply Agreement." This was filed by the
11 Applicant this morning. I have reviewed this
12 assented-to motion, and I will grant the motion.
13 And I will issue a written order to that effect,
14 if not later today, then certainly by tomorrow.
15 But I just want to make clear to everybody that
16 what was discussed yesterday has, in fact, now
17 been proposed to the Committee, and I have
18 granted that motion.

19 I will note that Mr. Frecker
20 is not yet here this morning, but I will ask that
21 we proceed with the existing panelists. And I
22 and Attorney Iacopino will have questions for
23 them, and we will hold our other questions for
24 Mr. Frecker until he does arrive. And if there

1 are questions, that we, might Mr. Bravakis or
2 Mr. Strickler, put to one of you, but if you're
3 not able to answer this relative to Mr. Frecker's
4 territory, just let us know and we'll defer until
5 he arrives.

6 So if I may, then, let me turn to some
7 questions that really flow from the statute
8 itself.

9 EXAMINATION

10 BY CHAIRMAN BURACK:

11 Q. Specifically, under the terms of the
12 statute -- and I'm looking at R.S.A.
13 162-H:16,IV -- there are a number of things
14 that as a Committee we have to look at,
15 factors we have to consider in making a
16 final determination as to whether a
17 Certificate of Site and Facility should be
18 granted. And one of the things that we are
19 to do is to consider available alternatives.

20 And so my question for you is, what
21 available alternatives were considered by
22 the Applicant?

23 A. (Bravakis) I'd like to defer that to
24 Mr. Frecker, because I know he reviewed that

1 in our application.

2 Q. Mr. Strickler, you want to --

3 A. (Strickler) Maybe try to clarify the
4 question. Alternatives in terms of
5 technology? Alternatives in terms of site
6 or --

7 Q. Alternatives in terms of site, alternatives
8 in terms of technology, both. Or any other
9 alternatives that you might have considered
10 to constructing the project in this manner.

11 A. (Bravakis) Yeah, I think we should defer it.
12 I apologize.

13 Q. Thank you.

14 Would either of you be able to address
15 the issue of effects on aesthetics? I do
16 note that you have some simulated pictures
17 behind you there. Are you able to address
18 that issue, Mr. Bravakis?

19 A. (Bravakis) I can. For those of you who are
20 unfamiliar with the property, this is
21 currently the way the facility looks. See
22 it? This is a recovery boiler. What we're
23 looking at here is -- the boiler is right
24 here (indicating). And this picture is

1 taken across the recreation field looking
2 this way, north, I guess.

3 When we first came to the community,
4 this property was full of buildings. North
5 American Dismantling was a dismantling
6 company, demolition company from Detroit
7 that was hired and purchased the property
8 and demo'd the building, sold everything for
9 scrap. We contacted them and eventually
10 bought the property from them.

11 As you can imagine, this, if you've
12 ever see an aerial -- we don't have an
13 aerial photograph, but this is the heart of
14 Berlin. If you look at an aerial
15 photograph, this mill existed and the town
16 was built up around it. For a hundred
17 years, this mill was Berlin.

18 So there's a lot of emotion, a lot of
19 interest in the property. There were those
20 who thought this is a time to take
21 everything down and build a park at one
22 level, and then there are many who thought
23 this is a time to reinvent ourselves in a
24 new economic way. We just happened to be

1 the entrepreneurs that saw converting fiber
2 to paper, because now we're going to be
3 converting fiber to electricity.

4 Having said all that, the town was
5 concerned about the appearance of the
6 facility. And we understood that. We would
7 not have placed this boiler where it is if
8 we were to build it new. But it is where it
9 is, and we're there because this is a
10 tremendous asset. This boiler was used
11 infrequently for nine years. So it's
12 virtually a Mercedes Benz with 20,000 miles
13 on it. We saw that. We contacted B & W if
14 it could be converted. It's a real asset.

15 But if you look at it in the center of
16 the town, there's concern. We understood
17 that. So we worked with our team and with
18 folks in the town to try to minimize the
19 visual impact the best we can. In fact, we
20 looked at other facilities around the
21 country that were located in towns. One in
22 particular down in -- I personally went to
23 New Haven, Connecticut. It's right on the
24 New Haven Harbor there. There's a big power

1 plant there.

2 So we've -- with our engineers and
3 designers, we modeled, through photo
4 simulations and CAD reproductions, what the
5 new additions to the property would be. We
6 modeled and put a visage on there of what
7 the project might look like. We then put in
8 some evergreen, and we presented this to the
9 City, not only with this one, but a number
10 of different views, which are in our
11 application, I believe.

12 We then worked closely with the City.
13 The City set up an FSEC advisory council
14 made up of business, government and citizens
15 in the community. And we worked very
16 closely with them for, I believe, around
17 nine months, ten months, in developing a
18 river walk plan and a landscaping and an ATV
19 plan, all designed to provide access and
20 aesthetic enhancements to the property. I
21 believe -- there's Mr. Frecker.

22 I believe that we are now at a point
23 where a lot of the concern about the.

24 Aesthetics, though not completely

1 eliminated -- I think our efforts have been
2 well appreciated by the community. And my
3 personal belief is that once this project
4 gets built and constructed and landscaped,
5 everybody will consider it an asset, and
6 they'll forget that (indicating) because it
7 will be replaced with that (indicating), and
8 then everything else, of course, that goes
9 with it.

10 CHAIRMAN BURACK: Very good.
11 Thank you.

12 Mr. Frecker, please come in
13 and have a seat.

14 (Mr. Frecker joins witness panel.)

15 CHAIRMAN BURACK: Counsel, can
16 you confirm for us that those two photos are, in
17 fact, in the record, presumably somewhere in
18 Exhibit 1 or -- in Exhibit 1, in the original
19 application?

20 MR. NEEDLEMAN: Yes.
21 Exhibit 11. Applicant's Exhibit 11 is the
22 existing conditions, I believe. And that was
23 contained in the application. Exhibit 12, I
24 believe, is the proposed image, also contained in

1 the application. And the chart, the site plan
2 behind you there's also a blow-up of the document
3 that was contained in the application. So all of
4 these are already in the record.

5 CHAIRMAN BURACK: Very good.

6 Thank you.

7 BY CHAIRMAN BURACK:

8 Q. So, Mr. Bravakis, is it your position, then,
9 that the company has taken measures to
10 address potential adverse effects on
11 aesthetics?

12 A. (Bravakis) Yes, sir.

13 Q. Thank you.

14 MR. NEEDLEMAN: And Mr.
15 Chairman, if I could also note, there are also
16 additional simulations beyond these that are also
17 part of the application in the record.

18 CHAIRMAN BURACK: Very good.

19 Thank you.

20 This may be a question for
21 Counsel, but I want to just follow up on a series
22 of questions that we heard yesterday from
23 Mr. Roth regarding Public Counsel's Exhibit 2,
24 which is a document entitled, "Agreement for

1 Addressing PCB Contamination of the T1
2 Transformer Area." And this is an agreement that
3 was entered into between the United States
4 Environmental Protection Agency Region I -- I
5 should say between and among U.S. EPA Region I,
6 Fraser NH, LLC, and the New Hampshire Department
7 of Environmental Services.

8 And the question is whether
9 the Applicant here, which at this point I
10 understand to be Laidlaw Bio-Energy, LLC -- I'm
11 sorry -- Laidlaw Berlin BioPower, LLC, would be
12 considered an assign of Fraser for purposes of
13 this order?

14 MR. NEEDLEMAN: I'm not
15 certain of the answer to that, as I sit here.
16 But my initial reaction is I think that would
17 probably be the case, as the new owner of the
18 property. And I believe that we would have
19 assumed at least the responsibility not to
20 disturb that area as the new owner.

21 And I think it's been noted,
22 but if it hasn't been, I will note that the
23 project has been designed in a way so that the T1
24 area will not be disturbed in any manner.

1 CHAIRMAN BURACK: I would ask
2 you, Counsel, if you would, to please look into
3 this further, because I think it is going to be
4 important for the Committee to have certainty
5 that whether it's Laidlaw Berlin BioPower, LLC or
6 PJPD Holdings, LLC, if I have the name of that
7 entity correct, we need to know specifically
8 which entity it is that is, in fact, acting as
9 the assigned under this agreement.

10 MR. NEEDLEMAN: We will do
11 that and let you know.

12 CHAIRMAN BURACK: Okay. Thank
13 you.

14 BY CHAIRMAN BURACK:

15 Q. Mr. Strickler, yesterday you described -- I
16 believe it was you who described an EPC
17 agreement. Perhaps you could define for us,
18 first, what EPC stands for.

19 A. (Strickler) Energy procurement and
20 construction.

21 Q. Thank you. You described an EPC contract
22 between the Laidlaw Berlin BioPower, LLC and
23 Babcock & Wilcox?

24 A. (Strickler) That's correct. It was a

1 pre-EPC contract, yes.

2 Q. It is a pre-EPC contract. Can you again
3 describe for us what the general parameters
4 are of what will be covered by that
5 contract?

6 A. (Strickler) Sure. In that contract, B & W
7 will do additional engineering, their own
8 initial engineering work, piggybacking on
9 what had already been done by the Applicant;
10 expanding it and developing detailed cost
11 estimates and construction schedules, you
12 know, firming up performance criteria and
13 requirements or capabilities. And they're
14 doing that work in advance of the full
15 notice to proceed.

16 In addition to that, there is also --
17 during that period of time that the contract
18 covers, they will also be negotiating a full
19 EPC contract with the Applicant that would,
20 in detail, provide the requirements and the
21 conditions under which they actually do the
22 work.

23 Q. So let me try to summarize this, and tell me
24 if I have this accurate.

1 The initial -- what you call pre-EPC
2 contract is essentially laying the
3 groundwork and the foundation for a more
4 comprehensive EPC contract that you
5 anticipate entering into with Babcock &
6 Wilcox?

7 A. (Strickler) That's correct.

8 Q. And is it correct to understand that both
9 the pre-EPC contract and the EPC contract
10 will cover all aspects of the construction
11 of the project, not just those relating to
12 the boiler specifically?

13 A. (Strickler) To be clear, it would be -- it
14 would cover essentially all aspects of the
15 construction work on the site. It would not
16 cover the interconnection work that's
17 required from the substation to the site
18 boundary itself.

19 Q. Thank you. Thank you for that.

20 A. (Strickler) That would be the exception, I
21 would say, the major exception.

22 Q. So you will contract with an additional
23 contractor --

24 A. (Strickler) Correct.

1 Q. -- to do that work on an EPC basis?

2 A. (Strickler) Yes. Yes.

3 Q. Okay. And would there then be an additional
4 subcontractor under that separate EPC
5 contract to actually do the interconnection
6 work?

7 A. (Strickler) I'm not sure. It might be just
8 one company that does the whole thing. I
9 don't know if we'll have subcontracts or
10 not. I don't know that right now.

11 Q. Thank you for that clarification.

12 Mr. Strickler, it may have been you,
13 I'm not sure I recall precisely. One of you
14 spoke yesterday to one or more agreements
15 between Laidlaw Berlin BioPower, LLC and the
16 paper mill in Gorham.

17 A. (Bravakis) I spoke about that.

18 Q. That was you.

19 A. (Bravakis) Yes.

20 Q. Can you tell me how many different
21 agreements there are currently between
22 Laidlaw Berlin BioPower, LLC and the paper
23 mill in Berlin -- I'm sorry -- the paper
24 mill in Gorham?

1 A. (Bravakis) There's one agreement with
2 Laidlaw Berlin BioPower, LLC and Fraser
3 Papers relative to the Gorham paper mill. I
4 believe Fraser, New Hampshire, LLC is their
5 name. It's a letter agreement or memorandum
6 of understanding, I'm not quite sure what,
7 that spells out the terms and conditions of
8 the water issues that I described yesterday,
9 the transferring the heat to the water, and
10 what we talked about as a utility easement.

11 Q. Okay.

12 CHAIRMAN BURACK: Counsel, is
13 that agreement an agreement that is part of the
14 confidential documents that were submitted to the
15 Committee? No?

16 MR. NEEDLEMAN: No, not at
17 this point.

18 CHAIRMAN BURACK: Has that
19 document been submitted to the Committee?

20 MR. NEEDLEMAN: I don't
21 believe so. Not that I recall.

22 MR. BRAVAKIS: Yeah, we can
23 get that.

24 CHAIRMAN BURACK: I'd request

1 that you submit that document to the Committee,
2 please.

3 BY CHAIRMAN BURACK:

4 Q. Yesterday, Mr. Frecker, I believe you were
5 answering some questions for Mr. Wright
6 regarding other facilities with black liquor
7 recovery boilers on which there have been
8 conversions performed by Babcock & Wilcox.
9 Perhaps it was Mr. Bravakis, I'm sorry --

10 A. (Frecker) Bravakis, yes.

11 Q. -- testifying to that. My request is that
12 you provide us with a written list of those
13 facilities, at least that you reviewed. My
14 notes indicate facilities potentially in as
15 many as three different states: Tennessee,
16 Georgia and Kentucky. I'm not sure if I
17 caught that all right or not. So it will be
18 helpful to have a written list from you of
19 which facilities you actually looked at.

20 A. (Strickler). We went -- I can confirm we
21 went to the facility in Kentucky.

22 Q. Thank you.

23 A. (Bravakis) If I may, and if you'll indulge
24 me for a second, I did get a clarification

1 e-mail from Babcock & Wilcox last night.
2 And to just clear the record, there are two
3 sites where Babcock & Wilcox converted
4 recovery boilers to bubbling fluidized beds.
5 This was in Calhoun, Tennessee, and Rome,
6 Georgia.

7 A. (Strickler) Yes.

8 A. (Bravakis) I guess the one in Calhoun,
9 Tennessee was referred to as the Bowater
10 site, and that's the one that was toured by
11 the members of our technical team this past
12 spring.

13 Q. So, Mr. Strickler, you viewed a facility in
14 Tennessee, not in Kentucky?

15 A. (Strickler) That's right. I did not, but my
16 VP of operations visited the facility in
17 Tennessee.

18 Q. Thank you.

19 And I would also ask that you provide
20 us with information relating to the
21 performance history of those facilities,
22 particularly as it pertains to their ability
23 to meet their emissions limits under their
24 air permits.

1 I also note that yesterday, if I
2 understood the question correctly, there was
3 a question about the amount of ash being
4 generated from the baghouse. And you all
5 estimated that it would be approximately
6 120 tons per week. And I believe there was
7 a question about the number of trucks
8 taking -- that would be required to take the
9 ash from the facility on a weekly basis. I
10 just want to confirm that you will provide
11 us with that information.

12 Mr. Frecker, just as we were wrapping
13 up last night, I asked if you could be
14 prepared this morning to provide us with a
15 brief overview of the status of each of the
16 environmental or other separate permit
17 applications that have been filed for this
18 project. And I'm wondering if you're in a
19 position at this time to do that for us?

20 A. (Frecker) I am.

21 Q. If you would proceed, please.

22 A. (Frecker) Certainly. I'll pretty much take
23 them in the order that they were presented
24 in the application for the Certificate of

1 Site and Facility.

2 Q. That would be helpful. And if you're able
3 to make reference to the specific appendices
4 in which those appear, that would be
5 helpful.

6 A. (Frecker) I will. The first one is in
7 Appendix C of the application. It is an
8 application for a temporary air permit with
9 the New Hampshire Department of
10 Environmental Services Air Resources
11 Division. Due to the size of the boiler and
12 its potential air emissions, the project is
13 required to obtain a permit from the Air
14 Resources Division that addresses the
15 state's air permitting requirements and air
16 regulations, as well as the federal
17 permitting requirements under the Prevention
18 of Significant Deterioration Program and New
19 Source Review Program.

20 That application details the sources of
21 the emissions, the measures that will be
22 taken to control the emissions, as well as
23 the project's conformance with all
24 applicable state and federal air-quality

1 requirements. It also includes a modeling
2 analysis that demonstrates that the
3 air-quality impacts from the project will
4 comply with National Ambient Air Quality
5 Standards.

6 As I noted yesterday in response to a
7 request for information presented by DES
8 during their review, the application was
9 revised on May 18th of this year, proposing
10 additional emission controls in the form of
11 a dry sorbent injection system, a fabric
12 filter in place of the electrostatic
13 precipitator, and reduced emission levels of
14 particulate and SO2 that came with those
15 changes.

16 On April 26th, the ARD issued a status
17 report to this Committee with a preliminary
18 determination indicating that the project
19 seemed to conform with most of the
20 requirements and included an initial draft
21 air permit at that time.

22 On May 28th, the ARD published notices
23 in the Union Leader and The Berlin Daily Sun
24 of their intent to issue the air permit and

1 opening a public comment period on the
2 application. And on July 1st, there was a
3 public hearing held in the City of Berlin
4 City Hall, on the proposed air permit.

5 I would note that no one from the
6 public, or any state, federal or local
7 agency elected to provide any oral testimony
8 at that hearing.

9 On July 26th, the ARD issued their
10 final determination granting the air permit
11 for the project. And so that has pretty
12 much concluded the air permitting process.

13 As the project will alter greater than
14 100,000 square feet of contiguous terrain, a
15 site-specific alteration of terrain
16 application was included in the SEC
17 application. That is contained in
18 Appendix D. The permit describes the
19 measures that will be used to protect the
20 adjacent surface waters of the Androscoggin
21 River during construction and operation of
22 the project, including erosion and
23 sedimentation controls that will be used
24 during construction, and the stormwater

1 management systems that will be used
2 throughout operation of the project.

3 I'd note that that application also
4 includes correspondence with the U.S. Fish
5 and Wildlife Service and the New Hampshire
6 Natural Heritage Bureau confirming the
7 project will not have any adverse impact on
8 rare, threatened or endangered species.

9 On April 21st, the Water Division of
10 the DES issued their findings and proposed
11 conditions for the alteration of terrain
12 permit to the Committee.

13 The project will also alter terrain and
14 involve development within 250 feet of the
15 Androscoggin River, requiring an application
16 for a shoreland permit that was included in
17 Appendix E of the SEC application.

18 The shoreland program establishes
19 buffers within that protected shoreland
20 area, sets limitations on impervious cover
21 and alterations to woodlands within those
22 buffer zones. And the application actually
23 demonstrates, given the historic altered
24 nature of the site, that the project will

1 actually improve existing conditions with
2 regard to decreasing impervious area and
3 increasing vegetated cover within the
4 protected shoreland areas.

5 The Applicant has also committed not to
6 alter any of the land within 50 feet of the
7 high waterline, which is the most sensitive
8 buffer zone established by the shoreland
9 regulations of the shoreland program.

10 And in that April 21st report to the
11 Committee, the Water Division of the DES
12 issued their findings and proposed
13 conditions for the shoreland permit.

14 The project will discharge wastewater
15 to the city of Berlin municipal sewer
16 system. And the SEC application included
17 applications for a sewer connection permit
18 and an industrial wastewater indirect
19 discharge request. Those applications are
20 included in Appendices H and I,
21 respectively.

22 The applications detailed the sources
23 and characteristics of the project's
24 wastewater and described the measures that

1 will be used to control wastewater quality
2 and minimize the quantity of the discharge.
3 And, again, on April 21st, the Water
4 Division of the DES issued proposed
5 conditions for both permits, along with the
6 sewer connection permit and document itself,
7 and on the next day, April 22nd, the Water
8 Division issued the indirect discharge
9 permit itself.

10 Those are really the major permits that
11 are required for the project from the State
12 of New Hampshire. I would note that,
13 although not a formal permitting process
14 itself, the Applicant and their consultants
15 have worked with the New Hampshire Division
16 of Historical Resource to demonstrate the
17 project will not result in adverse impacts
18 to historic properties in the project area.

19 On June 16th, the Applicant's historic
20 preservation consultant filed a project area
21 form and report summarizing the historic
22 resources in the project area, providing
23 their assessment of potential impacts, and
24 concluding that the project will have no

1 adverse effect on listed historic resources
2 in the area. And on July 23rd, the New
3 Hampshire Division of Historical Resources
4 issued a letter to SEC's counsel, Attorney
5 Iacopino, with their determination the
6 project would have no adverse effect on
7 historic resources and that no mitigation
8 measures are required.

9 And that really summarizes all of the
10 review and approval processes by the State
11 of New Hampshire agencies.

12 Q. Thank you, Mr. Frecker. I would note that
13 there are also -- in the application itself,
14 there are several other documents that do
15 relate to environmental matters. One of
16 those is the stormwater pollution plan for
17 construction activities that appears at
18 Appendix F.

19 In addition, there is a spill
20 prevention and emergency response plan that
21 appears at Appendix L. And I would
22 appreciate it if you would simply provide
23 the context and explain why it is that those
24 have been prepared. For example: Is it

1 correct to understand that those are
2 requirements of federal law, not state law,
3 or at least not federal law that for which
4 there is a state delegation?

5 A. (Freckler) Yes. And you're quite correct,
6 Mr. Chairman, that the project will be
7 required to file a notice of intent with the
8 U.S. EPA seeking coverage under a
9 construction general permit. It is
10 essentially a permit by rule that covers the
11 construction activities. And there was a
12 stormwater pollution prevention plan
13 presented for construction activities in the
14 documents, as well as a general summary of
15 the notice of intent and other provisions
16 covering that stormwater permit by rule.
17 Again, that is managed by the U.S. EPA. The
18 State of New Hampshire does not have
19 delegated authority for that program.

20 There was an application for stormwater
21 from industrial activities, also to the U.S.
22 EPA, that covers the stormwater discharges
23 associated with the project that would occur
24 during operation of the facility. Again,

1 that's a program for which EPA has not
2 delegated authority to the State of New
3 Hampshire but is managed by them.

4 Q. If I may interrupt you. That's what appears
5 at Appendix G; is that correct?

6 A. (Frecker) That is Appendix G. You are
7 correct.

8 Q. Thank you.

9 A. (Frecker) The spill prevention and emergency
10 response plan is really a document that will
11 be further detailed as the design of the
12 project is further developed, as the project
13 will store a large quantity of oil in a
14 tank, an above-ground storage tank that will
15 be subject to the oil pollution prevention
16 regulations that are managed by the U.S.
17 EPA, requiring a spill prevention control
18 and countermeasure plan. And that document
19 is essentially the start of what would be
20 required by those regulations. That is
21 contained in Appendix L.

22 The soil management plan that you
23 referenced that is contained in Appendix M
24 is a document that has been prepared, again,

1 which will be further detailed based upon
2 the additional site investigation work prior
3 to construction activities that I mentioned
4 yesterday, and it is essentially a best
5 management practice to make sure that during
6 the excavation activities all of the soils
7 are properly managed, the construction
8 activities are properly managed and
9 monitored to make sure that there are no
10 adverse impacts to the environment or public
11 safety.

12 I believe that covers those other
13 documents.

14 Q. Thank you. And would I be correct in
15 understanding that the on-site fuel storage
16 capacity will fall under the regulatory
17 authority of the State of New Hampshire
18 under our above-ground storage tank rules?

19 A. (Frecker) That is correct.

20 Q. Thank you.

21 CMSR. IGNATIUS: Mr. Chairman,
22 while we're on the subject of approvals and
23 permits, can I just ask one additional question?

24 CHAIRMAN BURACK: Please.

1 CMSR. IGNATIUS: It's really
2 the converse of the question that Chairman Burack
3 asked; and that is, are there permits or
4 approvals that are still pending that you're
5 awaiting response on; and if so, a little more
6 detail on where things stand?

7 MR. FRECKER: The only -- the
8 construction general permit that I mentioned is a
9 permit by rule. It is a presumptive approval.
10 It only requires filing of a notice of intent
11 with EPA, seeking coverage under that permit. So
12 there's no formal action that's required by an
13 agency on that permit.

14 With regard to the stormwater
15 permit for operations, EPA has that application
16 and has not yet acted upon it. And that permit
17 will be required prior to the facility actually
18 starting operation, but it is not required for
19 the facility to start construction.

20 CMSR. IGNATIUS: Thank you.

21 CHAIRMAN BURACK: Thank you.

22 BY CHAIRMAN BURACK:

23 Q. Mr. Frecker, before you arrived, I had
24 directed the attention of your fellow

1 panelists to a particular section in the
2 statute that governs our proceedings here,
3 specifically R.S.A. 162-H:16, IV, which
4 reads, in part, "The Site Evaluation
5 Committee, after having considered available
6 alternatives..." and continues on from
7 there.

8 MR. RODIER: Excuse me,
9 Mr. Chairman, would you mind reading the rest of
10 that?

11 CHAIRMAN BURACK: I'd be happy
12 to. I'll simply read into the record R.S.A.
13 162-H:16, IV.

14 It reads, "The Site Evaluation
15 Committee, after having considered available
16 alternatives and fully reviewed the environmental
17 impact of the site or route, and other relevant
18 factors bearing on whether the objectives of this
19 chapter would be best served by the issuance of
20 the certificate, must find that the site and
21 facility..." and then it lists three items here.

22 What I would ask you to
23 address at this time, Mr. Frecker, is what
24 available alternatives were considered by the

1 Applicant in preparing this application, and just
2 making the decision to submit this application.

3 A. (Freckler) Sure. As discussed in H2 --
4 Section H2 of the application, the Applicant
5 looked at a number of alternatives, starting
6 from the macro scale of the site itself, the
7 project itself, as to where that would be
8 located. And given Laidlaw's business model
9 to essentially refurbish existing assets and
10 revitalize those assets, it brought them to
11 the Berlin site, given the presence of the
12 existing recovery boiler being a very, very
13 unique situation that is rather unparalleled
14 with other potential opportunities in the
15 state.

16 Beyond looking further down in more
17 detail with regard to the site itself during
18 the application development process, Laidlaw
19 and their engineers, as well as my firm,
20 looked at a variety of alternatives
21 associated with the layout and design of the
22 site, as to where the equipment would be
23 located on the site, as to how access would
24 occur to the site, the layout of roadways

1 around the site, which led to the design
2 that you see in the site plans that are
3 contained in the document, as well as in the
4 large blow-up behind us.

5 And as you can see, initially we had
6 talked about having alternative roadways
7 that led to different access points to the
8 site, and Laidlaw instructed us to arrange
9 those in a manner that afforded the greatest
10 opportunity for leaving a large, contiguous,
11 open area for development of additional
12 commercial properties on the parcel itself.
13 So things were pushed back towards the river
14 that led the front part of the parcel
15 towards Hutchins Street to be available for
16 that future development. The access
17 roadways were positioned in a manner that
18 would lead to easy access to those other
19 properties.

20 With regard to the technologies
21 associated with the project, there were a
22 number of things that were looked at: Wet
23 cooling versus dry cooling, for instance,
24 being one of those, recognizing that dry

1 cooling presents lower operating
2 efficiencies of a project of this nature and
3 has been shown to lead to increased
4 emissions associated with operation of the
5 project.

6 There was evaluation of various
7 emission control systems in the air permit
8 application itself. There is a section
9 called a "Best Available Control Technology
10 Analysis," a BACT analysis, if you will.
11 That analysis goes into fair detail in
12 looking at the various types of emission
13 control systems that provide the highest
14 level of control, recognizing alternative --
15 energy, economic and environmental impacts
16 associated with those alternatives, and
17 arrives at the conclusions of the SCR,
18 Selective Catalytic Reduction system, that
19 would be used to control NOx emissions.

20 Again, we have modified the application
21 to provide an even greater level of
22 particulate control from the electrostatic
23 precipitator to a fabric filter as another
24 alternative. We have further augmented the

1 project with the use of sorbent injection to
2 provide a greater level of SO2 control.

3 So, those are a variety, all the way
4 from the site selection, the site itself,
5 and the various technologies that were
6 evaluated as part of the application
7 process.

8 Q. Thank you.

9 So would I be correct in my
10 understanding that the company did not
11 consider the use of an alternative
12 technology, such as the technology that we
13 heard about yesterday in public comment,
14 this Fischer-Troffer [sic] gasification type
15 of technology? Is that correct?

16 A. (Frecker) I think Mr. Bravakis can speak to
17 that.

18 A. (Bravakis) I could address that.

19 We did consider and talk to
20 manufacturers and providers of alternative
21 combustion technology primarily, rather than
22 a bubbling fluidized bed system, a grate
23 system.

24 Q. Great system?

1 A. (Bravakis) Grate, where you burn the fuel on
2 a grate, a stationary grate or a vibratory
3 grate.

4 We discounted that because it couldn't
5 generate the same amount of steam at a
6 guaranteed rate as the B & W bubbling
7 fluidized bed.

8 We did not seriously consider
9 gasification technology simply because we
10 have not identified any commercially proven
11 gasifier of this size that has operated
12 anywhere that would work in a situation like
13 this.

14 So we discounted that simply from our
15 experience and knowledge that there's -- we
16 consider commercial with respect to biomass
17 combustion of this size.

18 Q. Thank you.

19 Did you consider any other ways that
20 this boiler could be converted or modified
21 to allow it to be used more as a combined
22 heat and power unit?

23 A. (Bravakis) The short answer is no. We saw
24 the opportunity to add the combined heat and

1 power component to the project itself by
2 capturing the heat that's normally wasted on
3 a project like this, typically the heat
4 that's dissipated in the cooling towers, and
5 convert that to hot water to the Gorham
6 facility. We thought that enhanced the
7 efficiency of the project greatly. Beyond
8 that, we did not consider other forms of
9 heat and power combinations because that
10 requires a convergence of the host for a
11 thermal load and the electrical generation,
12 and the Gorham Mill was the only one that
13 provided that constant, 24-hour thermal
14 need.

15 We did -- if I may, we did consider
16 with the engineers at Fraser the possibility
17 of sending them steam, but they had
18 previously looked at this and discounted
19 that because of the cost of putting the
20 steam pipe so far between the two
21 facilities.

22 So it was a conclusion of the analysis,
23 the engineering analysis, that converting
24 the waste heat from the plant through the

1 cooling tower into hot water to go to the
2 Gorham facility was the best combined heat
3 and power application for this project,
4 without diminishing the electrical
5 generation capacity of the facility itself.

6 Q. Thank you.

7 So, would I be correct in
8 understanding, then, that you did not look
9 at the possibility of providing district
10 heating -- for example, with steam or hot
11 air of some -- in some form to businesses or
12 residences in the vicinity of the facility
13 itself?

14 A. (Bravakis) We didn't conduct any engineering
15 studies specific to that. But as I
16 mentioned in my testimony -- or my
17 questioning yesterday, we have entered into
18 an agreement, a stipulation which will be a
19 condition of the permit, that we will
20 investigate that if there is additional heat
21 above and beyond what we've committed to the
22 Gorham facility. And that would be used
23 primarily for businesses that would
24 co-locate on this property as it gets

1 developed into more of an industrial site.

2 Q. Forgive me this question, since I don't
3 understand the details of the technology
4 perhaps as well as you might, but is the
5 sole form of heat that's going to be
6 generated by the facility going to be in the
7 form of hot water?

8 A. (Bravakis) Yes.

9 Q. So you're suggesting, then, that there's
10 only one use or one set of uses that can be
11 made of that hot water?

12 A. (Bravakis) Yes.

13 Q. Thank you.

14 And am I correct, Mr. Frecker, that the
15 place in the application where you discuss
16 the issue of alternatives is at Pages 50 to
17 51 in Exhibit 1, which is the application
18 itself?

19 A. (Frecker) That is correct with regard to the
20 project technology and layout alternatives.
21 As I mentioned, the analysis of other
22 technology alternatives associated with
23 emission controls are contained in the air
24 permit application included at Appendix C.

1 Q. Thank you.

2 CHAIRMAN BURACK: For the
3 moment, that concludes my questions. I'm going
4 to turn things to Attorney Iacopino for
5 questions.

6 MR. HARRINGTON: Excuse me,
7 Mr. Chairman.

8 CHAIRMAN BURACK: Oh, I'm
9 sorry.

10 MR. HARRINGTON: I just wanted
11 to follow up on that question I had from
12 yesterday.

13 CHAIRMAN BURACK: Why don't
14 you go ahead and ask.

15 EXAMINATION

16 BY MR. HARRINGTON:

17 Q. This is more on a financial issue, but it
18 was based on a statement that was made -- I
19 believe Mr. Bravakis made this yesterday.

20 There was a statement made that new
21 biomass plants cost between 4,000, \$5,000 a
22 kilowatt installed, and that you were hoping
23 to do a cost of about half of that by using
24 the existing facilities that were there.

1 And if you look at Page 91 of
2 Exhibit 1, you list the cost of the project
3 at \$110 million. Even if you take the low
4 end of 50 percent of 4,000 and use 70
5 megawatts, that comes out to 140 million; so
6 that's pretty different from 110 million.
7 So which is the more accurate price?

8 A. (Bravakis) I believe the 110 million that
9 you're looking at -- and my colleagues can
10 correct me if I'm wrong -- is construction
11 costs. It does not include the costs -- the
12 soft costs, project financing costs,
13 interest during construction. All of those
14 other costs add up more than you can
15 imagine. So I believe that the final cost
16 is more in the 160, \$170,000 --
17 million-dollar range. So you have to add
18 all of those components to see a total
19 project cost.

20 Q. So you're saying the total project cost
21 would be in the range of 160 million?

22 A. (Bravakis) Between somewhere in there.
23 That's our latest current estimate.

24 Q. Thank you.

1 CHAIRMAN BURACK: I have
2 thought of one other set of questions I just want
3 to review with you quickly, if I may.

4 EXAMINATION

5 BY CHAIRMAN BURACK:

6 Q. I don't recall where I read this, but I
7 recall reading somewhere in the application
8 materials that the efficiency of this unit
9 is approximately 25 percent, in terms of its
10 conversion of the fuel to energy. Is that a
11 correct understanding of the -- of your
12 determination of an efficiency level for the
13 facility? Again, I apologize that I don't
14 recall the specific location where I read
15 this.

16 (Witness reviewing documents.)

17 Q. We can come back to this question later.
18 I'd ask if you could --

19 MR. HARRINGTON: Mr. Chairman,
20 if I could help out on that.

21 CHAIRMAN BURACK: Sure.

22 MR. HARRINGTON: It's on
23 Page 38 of the application.

24 CHAIRMAN BURACK: Thank you,

1 Mr. Harrington.

2 BY CHAIRMAN BURACK:

3 Q. This is at the bottom of Page 38, under
4 Subsection (3)(d). And I'll just read what
5 this says here.

6 This says, "Based on the annual average
7 heat input rate provided by B & W at a fuel
8 moisture content of 37.6 percent, in parens,
9 932 million BTUs per hour, and a gross power
10 output of 70 megawatts, the facility will
11 have a gross heat rate of approximately
12 13,300 BTUs per kilowatt hour. This equates
13 to a fuel-to-gross-power-output efficiency
14 of approximately 25 percent."

15 Is that still, to the best of your
16 knowledge, an accurate --

17 A. (Strickler) I think when the final design is
18 completed, it will probably be a little bit
19 better. But that's in the ballpark, for
20 sure.

21 A. (Bravakis) If I may, I would like to note
22 that that analysis did not include capturing
23 the waste heat for the Gorham Mill. And
24 once that is accounted for, those BTUs are

1 captured, I think that number will increase.
2 And as Mr. Strickler said, that will occur
3 once the final design is completed.

4 Q. Do you have any ability to estimate for us
5 at this point what you think the gross power
6 output efficiency will be?

7 A. (Bravakis) I really can't do that accurately
8 until that analysis has been performed.

9 Q. Okay. But is it your position that, if that
10 hot water is used for that purpose for the
11 Gorham Mill, or for other uses, that that,
12 combined with the use to generate
13 electricity, that you will have maximized
14 the efficiency of this boiler?

15 A. (Bravakis) Yes.

16 Q. Thank you.

17 A. (Bravakis) For the project.

18 Q. That you will have maximized the efficiency
19 of the project.

20 A. (Bravakis) Project, yes.

21 EXAMINATION

22 BY MR. HARRINGTON:

23 Q. Follow up on what you just...

24 And just so I get this straight, you're

1 going to be using -- you're taking water
2 from the Androscoggin River, and you're
3 going to use it to condense your steam --

4 A. (Bravakis) No.

5 A. (Strickler) No.

6 Q. -- that's coming off your cooling system?

7 A. (Strickler) No. I mean, it's a closed
8 cooling water system.

9 Q. Yeah.

10 A. (Strickler) We're just taking the hot water
11 that's going through the condenser before it
12 goes to the cooling tower and extracting
13 heat out of that --

14 Q. That's what I -- so you're taking the water
15 from the Androscoggin and you're taking --

16 A. (Strickler) It's actually --

17 A. (Bravakis) The water's coming from the city.

18 A. (Strickler) -- from the city.

19 Q. Oh, the city itself. And then what do
20 you -- I thought you said yesterday you were
21 heating water from the river for Fraser.

22 A. (Bravakis) No. I'll explain, if I may.

23 This is a filter house. This captures
24 water from the river, filters out sediments.

1 And there's pipes that take this water down
2 to the Gorham Mill. Whatever the
3 temperature of the water in the river is
4 that comes in here, that goes down to the
5 Gorham Mill.

6 At the power house, we need to cool the
7 steam on the condensing side of this with
8 the -- at the surface condenser. That's a
9 closed loop. We can do that a number of
10 ways. As Mr. Strickler said, we looked at
11 air-cooled condensers and water-cooled
12 condensers and decided on the water-cooled
13 condenser.

14 However, by dissipating that heat,
15 instead of in the water-cooled condenser we
16 exchanged that heat in the heat exchanger to
17 the water that's going down to the Gorham
18 Mill, that does the same thing. But instead
19 of dissipating the heat to the atmosphere,
20 it dissipates the heat into usable energy
21 that could be used at the Gorham Mill. So
22 they are using the water. The water that
23 goes into our plant will come from the city.

24 Q. So, basically what you're doing is bypassing

1 your cooling towers --

2 A. (Bravakis) Correct.

3 Q. -- and heating -- using the cooling
4 potential from the water that would go down
5 to Fraser.

6 A. (Bravakis) That's right.

7 Q. Of course, that raises their water
8 temperature; so instead of getting 40-degree
9 water, they're going to get 50-degree water.

10 A. (Bravakis) Well, they're getting 90- to
11 110-degree water, and maybe higher. We're
12 going to investigate.

13 Q. What is the temperature -- what is it
14 they're trying to get to, as far as --

15 A. (Bravakis) Well, anything above -- anything
16 above what they get from the river. They
17 prefer the 190-degree. I'm not sure we can
18 get that high. But we're going to strive to
19 get as much as we can without compromising
20 the electrical output of the facility.

21 So we're going to look at all the ways
22 to capture the waste heat off of the
23 project. The surface condenser looks like
24 obviously the most logical place to do that.

1 Q. Are you using reheaters in the plant at all
2 in the loop for preheaters for your steam?

3 A. (Bravakis) Oh, sure. Yeah, that's -- I
4 mean --

5 A. (Strickler) You mean for -- for the boiler,
6 there's economizers and those kinds of
7 things. But that's just --

8 Q. So this is a boiler just substituting the
9 increased temperature of the water at Fraser
10 for dumping the heat out of the cooling
11 towers.

12 A. (Strickler) Yeah, it takes the load off the
13 cooling tower.

14 Q. Okay. All right. Thank you.

15 CHAIRMAN BURACK: Thank you,
16 gentlemen.

17 Mr. Iacopino.

18 MR. IACOPINO: Thank you.

19 EXAMINATION

20 BY MR. IACOPINO:

21 Q. Yesterday, I believe it was you,
22 Mr. Bravakis, who mentioned that you're
23 going to be keeping a 30-day supply of wood
24 on site. Could you just tell us how much

1 wood that actually is, a 30-day supply?

2 A. (Bravakis) We need to do that calculation.

3 Can I --

4 Q. Sure. Let me move on and we'll come back to
5 that.

6 I want to ask you some questions about
7 the Cousineau agreement. And one thing that
8 confused me yesterday is you indicated
9 that --

10 A. (Bravakis) Excuse me. I'm sorry.

11 Q. I'm going to ask you some questions about
12 the Cousineau agreement. And what confused
13 me yesterday is you indicated that Cousineau
14 is going to have a supply contract with your
15 company to supply all of the fuel for the
16 facility. And you indicated that in some
17 circumstances Cousineau actually takes title
18 to the fuel; is that correct?

19 A. (Bravakis) That's their business model, yes.

20 Q. Do they do that the majority of the time,
21 some of the time, all of the time?

22 A. (Bravakis) I think they do that all the
23 time. That's the way they operate. They
24 buy the chips and then they sell them to

1 their clients.

2 Q. So they're not only a -- it's not like
3 you're outsourcing a division of your
4 company to them. They're actually going to
5 be the organization from whom you are going
6 to buy these wood chips.

7 A. (Bravakis) That's correct. It's a business
8 relationship.

9 Q. What would happen if there is no agreement
10 with Cousineau?

11 A. (Bravakis) If there was no agreement with
12 Cousineau, we would seek to find an
13 agreement with either another entity, or we
14 would take on that role ourselves by hiring
15 personnel to do that ourselves.

16 Q. When you provided estimates of the number of
17 jobs that your facility would provide, were
18 those procurement jobs that you're thinking
19 about right now, were they part of that 40
20 jobs that are going to be there; and are we
21 now going to lose jobs from the Berlin
22 facility as a result of the Cousineau
23 agreement?

24 A. (Bravakis) No, they were -- they did include

1 some procurement personnel. But those
2 procurement personnel from Cousineau,
3 Cousineau will hire and situate their own
4 personnel at our property. So they will
5 still be new employees, but, rather than be
6 employees of the project, they will be
7 employees of Cousineau, located on the site.

8 Q. And is that part of the agreement that you
9 proposed to sign with Cousineau?

10 A. (Bravakis) I don't know the specifics,
11 whether that is or not. But I know I've
12 talked to Cousineau about that, and that's
13 what they indicated. So I would assume that
14 it would be somewhere enumerated in the
15 agreement.

16 Q. And do you know what the number of people
17 is, if you did not have this agreement with
18 Cousineau, that you would likely employ for
19 this part of your endeavor?

20 A. (Bravakis) For the procurement, I think it
21 was two.

22 A. (Strickler) Two people.

23 A. (Bravakis) Two folks.

24 I have -- if I can, Counsel, I've

1 got -- we would have on site 62,500 tons,
2 which is a 30-day supply.

3 Q. Thank you.

4 I want to turn to the pre -- the
5 contract that's been referred to as the
6 pre-EPC contract with Babcock & Wilcox. Let
7 me ask you the same question about that
8 contract that I just asked you about
9 Cousineau.

10 If that contract does not come to
11 fruition, what happens?

12 A. (Strickler) We would seek -- and we had
13 already, actually, through the process of
14 selecting B & W, we talked to several other
15 large engineering procurement construction
16 companies. We actually chose B & W. If for
17 some reason we did not enter into a final
18 agreement with them, we would -- we have
19 several alternatives, the No. 2 and No. 3
20 bidders, that are available to us.

21 Q. Is it my understanding -- at least from the
22 application, it is my understanding that,
23 although Babcock & Wilcox was one of your --
24 was going to contribute to the engineering,

1 you also had another engineering company,
2 Waldron Engineering I believe it is, listed
3 in the -- in your application?

4 A. (Strickler) Waldron Engineering did do some
5 initial work as it relates to the
6 application. Correct.

7 Q. Is the idea now that Waldron will no longer
8 be in the picture?

9 A. (Strickler) That's correct. Yes.

10 Q. So we can disregard the references to
11 Waldron in the application? In other words,
12 they're not going to be going forward on the
13 project?

14 A. (Strickler) That's correct. They're not.
15 They'd be replaced by B & W in terms of the
16 final engineering and construction work.

17 Q. And does the pre-EPC contract, and will the
18 eventual EPC contract, if you sign one with
19 Babcock & Wilcox, or anybody else, make any
20 provisions for where your labor force is
21 going to come from for the construction?

22 A. (Strickler) Yes.

23 Q. Does it make any provisions for whether that
24 labor force will be a union labor force or

1 an open shop?

2 A. (Strickler) It does make provision. It will
3 be B & W will do them on a -- with the
4 building trades of New Hampshire.

5 Q. Because at the public hearing we heard a lot
6 of support for the project from Mr. Casey
7 and a Mr. Durant. One was from the
8 electricians union and one was from the
9 ironworkers union.

10 Is it still the intention, given these
11 new contracts of your company, to employ
12 your construction force, at least, through
13 the local trade council?

14 A. (Strickler) Yes. In fact, there have been
15 meetings already with B & W and the building
16 trades, in terms of pulling together the
17 necessary understandings and agreements to
18 move forward, you know, with using the
19 building trades to build the facility.

20 Q. Okay. Thank you.

21 My next set of questions deals with the
22 sound and noise issues.

23 If I understand correctly, the City --
24 the agreement with the City -- and this is

1 Mr. Frecker that deals with this; correct?

2 The agreement with the City limits the
3 noise, for lack of a better word, to 70 dBA
4 at the property line; is that correct?

5 A. (Frecker) That is correct.

6 Q. Are you familiar with the FERC standard for
7 noise and the way that they deal with noise
8 issues from, like, gas-compression stations
9 and facilities of that sort?

10 A. (Frecker) Not in detail.

11 Q. Okay. Let me tell you that we recently had
12 a proceeding here where there was a
13 gas-compression station in Pelham, New
14 Hampshire that was constructed by Tennessee
15 Gas. And in that proceeding there was a
16 fair amount of dispute over what the sound
17 level should be. And the Committee issued a
18 final decision in that particular case
19 limiting the sound to 55 dBA at the noise --
20 there were certain areas where there was
21 residences, so there were receptors or
22 noise-sensitive areas designated.

23 And I guess the question that I have
24 for you is, why should the Committee be

1 considering such a higher level of noise for
2 this particular project than they would in a
3 gas-compression station which actually has
4 federal regulations for noise?

5 A. (Frecker) I think I can offer two answers to
6 your question. And this question was posed
7 in Technical Session 1, and we offered some
8 answer to it in our request to -- in our
9 response to those data requests.

10 First and foremost, with regard to
11 meeting a 55 dBA sound level, the background
12 measurements in the community itself around
13 the site indicate that existing ambient
14 sound levels are above 55 decibels. So,
15 achieving that level would require
16 ostensibly remediation of existing sound
17 levels, which just doesn't seem practical.

18 Further, we felt that it was consistent
19 with the determinations that had previously
20 been made by the City itself that those
21 sound levels were acceptable for what they
22 would seek to impose upon any other
23 commercial or industrial enterprise
24 developing in the City, and we sought

1 similar treatment.

2 Q. Do you think that there is any difference
3 between the types of measurements? As I
4 indicated, the FERC standard measures the
5 sound not at a property line but at the
6 nearest noise receptor. Is there any
7 distinction to be made as we consider this,
8 or as the Committee considers this, between
9 that type of measurements -- the types of
10 measurements that are being considered? Are
11 we dealing with apples and apples?

12 A. (Freckler) Not entirely, because there is
13 certainly a diminishing of sound with
14 distance. So, depending upon how far away
15 those receptors are from the property line,
16 a 60 dB property line level may actually be
17 a 55 decibel at a more distant receptor.

18 Q. And is there any part of any of the
19 application that's been submitted that would
20 give the Committee any idea on what it might
21 be -- for instance, what the sound level
22 might be at the church, what the sound level
23 might be at the school, what it might be
24 downtown?

1 A. (Frecker) There are. The modeling conducted
2 for the project was summarized in tables
3 presented. If you look in particular at
4 Table (h)(3)(ii)-9, it provides a comparison
5 of noise levels predicted for the project
6 and measured background sound levels at
7 various locations.

8 Q. Is that from the application, Exhibit 1,
9 itself?

10 A. (Frecker) Yes, it is.

11 Q. Do you have just the page number? It would
12 be easier.

13 A. (Frecker) Actually, there's a section that
14 includes all of the tables. So if you go
15 after the text of the document, there is a
16 section titled "Tables." And if you go, I
17 believe, to pretty much the last table in
18 that section, it is the table that I just
19 mentioned.

20 Q. All right. Can you give us some -- like
21 illustrate for us what those sound levels
22 are predicted to be at the various
23 locations?

24 A. (Frecker) Sure. The table basically

1 presents the analysis, the results of the
2 modeling analysis at five different
3 locations in and around the city, which are
4 shown graphically on two different figures
5 in the documents, in the Figures section,
6 which are Figures (h)(3)(ii)-1 -- I seem to
7 be missing the other one. Yeah, I believe
8 (h)(3)(ii)-2 shows the location of these
9 various receptors, if you will, that were
10 included in the modeling analysis. And in
11 the table they're labeled as ST-1 through
12 ST-5. And if you look at the figures that I
13 referenced, you can see that ST-1 is
14 essentially located in the general vicinity
15 of the downtown area of the city of Berlin.
16 Receptor ST-2 is more distant as you go up
17 the hillside, more into the residential
18 community in the city of Berlin. ST-3 is
19 located on the western end of the site, in
20 the area of -- and I never pronounce this
21 correctly, but I'll say Napert Village.

22 CHAIRMAN BURACK: Sir, let me
23 interrupt. You say the western end. Do you mean
24 the eastern end?

1 MR. FRECKER: The Eastern end.
2 Thank you.

3 CHAIRMAN BURACK: Thank you.

4 A. (Frecker) And ST-4 is located across
5 Hutchins Street, essentially the middle
6 southern portion of the site.

7 CHAIRMAN BURACK: And if I may
8 interrupt you again? Can you help us understand
9 on this figure approximately how that ST-4
10 location equates to the gate through which the
11 truck traffic would be entering the facility?

12 MR. FRECKER: Sure. If I
13 refer to this figure --

14 CHAIRMAN BURACK: You're
15 looking at the large plan that you have up here
16 for us?

17 MR. FRECKER: That's correct.
18 That ST-4 location is approximately here
19 (indicating). And the entrance to the site is
20 located some distance to the northeast from
21 there, up Hutchins Street.

22 CHAIRMAN BURACK: Thank you.

23 A. (Frecker) And then, lastly, ST-5, also
24 located on the southern -- across Hutchins

1 Street to the south, is more within the
2 residential community, set back further.

3 And so with that background, I'll just
4 simply note that the table that I referenced
5 provides background levels that were
6 measured during various periods of a couple
7 of days of monitoring in the city itself.

8 For instance, at location ST-1, the
9 downtown location, during the daytime period
10 you can see background levels that are 65,
11 66 decibels, nighttime levels about
12 52 decibels. And then it shows the
13 predicted impacts of the project being about
14 57 decibels at that location during the
15 daytime periods, about 54 decibels during
16 the nighttime periods.

17 CHAIRMAN BURACK: And, again,
18 just to be clear here, you're turning to the next
19 page to give the predicted -- where are you
20 getting these predicted numbers from?

21 MR. FRECKER: I'm referring to
22 the table that I referenced, (h)(e)(ii)-9.

23 CHAIRMAN BURACK: I'm sorry.
24 Give me just a moment here to get there. Thank

1 you. Okay.

2 MR. FRECKER: You see, in the
3 second column it says Background, Facility and
4 Total for each one of the time periods during the
5 day?

6 CHAIRMAN BURACK: Yes. Thank
7 you.

8 MR. FRECKER: So the
9 background measurements are representative of
10 existing conditions; the facility is the sound
11 pressure levels that would be generated by the
12 facility itself; and the total is what would be
13 projected for when the project is actually built
14 and operating.

15 And so you can see with regard
16 to that location, ST-1, again representative of
17 the downtown area, that during the daytime,
18 background levels around 65, 66 decibels under
19 existing conditions, and then modeled when the
20 project is operating, at 66 to 67 decibels;
21 essentially about a one decibel increase. It's
22 commonly accepted that sound pressure level
23 changes of 3 decibels are pretty much
24 imperceptible to most people.

1 And you can see similar
2 results as you look -- of more concern with
3 location ST-2, being as you go up the hill across
4 the river from the project into the residential
5 community, existing daytime levels of 56, 58,
6 59 decibels; and with the project, those sounds
7 levels are projected to increase on the order of
8 1 to 2 decibels.

9 CHAIRMAN BURACK: Thank you.

10 BY MR. IACOPINO:

11 Q. That leads to my next question, and that's
12 about the site in general. So I don't know
13 who is the appropriate person to answer.
14 But, please, whoever it is.

15 It seems to me that part of what you're
16 trying to do here, in addition to build your
17 power plant, is to also make the balance of
18 this site as attractive to additional
19 industries as possible through providing hot
20 water, if it's available, and things like
21 that.

22 I guess the question I have is -- if
23 you're successful in that regard, that's
24 going to increase these types of impacts

1 from noise, and obviously there will be more
2 construction on the site and things like
3 that. Do you have any -- as far as you're
4 concerned, do you have any control, your
5 company, over any portion of the remaining
6 site and how it will be developed?

7 A. (Bravakis) Yes. We own the entire site. So
8 we will be in control of how that gets
9 developed.

10 Q. And when you say "in control," by virtue of
11 determining who you sell it to?

12 MR. RODIER: Excuse me. I
13 just wondered if we could clarify who "we" is.

14 MR. BRAVAKIS: Laidlaw Berlin
15 BioPower, LLC.

16 BY MR. IACOPINO:

17 Q. And you say you have the control over that
18 by making a determination as to who you
19 would lease or sell portions of the property
20 to.

21 A. (Bravakis) Yes, sir.

22 Q. Does your company have any present plans to
23 develop, on your own behalf, any portions of
24 that property at this time?

1 A. (Bravakis) No, sir.

2 Q. How does an industrial use of this remaining
3 portion of the facility -- please tell us
4 how this fits in with the planning laws of
5 the town, the master plan, things like that?

6 A. (Bravakis) We have not investigated that in
7 detail at all. We understand this is an
8 industrially zoned property. And we also
9 understand that there is a desire for
10 economic development and activity in the
11 community. And it's on those two
12 assumptions that we have maintained this
13 option.

14 But we are -- just to be clear, we are
15 actively and focused on developing our
16 project. But we didn't want to do it in a
17 manner that would preclude the further
18 development of the site for other economic
19 activities.

20 I would like to perhaps clarify
21 something. The property is owned by PJPD,
22 not --

23 MR. RODIER: Thank you.

24 MR. BRAVAKIS: So I want to --

1 the project, Laidlaw Berlin BioPower, is with
2 respect to the project. So I just wanted to make
3 that point of clarification when you asked me for
4 it.

5 CHAIRMAN BURACK: Could I just
6 follow up on that, please?

7 The property is owned by PJPD.
8 There is a long-term lease between PJPD and
9 Laidlaw Berlin BioPower, LLC; is that correct?

10 MR. BRAVAKIS: Yes.

11 CHAIRMAN BURACK: And we have
12 been provided a copy of that long-term lease as
13 part of the materials?

14 MR. NEEDLEMAN: The
15 Committee's been provided with a package of
16 confidential materials that contains the
17 development documents. And I cannot recall, off
18 the top of my head, whether the lease is part of
19 that package. But we will look.

20 CHAIRMAN BURACK: Counsel, if
21 you could let us know.

22 And I think a related question
23 to that really comes back to this issue; and that
24 is, ultimately, is it going to be PJPD, or is it

1 going to be Laidlaw Berlin BioPower, LLC who is
2 going to be the decision-maker on what happens to
3 the remaining portions of the property that are
4 being leased to Laidlaw Berlin BioPower?

5 MR. BRAVAKIS: I would prefer,
6 if it's okay with you, Mr. Chairman, to defer
7 that question to my colleague, Mike Bartoszek,
8 when he talks about the business structure of the
9 relationships.

10 CHAIRMAN BURACK: That will be
11 fine. Thank you.

12 MR. BRAVAKIS: Thank you.

13 BY MR. IACOPINO:

14 Q. All right. Mr. Bravakis, my next question
15 deals with something Director Stewart had
16 raised yesterday, and that is basically
17 having a way to report whether or not your
18 sustainability standards are being met.

19 And I understood everything that you
20 said. I just have one question, though,
21 because you raised an issue about there was
22 a confidentiality issue involved. And I
23 didn't quite understand what you meant by
24 that, because, as I understand it, every

1 logger who goes out to cut has to file a
2 public document with the state or the town,
3 a notice of intent to cut, and then a
4 harvest report, so that these numbers are
5 all part of the public domain, as far as I
6 know. Am I correct in that?

7 A. (Bravakis) As far as I understand, you are.

8 Q. Why the confidentiality then?

9 A. (Bravakis) I believe what I was alluding to
10 was perhaps a desire for Cousineau to
11 protect its sources of where it sources the
12 wood and where it sends the wood, not to
13 circumvent any reporting requirements of the
14 state. So I didn't want to miss -- make a
15 misstatement and perhaps misspeak and put
16 Cousineau in a position where it might
17 jeopardize its sources and its confidential
18 business relationships with the people that
19 it procures fuel from and supplies fuel to.

20 Q. So I guess a part of what you're telling us,
21 then, is that in your supply -- well, maybe
22 I'll ask you directly.

23 Are you going to require, as part of
24 your supply agreement, that Cousineau obtain

1 wood from within a certain geographic area?

2 A. (Bravakis) I believe our supply agreement
3 instructs Cousineau to adhere to the
4 sustainability policies and anything in the
5 stipulations that we have with the City
6 pertaining to wood procurement, which gives
7 preference, without economically
8 compromising the project, to local
9 suppliers. So they will be required to and
10 obligated to adhere to those policies and
11 agreements that we already have in place,
12 which gives preference to local suppliers.

13 Q. But it doesn't prohibit Cousineau from going
14 out further, going further south, going to
15 other states?

16 A. (Bravakis) No, sir.

17 Q. I've got a couple of just housekeeping
18 questions on the fly ash. And it may not be
19 the right people here. But I thought I
20 heard somewhere that the fly ash could be
21 used in the production of fertilizer. Is
22 that correct?

23 A. (Bravakis) Yes.

24 Q. And the ash silo, there are no set

1 dimensions for that yet? Am I correct in
2 understanding that?

3 A. (Bravakis) Not yet.

4 A. (Strickler) That's correct.

5 Q. Do we know when you'll have an idea of what
6 the dimensions of this silo should be?

7 A. (Strickler) Soon. I mean, we made the
8 request to the engineers yesterday.

9 Q. Okay. But it's one thing just to tell us
10 what would be needed to hold a certain
11 amount of ash --

12 A. (Strickler) Right. I understand.

13 Q. My question is, what's it going to look
14 like?

15 A. (Strickler) Oh, just kind of
16 descriptive-wise?

17 Q. Right. In other words, is it going to be as
18 high as the building? Is it going to be
19 lower than the building? You know, things
20 like that. If you could give us some idea,
21 because one of the charges of this Committee
22 is to consider the aesthetics as well. And
23 I know you put up a nice exhibit with what
24 you expect the facility to look like, but we

1 would like to know -- I think the Committee
2 would like to know where that ash silo is
3 going to be and what it either adds or
4 detracts from what you've presented to us.

5 And, finally, Mr. Bravakis, I have a
6 question for you right now about this
7 discussion we've had about the wood fuel
8 supply and the tops and branches and the
9 efficiencies that will occur. I don't know
10 if anybody's told you yet. We're going to
11 ask that you stay up here when the
12 LandVest --

13 A. (Bravakis) Right. I understand.

14 Q. This one is just because you mentioned it so
15 many times. If I understand correctly, New
16 Hampshire has no written standard or
17 guidance for the amount of tops and branches
18 that are presently left on the forest floor?

19 A. (Bravakis) That's my understanding.

20 Q. Other jurisdictions do; is that correct?

21 A. (Bravakis) Yes, sir.

22 Q. And the reason is, is that by leaving some
23 biodegradable matter in the forest
24 contributes to the forest's regrowth;

1 correct?

2 A. (Bravakis) Uh-huh.

3 Q. You have to answer --

4 A. (Bravakis) Yes. I'm sorry.

5 Q. And my understanding, from what your
6 testimony is, is that you expect that the
7 market will drive those folks who work in
8 the forest to capture more of the tops and
9 branches, potentially up to about
10 70 percent, because of the increased demand
11 for biomass.

12 A. (Bravakis) Yes.

13 Q. And I understand that other states may have
14 standards and guidelines or even rules about
15 this. But do you know of any study or any
16 article or anything that you could point to
17 that -- and I understand the common sense
18 behind it. But is there any article or
19 study that you could actually point to that
20 actually documents that, you know, a new
21 source of demand will do that in this
22 particular industry with respect to this
23 by-product of forestry?

24 A. (Bravakis) Excuse me. I'm not being rude.

1 I just got an e-mail, and I'm trying to
2 see... there is a new publication that's out
3 called Woody Biomass Retention Guidelines.
4 I can look into that further and get a copy
5 if I feel it's appropriate for what you're
6 asking. I will research that and get you
7 information with respect to that, if that's
8 acceptable.

9 Q. That would be good. If it's a new article,
10 we'd certainly welcome that, unless the
11 Chairman says no.

12 CHAIRMAN BURACK: I think it
13 would be helpful if you would research that.

14 MR. BRAVAKIS: Give me a day
15 or two, please.

16 MR. RODIER: If it would be
17 helpful, we have a copy of that with us.

18 MR. IACOPINO: Wonderful.
19 Thank you.

20 MR. RODIER: So if we give it
21 to you, would you --

22 MR. IACOPINO: I can get a
23 copy.

24 MR. RODIER: We'll give it to

1 you at the break.

2 MR. IACOPINO: Thank you.

3 MR. RODIER: Certainly.

4 BY MR. IACOPINO:

5 Q. I'm going to have -- Mr. Bravakis, I'm going
6 to have a lot more questions for you and for
7 the LandVest witness with regard to the wood
8 supply issue, but I'll wait until we've had
9 the opportunity to hear from LandVest.

10 MR. IACOPINO: I don't have
11 any further questions, Mr. Chairman.

12 CHAIRMAN BURACK: Thank you.
13 We're just going to go off the record for a
14 moment.

15 (Discussion off the record)

16 CHAIRMAN BURACK: Here's what
17 I'd like to do, depending on how much longer this
18 will take. I want to give an opportunity for any
19 other members of the Subcommittee who have
20 additional follow-up questions to ask those.

21 And then, Attorney Needleman,
22 do you have some additional direct that you wish
23 to do with any of these witnesses? Any
24 additional questions you wish to put to them at

1 this time?

2 MR. NEEDLEMAN: Not at this
3 point.

4 CHAIRMAN BURACK: You do not.
5 Okay.

6 Do you have some additional --

7 MR. RODIER: Just two
8 questions, two very narrow questions.

9 CHAIRMAN BURACK: Okay.
10 Counsel for the public, do you have any
11 additional questions at this time?

12 MR. BROOKS: A couple, yes.

13 CHAIRMAN BURACK: A couple?
14 Do you have any questions?

15 MR. SCHNIPPER: I have one
16 question, just from what I just heard.

17 CHAIRMAN BURACK: All right.
18 What we'll try to do, if we can, and we'll see if
19 we can get through this fairly quickly, is we'll
20 try to go through these wrap-up questions here
21 and see if we can complete this panel and then
22 we'll take a break. If it looks like it's going
23 to go longer, we'll take a break sooner.

24 I do have --

1 MR. ROTH: Mr. Chairman, if I
2 may?

3 CHAIRMAN BURACK: Yes.

4 MR. ROTH: Yesterday when the
5 panel was first introduced, there was mention of
6 the new B & W agreement and -- it's escaping me
7 at the moment. And there's also a Homeland
8 Renewable Energy agreement. And it was suggested
9 that, once those documents were made available to
10 the parties, there would be an additional
11 opportunity to have cross-examination of this
12 panel based upon review of those documents. And
13 I just want to understand if it's still the
14 intention of the Committee to allow that
15 opportunity at some point, presumably tomorrow, I
16 would imagine, since we don't have the documents
17 yet.

18 CHAIRMAN BURACK: Counsel,
19 thank you. It is my intention to provide an
20 opportunity for the parties who will be allowed
21 access to those documents, based on the
22 protective order, assented-to motion that I
23 granted earlier today. It is my intention to
24 provide an opportunity for us to ask questions

1 about them. That could potentially occur as
2 early as this afternoon. It could also be
3 tomorrow. But I would suggest that we hold our
4 questions collectively on those until we've all
5 had a chance to see those documents, and then we
6 will hold a closed session for that purpose.

7 MR. ROTH: Okay.

8 CHAIRMAN BURACK: Okay?

9 MR. ROTH: Thank you. I still
10 have a couple for them at this point.

11 CHAIRMAN BURACK: Of course.

12 Thank you.

13 I do have one other question
14 for this panel.

15 EXAMINATION

16 BY CHAIRMAN BURACK:

17 Q. We heard discussion yesterday, questioning
18 relating to the capacity factor of this
19 facility. Mr. Bravakis or Mr. Strickler, I
20 believe you testified? One of you testified
21 to that.

22 A. (Strickler) Yes.

23 Q. Was it you, Mr. Strickler?

24 A. (Strickler) Yes.

1 Q. Could you define for us, first, what
2 capacity factor means in this context?

3 A. (Strickler) Sure. You take the design
4 output, net output, and assume that it runs
5 the entire -- for every single hour of the
6 year. And then, taking the difference
7 between a hundred and whatever the capacity
8 factor is, is the part of the basis of how
9 many megawatt hours is produced during a
10 particular year. I don't think I did a very
11 good job of that.

12 So, essentially, you just assume a
13 hundred-percent capacity would be 63
14 megawatts for the entire year, okay. And we
15 believe it will be 87-1/2-percent capacity
16 factor. So it's 87 percent of that number
17 would be the number. It is a -- it's not an
18 availability. It's actual capacity. We
19 call it capacity factor based off of a
20 hundred.

21 Q. So if I may try to summarize this -- and
22 tell me if I've captured this accurately or
23 not. What a capacity factor is telling us
24 is the amount of time, and therefore the

1 amount of energy that will be generated
2 overall -- the amount of time the facility
3 will operate and, therefore, the amount of
4 energy that will be generated by the
5 facility over the course of a year as a
6 percentage of the total potential capacity.

7 A. (Strickler) Right. It's time and output
8 combined. So you could run at 50-percent,
9 you know, output for an hour, okay, and --
10 but then, when you add all those up over the
11 course of a year, you know, you could be
12 also running at a hundred percent for, you
13 know, 50 hours. So it just takes all that
14 into account.

15 So it's not trying to -- it's a
16 combination of both output and time that it
17 was operating at a particular output.

18 Q. Thank you.

19 So you told us yesterday, and you
20 reaffirmed this today, that you're
21 anticipating a capacity factor for this
22 facility of 87.5 percent.

23 A. (Strickler) That's right.

24 Q. Do you have any sense as to how that

1 compares with other similar facilities?

2 A. (Strickler) It's fairly consistent with
3 other facilities that I'm aware of. You
4 know, they can range from, you know, 80 to
5 95. Normally, plants can't run a hundred
6 percent because there's always a period of
7 time where you need to shut down for, you
8 know, some sort of preventive maintenance
9 and inspection program. So, you know,
10 between 80 and 95 would be a good, you know,
11 sort of range where most plants actually
12 operate in a given year.

13 Q. So, again, the factors that would cause a
14 plant to not operate would be what?

15 A. (Strickler) Two things: Unforced outages --
16 that is, equipment breakdown or failure; and
17 scheduled outages, where the plant is
18 scheduled to go down to do certain
19 preventive maintenance and inspections of
20 the entire facility.

21 Q. So how does a time period when the facility
22 is not dispatched by ISO, how does that play
23 into the capacity factor calculation?

24 A. (Strickler) In my view, that would always be

1 considered. That's part of the capacity
2 factor calculation. So most plants do have
3 some period of time where the
4 interconnection system is down or there's
5 some curtailment required by the
6 interconnection provider. So a lot of times
7 that's considered in that capacity factor.
8 It's a calculation.

9 Q. So that's a third --

10 A. (Strickler) A third, sure.

11 Q. -- a third element in addition to the --

12 A. (Strickler) There's other things. You know,
13 there are fuel interruptions or other kinds
14 of events that could occur. You know,
15 blizzards sometimes prevent fuel from
16 getting to the plant. Other kinds of, you
17 know, unusual circumstances could cause the
18 plant to have to curtail operations. In our
19 case, you know, with a 30-day supply, some
20 sort of interruption is not -- we wouldn't
21 expect to cause the plant to come off-line.

22 CHAIRMAN BURACK: Thank you.

23 Dr. Kent, you had a question?

24 DR. KENT: Maybe 15 to 30

1 minutes. You might want to break.

2 CHAIRMAN BURACK: Can you tell
3 me, does it relate to the wood supply issues?

4 DR. KENT: Wood supply,
5 general knowledge of the forest industry,
6 sustainability documents.

7 CHAIRMAN BURACK: Let me
8 suggest that we save and hold all of those
9 questions for the following panel, which is going
10 to involve Mr. Bravakis and a representative of
11 LandVest, who was, I believe, one of the authors
12 of that study. But we'll get further information
13 on that.

14 So are there other questions
15 that are not on wood supply or wood-related
16 issues that members of the Subcommittee have?
17 Ms. Muzzey.

18 DIR. MUZZEY: Earlier this
19 morning you had asked -- the Chair had ask for an
20 interpretation of the assigns for Public Counsel
21 Exhibit 2, I believe. Yeah, the transformer area
22 one. And if you agree, as Chair, I am wondering
23 whether we can get a similar interpretation for
24 Public Counsel Exhibit 3, Dummer Yard leachate?

1 CHAIRMAN BURACK: Thank you
2 for that suggestion. If I may -- and Attorney
3 Needleman, correct me if I'm mistaken here -- I
4 believe we heard testimony yesterday to the
5 effect that the agreement for the treatment of
6 Dummer Yard leachate would not be applicable to
7 your client. Is that your position at this
8 point?

9 MR. NEEDLEMAN: That's my
10 understanding.

11 CHAIRMAN BURACK: Okay. Thank
12 you.

13 Having said that, I think
14 there is a potentially related question
15 pertaining to Public Counsel Exhibit 1, which is
16 the covenant not to sue in regard to the
17 acquisition of Berlin, slash, Gorham Mills, the
18 Mount Carberry landfill and certain hydroelectric
19 assets.

20 I think with respect to this
21 document, in addition to Public Counsel
22 Exhibit 2, it would be helpful if you could
23 provide us with clarity on which of the
24 entities -- I know we're going to get into

1 further discussion of all the entities with Mr.
2 Bartoszek later -- but which of the entities in
3 this corporate structure here you would
4 understand to either benefit from or be bound by
5 this covenant not to sue.

6 MR. NEEDLEMAN: I think I can
7 probably answer your earlier question and this
8 one together, after having an opportunity to
9 consult about this. PJPD, as the owner of the
10 property, as I understand it at the moment, is
11 the entity that would bear responsibility for the
12 T1 matter. What I need to determine further at
13 the break is whether or not those
14 responsibilities have been assigned under the
15 lease to LBB. And we will ascertain that and let
16 you know.

17 With respect to the covenant
18 not to sue, my understanding is that that
19 document runs to the benefit of the next property
20 owner, which would be PJPD. And I would also
21 note it may be an issue that public counsel wants
22 to take up later. But Public Counsel Exhibit 4,
23 which was reserved for today, also relates to
24 that matter.

1 CHAIRMAN BURACK: Thank you.

2 And while we are on the
3 subject of Public Counsel Exhibit 4, have you --
4 we have received a copy of that document, as I
5 understand it?

6 MR. BROOKS: Yes, you did.

7 CHAIRMAN BURACK: So that is
8 on the record. And do we have copies of that to
9 provide to the members of the Committee?

10 MR. IACOPINO: No.

11 CHAIRMAN BURACK: All right.
12 We will make additional copies of that at the
13 break and distribute that to the members of the
14 Committee. Thank you.

15 MR. BRAVAKIS: Mr. Chairman,
16 could I be so bold as to ask for a little break
17 just to go to the bathroom?

18 CHAIRMAN BURACK: Why don't we
19 do this. We will --

20 MR. ROTH: Mr. Chairman, on
21 Exhibit 4, are we going to have more discussion
22 about that later?

23 CHAIRMAN BURACK: Yes, I think
24 we will have to have an opportunity to do that

1 later. Although, I think, given the conditions,
2 we will take a break here. Why don't we take a
3 break until five minutes of 11:00 by that clock
4 and then back in the room. Thank you.

5 (Public Council Exhibit 4 marked for
6 identification.)

7 (Whereupon a recess was taken at 10:45
8 a.m. and hearing resumed at 10:58 a.m.)

9 CHAIRMAN BURACK: I'd like to
10 resume, please.

11 Before we return to questions
12 of this panel, I'm going to ask Attorney Iacopino
13 to mark for the record and introduce or describe
14 additional exhibits that we have received, which
15 will be subject to the assented-to motion for
16 protective order that I granted earlier this
17 morning.

18 MR. IACOPINO: Thank you,
19 Mr. Chairman.

20 I have a document that's been
21 provided by the Applicant that will be referred
22 to as Laidlaw Berlin BioPower LLC Exhibit 61.
23 And that is the -- it's marked "Confidential."
24 It is the, "Pre-EPC Contract, Execution Version"

1 is the title in the upper right-hand side.
2 Again, this is a confidential exhibit. I'm going
3 to pass them around and ask that the Committee
4 members mark it for their own files and also mark
5 them as confidential as well.

6 CHAIRMAN BURACK: Again, the
7 number on that is?

8 MR. IACOPINO: Applicant's
9 Exhibit 61.

10 CHAIRMAN BURACK: Thank you.
11 (Laidlaw CONFIDENTIAL Exhibit 61 marked
12 for identification.)

13 MR. IACOPINO: The next
14 exhibit is marked as Confidential, Laidlaw Berlin
15 BioPower LLC Exhibit 62. It's entitled "Biomass
16 Fuel Supply Agreement, Draft Version." As I
17 understand, I've just been advised that the
18 Applicant still has to redact this particular
19 document before providing it to Clean Power
20 Development. But we do have the copies for the
21 Committee. And again, this is 62, Applicant 62,
22 and it's a confidential -- subject to the
23 confidentiality order that you issued earlier
24 this morning.

1 MR. HARRINGTON: Mike, we need
2 one more 61 down here.

3 MR. IACOPINO: I'll get --

4 MS. VAUGHN: I have more.
5 Here's one more 61.

6 MR. IACOPINO: Okay. Who
7 needed the --

8 CMSR. IGNATIUS: Me.

9 MR. HARRINGTON: And both of
10 these are confidential?

11 MR. IACOPINO: Yes, both of
12 them are confidential. Let me just make sure
13 there's enough copies to make it all the way down
14 again. Is there going to be enough?

15 MR. HARRINGTON: Short one
16 again.

17 MR. IACOPINO: Cathy, do you
18 have one more of the Biomass Fuel Supply? Thank
19 you very much. And that's Exhibit 62. Thank
20 you.

21 (Laidlaw CONFIDENTIAL Exhibit 62 marked
22 for identification.)

23 CHAIRMAN BURACK: Thank you.

24 I'd like now to resume

1 additional questioning from members of the
2 Subcommittee. Any other questions for that
3 portion of the panel? No?

4 Okay. Mr. Northrop.

5 MR. NORTHROP: Yes, I just
6 have one quick question back on the issue of
7 permits.

8 EXAMINATION

9 BY MR. NORTHROP:

10 Q. Are you required to get any permits from the
11 City of Berlin? I know you've worked with
12 them creating the certificate conditions and
13 the landscaping plan and the river walk
14 plan. But are you actually required to get
15 any permits or approvals from the City
16 itself?

17 A. (Bravakis) No, sir.

18 Q. Okay. Thanks.

19 CHAIRMAN BURACK: Mr. Harrington.
20 ton.

21 EXAMINATION

22 BY MR. HARRINGTON:

23 Q. Yeah. Going back onto the subject of
24 capacity factors for a second.

1 You had stated that your capacity
2 factor was estimated to be 87.5 percent,
3 which involved numerous things: Forced and
4 unforced outages, fuel disruptions,
5 transmission issues and so forth.

6 Now, given the other testimony that --
7 the pretrial testimony -- or prefiled
8 testimony here, there's going to be some
9 question about the ability to -- of the
10 so-called Coos Loop to handle all the
11 potential output coming from the plants up
12 there, including the Granite Reliable plant
13 and the Laidlaw plant, possibly Clean
14 Development, as well as the existing ones.

15 Given that, in your 87.5 percent, did
16 you include any provision for non-economic
17 dispatch due to transmission constraints
18 when you calculated that figure?

19 A. (Strickler) Non-economic dispatch?

20 Q. In other words, the ISO did not dispatch you
21 because only X amount of power can make it
22 out that day, and that was filled by -- or
23 at least partially filled, so you couldn't
24 operate at a hundred percent -- by let's

1 just say Granite Reliable Wind, and there
2 wasn't enough room left on the line for you
3 to put out a hundred percent of your power.

4 A. (Strickler) My numbers are sort of typical.
5 And generally there is allowance, if you
6 will, in terms of what the capacity factor
7 is and what -- you know, what amounts
8 contribute to that sort of lost
9 production -- lost capacity factor; that's
10 the 12-1/2 percent. So, you know, it could
11 be anywhere between, you know, 1, 2 percent
12 potentially is in that number. But there's
13 no -- we have no specific number that we've
14 sort of allocated to that.

15 Q. Okay. That's just what I wanted to make
16 clear.

17 A. (Strickler) And it could be -- yeah.

18 Q. You may have had for just general
19 transmission outages --

20 A. (Strickler) Exactly. It would be for any
21 sort of reasons.

22 Q. There's no specific -- it's kind of a unique
23 case where everyone's interconnecting under
24 a minimum connection standard that does

1 allow for a situation that a line is
2 overloaded --

3 A. (Strickler) That's right. And, typically,
4 my experience is that every plant does --
5 you know, has some impact, some lost
6 capacity factor as a result of transmission
7 or interconnection issues, whether it would
8 be for, you know, curtailments due to load
9 conditions, or even, you know, lightning
10 strikes and things of that nature.

11 Q. Ice storms around here.

12 A. (Strickler) Ice storms, yeah.

13 Q. One other question. This is on the emission
14 controls issue. I asked previously on the
15 new EPA boiler rules, and basically the
16 answer was that you don't know what they are
17 yet, so you really can't do much. But, you
18 know, if they came to fruition, you might
19 have to revise the type of equipment in
20 order to meet those requirements.

21 In the air permit, there's a section on
22 emission offsets, talking about NOx
23 emissions. And this is on Page 16 of 19 of
24 Exhibit 50, if you want to get there. And

1 it's Section 10. And it's subject to the
2 NOx emission offset requirements. Since the
3 facility is located outside the four-county
4 ozone-classified, non-attainment area... and
5 then it tells you how much you have to get,
6 a particular ratio.

7 First question is, the 282 tons of NOx
8 emissions, do you have an approximation of
9 what the cost is to obtain those?

10 A. (Frecker) We had some discussions some time
11 ago with some firms that are brokers in
12 emission reduction credits to get a general
13 market sense of the market value at that
14 time. And credits within the ozone
15 transport region were on the order of \$500 a
16 ton.

17 Q. And the second follow-up question on that
18 is, with the new EPA classifications that
19 will most certainly come out on ozone, it
20 may be changing the classification of some
21 of what's a non-attainment area and what
22 isn't in New Hampshire. Would those new
23 proposed regulations affect the area where
24 the Laidlaw plant is being proposed?

1 A. (Frecker) Ostensibly they could. I don't
2 anticipate that they will, given that the
3 area is actually in attainment with the
4 National Ambient Air Quality Standard for
5 ozone. And I'll look at Mr. Wright to
6 correct me if I'm wrong. And it is subject
7 to the offset requirement only because it is
8 within the larger ozone transport region and
9 is regulated as if it were marginal
10 non-attainment.

11 So, even if the lower ozone
12 classification were to impact the region, it
13 would probably only impact it to the extent
14 of being a natural non-attainment region.
15 So I don't think it would increase the
16 offset ratio or their obligation in that
17 regard.

18 Q. Okay. That was what I was getting to.
19 Thank you.

20 CHAIRMAN BURACK: Thank you.

21 Any other questions from any
22 of the Subcommittee members?

23 If not, again, Attorney
24 Needleman, you don't have any additional

1 questions yourself to put to these panelists; is
2 that correct?

3 MR. NEEDLEMAN: Not at this
4 time, no.

5 CHAIRMAN BURACK: Thank you.
6 City of Berlin, Attorney
7 Schnipper.

8 MR. SCHNIPPER: Is that
9 working? Just one or two quick questions. I
10 think they're for Mr. Bravakis. If I'm wrong,
11 please redirect.

12 CROSS-EXAMINATION

13 BY MR. SCHNIPPER:

14 Q. As Mr. Northrop just pointed out, the City
15 of Berlin -- you don't have any permit
16 obligations with regard to the City of
17 Berlin. I'd just like to make clear that
18 it's not the Applicant's position that
19 co-located, future co-located tenants will
20 not be subject to the city's zoning
21 requirements -- in other words, that future,
22 separately identified businesses that were
23 going to locate on the property --

24 A. (Bravakis) That's correct.

1 Q. -- would go before the City --

2 A. (Bravakis) No, I was referring specifically
3 to our project.

4 Q. But with regard to future co-located
5 tenants, they would engage with the City of
6 Berlin's processes.

7 A. (Bravakis) That's right.

8 Q. And just one final question about --
9 Chairman Burack asked about aesthetic
10 considerations. And I know Attorney Van Oot
11 yesterday discussed with you your
12 participation in the negotiation of the
13 stipulated conditions with the City.

14 Is it your understanding from working
15 with the City that the general landscaping,
16 esthetic considerations, tree screening in
17 terms of mitigation, and then the river walk
18 in terms of an amenity, is one of the
19 leading concerns of the City in this
20 process?

21 A. (Bravakis) Yes, sir.

22 MR. SCHNIPPER: All right.

23 Thanks. That's it.

24 CHAIRMAN BURACK: Thank you.

1 Attorney Rodier.

2 MR. RODIER: Thank you.

3 CROSS-EXAMINATION

4 BY MR. RODIER:

5 Q. Mr. Bravakis, when you were discussing the
6 efficiency of the plant with Chairman
7 Burack, you talked about a 25-percent
8 efficiency at 37.5 moisture content. Did I
9 hear that correctly?

10 A. (Bravakis) I believe that's what is stated
11 in our application, yes.

12 A. (Strickler) Yes.

13 Q. I thought yesterday you told me that -- we
14 were talking about 45-percent moisture
15 content.

16 A. (Bravakis) Yes. We would receive --
17 typically when you purchase wood chips in
18 the northeast, they come in at 45-percent
19 moisture. That's correct.

20 Q. So then you maybe lose a couple percent as
21 they dry out in the yard?

22 A. (Bravakis) Yes, sir.

23 Q. So the actual moisture content is going to
24 be in the 40s, and it's not going to be

1 37-1/2; is that correct?

2 A. (Bravakis) Yes. But I believe, and I think
3 Mr. Frecker can maybe -- or Mr. Strickler
4 can help. The calculation on efficiency is
5 a calculation, pure and simple. So they
6 picked -- our engineers used 37.5, because
7 that's the lower of the moisture spectrum,
8 and based their calculation on that.

9 MR. BRAVAKIS: Would you
10 gentlemen like to add anything to that?

11 BY MR. RODIER:

12 Q. That's okay. Thank you.

13 And the only other question that I
14 have -- excuse me. I believe it was
15 Commissioner Harrington yesterday that
16 inquired about the possible, if not probable
17 changes to the REC rules in Massachusetts.
18 Do you recall that colloquy that you had
19 with Commissioner Harrington?

20 A. (Bravakis) I do.

21 Q. And he asked you that -- or he suggested
22 that there was a change afoot that could
23 eliminate Laidlaw's ability to qualify for
24 Mass. RECs. Do you remember that inquiry?

1 A. (Bravakis) I do.

2 Q. And you said what? You said it could
3 happen.

4 A. (Bravakis) I'm sorry?

5 Q. You said it could happen.

6 A. (Bravakis) No. I believe I recall that I
7 told Mr. Harrington that that wouldn't
8 affect this project, since we have sold all
9 of the renewable energy credits to PSNH that
10 they will use to satisfy their requirement
11 under New Hampshire's portfolio standard, of
12 which we qualify for.

13 Q. Okay. That's right. You're right. Thank
14 you.

15 So then, the question that I have is,
16 if the regulations -- laws and regulations
17 change in Massachusetts, they could change
18 in New Hampshire, couldn't they?

19 A. (Bravakis) I believe they could.

20 Q. And so then the question is, what if it
21 becomes you can't qualify for New Hampshire
22 RECs?

23 A. (Bravakis) We have provisions in a
24 confidential agreement with PSNH with

1 respect to that. Change of law I think is
2 what you're referring to. So we have dealt
3 with that in our PPA.

4 Q. And is that provision in the redacted
5 version that's in the exhibit book?

6 A. (Bravakis) I don't recall --

7 MR. BRAVAKIS: As we said
8 yesterday, Mr. Chairman, I'd prefer if we had the
9 questions on the PPA directed to my colleague,
10 Michael Bartoszek, who's disposed to deal with
11 that.

12 BY MR. RODIER:

13 Q. Okay. That's fine. And then there is just
14 one more thing.

15 If a plant like Laidlaw, that's
16 basically straight electricity and does not
17 combine heat and power, given this
18 hypothetical that -- let's just say you no
19 longer qualify in Massachusetts. Then,
20 states like -- and it could happen in other
21 New England states. States like New
22 Hampshire could get swamped with companies
23 applying for the New Hampshire RECs;
24 correct?

1 A. (Bravakis) It's a hypothetical. If that's
2 your belief, I guess, you know, that could
3 happen. It's speculative.

4 Q. If certain types of biomass plants no longer
5 qualify for Mass. RECs, if they're already
6 built, they're going to go New Hampshire or
7 some other place; isn't that right?

8 A. (Bravakis) That's your opinion. I mean,
9 that's speculation. And I'll --

10 Q. It's not reasonable to assume they'd look
11 for another market for their RECs if they
12 can't qualify in Massachusetts?

13 A. (Bravakis) I would imagine one could
14 speculate that and make assumptions based on
15 that.

16 Q. Okay. So let's speculate and let's make it
17 a hypothetical then. Let's say that that
18 does happen. That would then
19 dramatically -- or that would affect the
20 value of New Hampshire RECs, wouldn't it?

21 A. (Bravakis) It might and it might not. You
22 know, it's hard for me to say.

23 Q. Okay. Thank you.

24 CHAIRMAN BURACK: Thank you,

1 Attorney Rodier.

2 Counsel for the public.

3 MR. ROTH: Thank you.

4 CROSS-EXAMINATION

5 BY MR. ROTH:

6 Q. Mr. Frecker, there was some discussion
7 yesterday about the ash quantity, and also
8 this morning about ash quantity. And it
9 appears as though the discussion has been
10 exclusively about fly ash. Is that your
11 understanding?

12 A. (Frecker) That is what we've talked about so
13 far, yes.

14 Q. Okay. Now, in response to one of our data
15 requests, we asked about the quantity of
16 ash. Did you help write that response?

17 A. (Frecker) I'm aware of the response.

18 Q. And in that, there was also mentioned bottom
19 ash; correct?

20 A. (Frecker) That's correct.

21 Q. Can you describe for the Committee what
22 bottom ash is?

23 A. (Frecker) Bottom ash would be noncombustible
24 material associated with -- that came in

1 with the fuel, that didn't exit the boiler
2 in the exhaust stream.

3 Q. And is there a significant quantity of
4 bottom ash?

5 A. (Strickler) Not typically, no. Not for this
6 fuel.

7 Q. Okay. Do you recall the -- Question No. 5,
8 where we asked about the specifics of the
9 ash that the project will produce? Can you
10 look at Exhibit 20, Page 2?

11 MR. IACOPINO: That's the
12 Applicant's Exhibit 20?

13 MR. ROTH: That's correct.

14 A. (Strickler) Could you give us the reference
15 again, please?

16 BY MR. ROTH:

17 Q. Question No. 5 on Page 2 of Exhibit 20.

18 And doesn't it, in fact, say there that
19 the bottom ash is 100 to 250 tons per week?

20 A. (Frecker) Yes, it does.

21 Q. Do you consider that to be not significant
22 or limited?

23 A. (Frecker) I do not.

24 Q. Okay.

1 A. (Frecker) Excuse me. That number is
2 significant.

3 A. (Strickler) Yeah, it is.

4 A. (Frecker) Let me be clear in my response.

5 Q. Thank you for --

6 A. (Strickler) Yeah. My memory was --

7 Q. In fact, couldn't that number be larger than
8 the fly ash number?

9 A. (Frecker) Based upon the range that is
10 presented there, that's correct.

11 Q. So, in fact, you're producing something like
12 1500 to 2,000 tons of ash per month;
13 correct?

14 A. (Frecker) That is what is also stated
15 further in response to Item 7.

16 Q. And is all of that ash going to Mount
17 Carberry?

18 A. (Frecker) And as discussed further in
19 response to Item 7, the Applicant had
20 conversations with Mount Carberry about that
21 quantity of ash going there, and the
22 representative from the district indicated
23 that they could handle that quantity of
24 material.

1 Q. Okay. Will all of that ash be -- the bottom
2 ash, including -- well, so we already
3 established that the fly ash is going to be
4 kept in the silo on the site and that you're
5 willing to -- you would have a condition
6 that says you can only store so much of it,
7 and none of it will be stored outside.

8 Is the bottom ash also going to go in
9 the silo?

10 A. (Strickler) No, it would probably go into
11 some sort of dumpster-type operation,
12 typically.

13 Q. Okay. So the bottom ash is not going to be
14 stored inside?

15 A. (Strickler) It would be inside, yes. But it
16 would be --

17 A. (Freckler) It would be containerized.

18 A. (Strickler) -- containerized as opposed to
19 into a silo. That was the difference I was
20 trying to make.

21 Q. And would you agree to a condition that you
22 not stockpile bottom ash and you not
23 maintain bottom ash operations outside
24 structures?

1 A. (Strickler) Yes.

2 Q. Okay. Now, have you been given a copy of
3 Public Counsel Exhibit No. 4? No?

4 MR. IACOPINO: I think counsel
5 has.

6 A. (Strickler) No, not...

7 MR. IACOPINO: Anybody else
8 need No. 4?

9 (Witnesses review document.)

10 BY MR. ROTH:

11 Q. I take it from the way you're looking at it,
12 you haven't seen this letter before?

13 A. (Frecker) That's correct.

14 Q. Just for the record, I will identify this.
15 This is a letter dated August 27th, 2008,
16 that I wrote to Attorney Needleman regarding
17 Laidlaw Berlin BioPower, LLC.

18 And can any of you, now that you've
19 read it, tell the Committee basically what
20 this letter says? You don't have to read it
21 out loud. But, you know, kind of paraphrase
22 it, if you don't mind.

23 A. (Frecker) It seems to indicate you
24 indicating to Attorney Needleman that North

1 American Dismantling was not subject to any
2 known outstanding environmental compliance
3 issues with respect to the operations --
4 their operations at the property.

5 Q. Okay. Thank you. That's all.

6 MR. ROTH: That's all I have.
7 Thank you.

8 CHAIRMAN BURACK: No further
9 questions from Public Counsel? Okay. Very good.

10 Any other questions from
11 members of the Subcommittee? If not, again, I
12 want to thank these three panelists for being
13 with us today. We look forward to responses --
14 follow-up responses to the other questions.

15 I think there is a very real
16 possibility that we may have further questions
17 for you before this proceeding concludes. We may
18 need to come back to you. But for the moment, I
19 think we're all set -- understanding, however,
20 that Mr. Bravakis is invited to join us on the
21 next panel here.

22 (Witness panel excused.)

23 CHAIRMAN BURACK: So, Attorney
24 Needleman, I believe that it's been discussed and

1 agreed that on this next panel we will have
2 actually three individuals; is that correct?

3 MR. NEEDLEMAN: That's
4 correct. I think at this point I'd like to ask
5 Mr. Mongan from LandVest and Mr. Richmond from
6 Cousineau to come up and join Mr. Bravakis.

7 CHAIRMAN BURACK: Thank you.

8 MR. RODIER: Mr. Chairman, I
9 think during the break I provided a copy of this
10 biomass retention study. And I just wanted to
11 inquire where that ended up, if that's going to
12 be marked as an exhibit or --

13 MR. NEEDLEMAN: Pursuant to
14 the confidentiality agreement or order, we agreed
15 to provide a copy of that biomass agreement in
16 redacted form to CPD. We did not bring a
17 redacted copy this morning. We're trying to get
18 one, and we'll make that available as soon as we
19 can.

20 CHAIRMAN BURACK: I think we
21 have a misunderstanding. Attorney Rodier is
22 referring --

23 (Court Reporter Interjects.)

24 MR. NEEDLEMAN: I'm sorry. I

1 completely misunderstood. Mr. Rodier gave us a
2 copy of the Forest Biomass Retention and
3 Harvesting Guidelines, and I appreciate his help
4 with that. I'm not sure it's a complete copy.
5 So I think what we would like to do is just look
6 for a different copy and confirm that, in fact,
7 we are giving the Committee something complete.

8 CHAIRMAN BURACK: Very good.

9 Thank you.

10 Again, how I propose to
11 proceed here with this panel -- and we appreciate
12 the understanding and flexibility of all parties
13 in having additional panelists here.

14 Attorney Needleman, I will ask
15 you to introduce the panel and provide whatever
16 direct examination you wish to of these
17 panelists. And we will need to swear two of
18 these panelists in, and then we will proceed in
19 the same fashion as we have with respect to
20 cross-examination -- that is, opportunity first
21 from the City of Berlin, then from Clean Power
22 Development, and then from counsel for the
23 public, and then questions from the Subcommittee.

24 I will note that we'll

1 probably try to go for about another hour, and
2 then we will take a lunch break somewhere in the
3 vicinity of 12:30 for approximately one hour, and
4 then we will resume.

5 I would also note that there
6 may be issues or questions relating to documents
7 that are confidential. And what I would ask is,
8 to the extent that the panelists feel that they
9 can address those questions, that they do so.
10 But if they feel that to do so would require
11 them. To discuss the confidential documents in a
12 manner that they or their counsel don't feel
13 would be appropriate in public session, that they
14 let us know and we will defer such questions to a
15 closed non-public session and discuss those
16 matters.

17 So, having said that, I would
18 ask that the two additional witnesses be sworn
19 in.

20 (Whereupon the witnesses were duly
21 sworn and cautioned by the Court
22 Reporter.)

23 STEVEN MONGAN, SWORN

24 CURTIS RICHMOND, SWORN

1 MR. NEEDLEMAN: Thank you, Mr.
2 Chairman. It's my intention to briefly introduce
3 both Mr. Mongan and Mr. Richmond and just ask
4 them some general background questions and then
5 make them available for answering questions from
6 all the parties and the Committee.

7 DIRECT EXAMINATION

8 BY MR. NEEDLEMAN:

9 Q. Let me start with you, Mr. Mongan. Could
10 you please state your name and your
11 occupation for the record.

12 A. (Mongan) Yes. My name is Steve Mongan. I'm
13 the executive vice-president of LandVest and
14 a forester.

15 Q. And could you briefly describe your
16 educational background?

17 A. (Mongan) Sure. Bachelor of Science in
18 Forestry from the University of
19 Massachusetts, 1976.

20 Q. And after you graduated from the University
21 of Massachusetts, can you briefly describe
22 your employment history up through today.

23 A. (Mongan) Had a few small jobs at the
24 beginning of my career. Bought logs for a

1 sawmill in Southern New Hampshire and worked
2 for a consultant in central Massachusetts.
3 Then went to work for Wagner Woodlands as a
4 timber cruiser, ended up as an assistant
5 manager on their properties in New York.
6 Lived in the Adirondacks for three years,
7 then came to New Hampshire with LandVest in
8 late 1979. At that time, I was the first
9 forester hired for the company and had to do
10 all -- everything foresters do, from
11 managing timberland sales, to writing
12 management plans, to helping with
13 valuations.

14 Fortunately, we were able to grow the
15 timberlands division of LandVest through the
16 years, to the point where now I direct a
17 division that has about 50 people, 35 of
18 them foresters. We have 10 satellite
19 offices throughout the northeast, and I
20 currently manage about 1.4 million acres.

21 Through my career, I've done much of
22 the work that surrounds studies like this.
23 I've done -- as a lot of small consultants
24 start out, you have to wear many hats. And

1 I've worn them all.

2 I was our appraiser before they changed
3 the appraisal rules on timberland. I was
4 our biometrician before we got a little more
5 professional. And I've been our economist
6 before we hired a forest economist. Now I
7 supervise all of these people and supervised
8 the production of this document.

9 Q. And there are actually two documents that
10 have been submitted in this proceeding from
11 LandVest. One was the initial report
12 included with the application, and then
13 there was also a supplement report. Do you
14 recall both of those?

15 A. (Mongan) Yes, I do.

16 Q. With respect to the initial report that was
17 included with the application, could you
18 describe your role in the preparation of
19 that document?

20 A. (Mongan) Sure. I supervised the preparation
21 of the document. The people that did a lot
22 of the groundwork, work for me. I looked
23 over the product they had produced and
24 questioned them on their methodology. And

1 I'm happy to take ownership of that document
2 as a LandVest product and as the director of
3 our timberlands division.

4 Q. And with respect to that first document, can
5 you describe to the Committee what it was
6 that Laidlaw Berlin BioPower asked you to do
7 that resulted in the production of that
8 document?

9 A. (Mongan) Sure. Laidlaw asked us to do a
10 fiber supply study for a proposed power
11 plant to be located in Berlin; wanted to
12 look at what the likely supply of low-grade
13 fiber to a facility like that might be.

14 From our previous research and then
15 just from general knowledge, we understood
16 the size of that facility and knew that the
17 radius would be -- and in consultation with
18 Laidlaw, understood that the radius would be
19 about a hundred miles, or about a three-hour
20 drive.

21 So we looked at the potential fiber
22 supply long term and sustainable. That was
23 a key guideline for us at the beginning of
24 this: What is a sustainable, long-term

1 supply to this proposed facility from within
2 a three-hour or 100-mile drive of Berlin?

3 Q. On March 10, 2010, Laidlaw submitted to the
4 Committee a supplement to that original
5 report. Are you familiar with that
6 document?

7 A. (Mongan) I am.

8 Q. That was also a LandVest report. Can you
9 describe for the Committee your role in the
10 preparation of that document?

11 A. (Mongan) Yeah, I probably took an even more
12 active role in the preparation of that
13 document, because we had to -- based on
14 several good questions and a request from
15 Laidlaw, we took an approach that was a very
16 high-level approach and had to boil it down
17 a little bit more to answer some questions,
18 really, and to provide a little more solid
19 basis for the report.

20 Q. Thank you. Let me switch now briefly to
21 Mr. Richmond.

22 Mr. Richmond, could you state your name
23 and title for the record, please.

24 A. (Richmond) My name's Curtis Richmond. I'm

1 general manager of Cousineau Forest
2 Products.

3 Q. And can you briefly describe your
4 background.

5 A. (Richmond) I grew up in Maine in the forest
6 products industry. My dad was a logger, and
7 my whole family owned sawmills and so forth.

8 I worked in the forest products
9 industry until the '80s. I got married,
10 relocated to Arizona, furthered my education
11 and worked in the semiconductor industry
12 there.

13 And I wanted to relocate back east in
14 the mid '90s, and there was an opportunity
15 with Cousineau to come operate a new company
16 they had purchased. And I moved back here
17 in '96 and began running Cousineau Forest
18 Products.

19 Q. And in your role as general manager of
20 Cousineau, what are your responsibilities?

21 A. (Richmond) Oversee the complete operations
22 and manage procurement, check runs to the
23 individual suppliers and quotas and quality
24 into their facilities that we manage.

1 Q. Briefly, what does Cousineau actually do?

2 A. (Richmond) We arrange for a procurement or
3 supply into pulp facilities, biomass
4 facilities, pellet facilities, colleges,
5 schools that heat with biomass and
6 biofilters, playground chips, mulches.
7 Really, anything to do with forest products.

8 Q. What's the geographic scope of Cousineau's
9 business?

10 A. (Richmond) We reach from Maine to Florida,
11 and west to Buffalo.

12 Q. And is there any way for you to quantify
13 what the sort of annual volume is of
14 Cousineau's business?

15 A. (Richmond) Yes. Actually, currently we're
16 doing about 750,000 tons. A year ago we
17 were doing 1.5 million tons. So it varies
18 with market conditions and quotas. Right
19 now, our annual capacity is a little bit
20 subdued due to everybody's on quotas.
21 There's a surplus of chips, so we can't sell
22 as much as we have available.

23 Q. Thank you.

24 MR. NEEDLEMAN: Mr. Chair, at

1 this point I have no further questions.

2 CHAIRMAN BURACK: Thank you.

3 We'll turn things now to the
4 City of Berlin for cross-examination.

5 MR. SCHNIPPER: Just a couple
6 of questions for Mr. Richmond.

7 CROSS-EXAMINATION

8 BY MR. SCHNIPPER:

9 Q. Mr. Richmond, under this procurement
10 agreement, all things being equal, what
11 would be the approach of Cousineau to
12 sourcing chips from the area within the
13 100-mile radius of the city of Berlin?

14 A. (Richmond) Well, we currently work very
15 extensively in that area, and it would reach
16 out of the hundred-mile radius. But the
17 first thing we would do is buy all of the
18 chips locally available. Logistics is
19 everything in this supply. So you would go
20 after all the fuel available locally, and
21 then you would start branching out. And we
22 would work closely with logistics as we
23 branched out, which is what we do. And so
24 then we would branch out as far as we had

1 to. And it very well may reach us down into
2 Massachusetts, Connecticut, Rhode Island.

3 Q. So, what factors would cause it to be more
4 economical or just a better decision to
5 source chips from farther away from Berlin
6 rather than closer in?

7 A. (Richmond) Supply chains that we already
8 have established. We handle these chips
9 every day coming up. And again, there's a
10 surplus to the south of us. So we would
11 work with our supply base to bring in chips.
12 Again, we would start as close as we could.
13 And as the need arose, we would branch out.
14 But the supply chain and the logistics and
15 the backhauls are already in place.

16 Q. I understand. Now, when the City has been
17 in negotiations with some -- with the
18 developer here for conditions to its permit,
19 one of the conditions that the parties have
20 agreed to is that, all other things being
21 equal, the developer is going to prioritize
22 the purchase of forest products locally so
23 as to support the local forestry economy.

24 Is that something that you understand

1 to be part of the agreement between yourself
2 and the owner?

3 A. (Richmond) Very much so, and we've made
4 provisions for that.

5 MR. SCHNIPPER: All right.
6 Nothing further.

7 CHAIRMAN BURACK: Thank you.
8 Okay. We'll turn, then, to
9 Attorney Rodier.

10 MR. RODIER: Thank you,
11 Mr. Chairman.

12 CROSS-EXAMINATION

13 BY MR. RODIER:

14 Q. Mr. Richmond, did I hear you say that
15 currently you are -- the size of your
16 business is about 750,000 tons per year?

17 A. (Richmond) If you took a snapshot of today,
18 that's what we'd be handling, yes.

19 Q. So now you're about to take on a new
20 customer that's going to double your size;
21 is that right?

22 A. (Richmond) Yes. We just came down from that
23 size. We were 1.5 before BCAP ended.

24 Q. That's a big piece of business, then, isn't

1 it?

2 A. (Richmond) Yes, it is.

3 Q. How much wood do you procure for PSNH's
4 Schiller Station?

5 A. (Richmond) We do some off-season piling down
6 for them. So it varies on their needs. But
7 anywheres from 5 to 10 percent, sometimes
8 higher.

9 Q. Okay. Do you sell to any other wood-fired
10 plants in New Hampshire?

11 A. (Richmond) Yes.

12 Q. Who?

13 A. (Richmond) We handle all the procurement for
14 Indeck-Alexandria. We supply Springfield.
15 We supply New England Wood Pellet, and the
16 other facilities as needed. We handled a
17 hundred percent of the procurement for
18 Whitefield during BCAP.

19 Q. Excuse me. You handled a hundred percent of
20 the procurement during what?

21 A. (Richmond) The BCAP, the federal program,
22 BCAP. Biomass Crop Assistance Program.

23 Q. This is the Whitefield plant?

24 A. (Richmond) Was it just the Whitefield --

1 Q. No, no. You're talking about the Whitefield
2 biomass plant?

3 A. (Richmond) Correct.

4 Q. The one that's owned by Marubeni?

5 A. (Richmond) Yes.

6 Q. You have a present relationship with them?

7 A. (Richmond) No. They used us for a service
8 during the BCAP program.

9 Q. Okay. How about Bethlehem?

10 A. (Richmond) We supply them as needed, if they
11 need some extra fuel.

12 Q. How about Ryegate?

13 A. (Richmond) As needed.

14 Q. Okay. So, in other words, you'd like to get
15 business with all of these guys if you
16 could, it sounds like.

17 A. (Richmond) If we had a chance, yes.

18 Q. Okay. Mr. Mongan, let's go back to
19 pre-Laidlaw. I want to ask you about the
20 report that LandVest did for -- is this mike
21 on? It is on? Thank you.

22 I want to ask you about the report
23 LandVest did for the North Country Council,
24 November 2008. And you're nodding as if you

1 are familiar with that report.

2 A. (Mongan) Yes, I am. I had the same position
3 in that report: I supervised the effort of
4 the people who did the groundwork.

5 Q. Yeah. I noticed here you said there was
6 600,000 tons available.

7 A. (Mongan) I believe we said -- we gave a
8 range, and I think we picked 640,000 tons,
9 if I'm not mistaken.

10 Q. Well, let me read for you -- we're not
11 making a big deal about it, because we're
12 basically talking about the same thing. But
13 the way I read it, it says under normal
14 conditions there are about 600,000 green
15 tons of low-grade wood available in the
16 study area. I represent to you --

17 A. (Mongan) That's probably what it says.

18 Q. Okay. And how much is -- what's the size of
19 the Laidlaw facility? 750,000 tons a year?

20 A. (Mongan) That's my understanding.

21 Q. Okay. So the North Country Council report
22 that you did, which was greeted with great
23 fanfare, has a conclusion in it that there's
24 not enough wood for the Laidlaw plant;

1 right?

2 A. (Mongan) It has -- it's not a study for the
3 Laidlaw plant, if you look at it. It's for
4 a hypothetical facility.

5 Q. So Laidlaw then comes to you and says, Hey,
6 by the way, 600,000 tons isn't going to work
7 for us. We need something -- we need a
8 higher number. And you said, Well, okay.
9 We'll go out to a hundred miles.

10 A. (Mongan) No such thing.

11 Q. That's not what happened?

12 A. (Mongan) No.

13 Q. Okay. You said you'd go out to a hundred
14 miles, didn't you?

15 A. (Mongan) I said -- I think I said earlier,
16 and if you didn't hear, that facilities of
17 this size have typically a 100-mile radius
18 of procurement.

19 Q. Okay. So you knew the size of the project
20 and you knew you'd have to go out a hundred
21 miles. No?

22 A. (Mongan) That's roughly okay, I guess.

23 Q. All right. Thank you.

24 So, if -- let me ask you this: If

1 somebody came to you and they wanted to
2 build a wood-fired plant in downtown Boston,
3 100 megawatts, you could get -- you'd say
4 there's enough wood out there. You just got
5 to go to Syracuse to get it; right? There's
6 always enough wood if you're willing to go
7 vast distances --

8 A. (Mongan) I'll accept that, yeah. Sure.

9 Q. Yeah. Okay. As a matter of fact, somebody
10 just said the logistics are critical. I
11 think it was Mr. Richmond said that. Didn't
12 you, sir? Logistics are critical? You got
13 to start -- you got to get it local, and you
14 only branch out if you have to --

15 A. (Richmond) Yes, I did.

16 Q. -- to get the wood; right?

17 It's because of price; right?

18 A. (Richmond) Price and different economies.
19 There's different drivers of the biomass
20 fuel.

21 Q. Yeah. It's basically price, though, isn't
22 it? If somebody wants to pay \$70 a ton, you
23 could build a biomass plant in downtown
24 Boston, couldn't you? Get them the wood,

1 couldn't you?

2 A. (Richmond) Probably.

3 Q. Yeah. Mr. Mongan, are you familiar with --
4 were you in the room when Laidlaw called to
5 the attention of the Committee the Forest
6 Biomass Retention and Harvesting Guidelines
7 document?

8 A. (Mongan) Yes. That was just a few minutes
9 ago, wasn't it?

10 Q. Excuse me?

11 A. (Mongan) Wasn't that just a few minutes ago
12 when we rejoined this session?

13 Q. Yes.

14 A. (Mongan) Yeah, I was here.

15 Q. Are you familiar with that?

16 A. (Mongan) No.

17 Q. Who's Forest Guild?

18 A. (Mongan) They are an organization of
19 foresters.

20 Q. Are they reputable?

21 A. (Mongan) Yes.

22 Q. They are reputable. Where are they out of?

23 A. (Mongan) I don't know.

24 Q. Okay. So if they said something, you would

1 say it would have a certain credibility with
2 you; is that correct?

3 A. (Mongan) It would have some credibility.

4 Q. Okay. And generally, are you familiar with
5 the term "silviculture? S-I-L-V-A [sic]
6 culture?

7 A. (Mongan) Yes, I am.

8 Q. What's that?

9 A. (Mongan) It's the culture of forests. As
10 agriculture is the culture of farms,
11 silviculture is the culture of forests.

12 Q. And it kind of has to do with
13 sustainability, basically; does it not?

14 A. (Mongan) Not necessarily, no. It's how you
15 manage forests.

16 Q. It's good practices for managing forests.

17 A. (Mongan) Yes.

18 Q. So it's kind of like a cousin of
19 sustainability.

20 A. (Mongan) You would use it to help achieve
21 sustainability.

22 Q. Yeah, okay. Are you aware that -- were you
23 briefed this morning or yesterday on what
24 the subjects of discussion were yesterday?

1 Somebody fill you in?

2 A. (Mongan) I think Barry just said that my
3 stuff was today, so...

4 Q. Okay. Let's move to -- if you can get a
5 copy of your so-called addendum, which I
6 believe is marked for identification as
7 Exhibit --

8 MR. ROTH: Two.

9 BY MR. RODIER:

10 Q. -- 2.

11 A. (Mongan) Yes, I have that with me.

12 Q. Excuse me? You have it?

13 A. (Mongan) I have it.

14 Q. What I want to ask you, the first question,
15 is Page 3. And in the paragraph on the
16 bottom of Page 3 -- let me know when you're
17 there.

18 A. (Mongan) I'm there.

19 Q. Okay. There is a sentence, second sentence
20 in that bottom paragraph, "The FIA estimate
21 of total low-grade removals from a study
22 area is 6,127,362 green tons."

23 Did I read that correctly?

24 A. (Mongan) You did.

1 Q. Footnote 6. Would you read Footnote 6 and
2 tell me what that means?

3 A. (Mongan) It means the 6 million-plus green
4 tons --

5 Q. Would you read it first?

6 A. (Mongan) Oh, I thought you asked me to tell
7 you what it meant.

8 Q. Well, I meant, and maybe I didn't -- I
9 wanted you to read it first --

10 A. (Mongan) Sure.

11 Q. -- into the record and then tell me what it
12 means.

13 A. (Mongan) Footnote 6 says, "It is the sum of
14 15 percent of sawtimber, all pulpwood, and
15 50 percent of tops and branches from the FIA
16 removals. See Appendix 2."

17 And now you'd like me to tell you what
18 that means?

19 Q. Yeah, with specific focus on all pulpwood.

20 A. (Mongan) Pulpwood is considered low grade,
21 generally.

22 Q. Pulpwood is a low-grade wood -- low-grade
23 log?

24 A. (Mongan) You could say that. It's low-grade

1 wood.

2 Q. Okay. Low-grade wood. How about sawtimber?

3 A. (Mongan) Sawtimber is not considered
4 low-grade wood.

5 Q. Okay. So you -- in this study you've got
6 the high-grade wood. Some high-grade wood.

7 A. (Mongan) It's the residue from high-grade
8 wood. When you process logs, there's
9 leftovers.

10 Q. I missed that word, sir. Sorry.

11 A. (Mongan) Leftovers. When you process a log
12 and you run it through a sawmill, there's
13 slabs, there's sawdust, there's bark.

14 Q. Okay. Let's again look at the conclusion on
15 Page 4 of the addendum, Exhibit 2. And I'm
16 referring to the area of -- I'm sorry. The
17 sentence that's in bold.

18 A. (Mongan) Okay.

19 Q. This came up yesterday. And I guess I'll
20 take a turn and I'll read it. "Therefore,
21 because this study" -- and this is the -- by
22 the way, this is the Exhibit 2, the
23 addendum, a sort of update to the study that
24 was included as part of the application.

1 A. (Mongan) Fair enough. Clarification update,
2 yeah.

3 Q. Who asked you to do the clarification?

4 A. (Mongan) Laidlaw.

5 Q. Why was that? Because the low number in
6 your December study was too small for their
7 plant? Is that why they wanted an update?

8 A. (Mongan) No.

9 Q. Okay. Why did they want an update?

10 A. (Mongan) Mostly because there were several
11 questions that they were having trouble
12 fielding and they needed more information.
13 So we developed more information.
14 Clarification.

15 Q. All right. You had no other instructions.

16 A. (Mongan) No.

17 Q. Okay. "Therefore, because this study is to
18 estimate the sustainable availability of
19 low-grade fiber to the proposed Laidlaw
20 Berlin BioPower plant, it is our best
21 estimate that producers will supply over 1
22 million tons per year" -- and not only is
23 that in bold letters, that's underlined --
24 "in excess of current consumption."

1 Does it sound like I read that
2 correctly to you?

3 A. (Mongan) It does, yeah.

4 Q. Okay. That seems to be like the midpoint
5 between the low end of your range of about
6 6.7 million and the high end of your range
7 of about 7.2 million. Would that be a
8 correct -- sort of a correct observation?

9 A. (Mongan) Which range are you referring to,
10 Attorney --

11 Q. Okay. I'm sorry. Maybe I got ahead of you.
12 I apologize.

13 A. (Mongan) Yeah, because I think I said we
14 think we're estimating a range from 760,830
15 to 1,284,330 in the paragraph just above
16 that.

17 Q. Yeah, I wasn't asking you about the -- okay.
18 That is right. I stand corrected. Seems to
19 be about the mid-range of between 760 and
20 the nearly 1300 [sic]; correct? One million
21 about the middle of those two?

22 A. (Mongan) It is about that, yes.

23 Q. Is that how you got the --

24 A. (Mongan) No, that's not how we got it.

1 Q. You didn't just take the mid-range point.

2 A. (Mongan) No, we didn't.

3 Q. Okay. What did you do?

4 A. (Mongan) We said -- we looked at the lower
5 range, which was, we thought, available all
6 the time. And we looked at the impact that
7 we thought constructing the facility with
8 this kind of demand would have on the area.
9 And we looked at the known availability of
10 extra biomass that's left in the woods. We
11 know that normally about 50 percent is
12 utilized. We believe that up to 70 percent
13 can be utilized ecologically, in an
14 ecologically sound manner. So that sets an
15 upper limit. That, and in this refinement
16 we also looked at, after talking to
17 Cousineau and others, backhauls, potential
18 for rail, whatever, as sort of added. But
19 we figured some combination of increased
20 competition, increased utilization of
21 biomass, a little better handle on
22 alternative supply would push it up to over
23 a million. That's our best opinion.
24 Q. Okay. But you didn't -- well, all right.

1 Let's drop it.

2 So let's just say 1 million tons over
3 in excess of current consumption. Current
4 consumption is roughly 6 million?

5 A. (Mongan) Something like that.

6 Q. Yeah.

7 A. (Mongan) I could look up the figures for
8 you, but --

9 Q. Remember to keep your voice up here.

10 A. (Mongan) Sorry. I said I can look it up for
11 you, the back end. But it sounds
12 approximately right.

13 Q. Yeah. Okay.

14 A. (Mongan) 5,948,000. But that's just an
15 estimate.

16 Q. So let's just say -- let me just make the
17 observation that, coincidentally, it's sort
18 of the midpoint of your range, okay. And
19 let me ask you -- so there is 1 million
20 available, and Laidlaw is going to use how
21 much? 750,000 tons a year?

22 A. (Mongan) Approximately. That's what I've
23 been told, yeah.

24 Q. Have you heard anything about a pellet plant

1 that is interested in moving to Berlin that
2 would use 400,000 tons a year?

3 A. (Mongan) I may have. I don't recall that
4 specifically. It seems like I have heard
5 something like that.

6 Q. Yeah. Well, let me just ask you. Under
7 your numbers, is there any wood out there
8 for a pellet plant that would use
9 400,000 tons a year, that was willing to go
10 down to Massachusetts, Rhode Island and
11 Connecticut for their wood?

12 A. (Mongan) I would have to do another study.

13 Q. Why?

14 A. (Mongan) I'd have to find out what that
15 plant uses for wood, what kind of value --
16 you know, I mean, there's just a whole -- I
17 couldn't speculate on that right now.

18 Q. Say they use low-grade wood, okay. Does
19 that help?

20 A. (Mongan) Sure.

21 Q. And what kind of -- what did you mean by
22 "what kind of value"? How much they're
23 willing to pay?

24 A. (Mongan) Well, you stated it earlier.

1 You're right. If you're willing to pay a
2 lot of money, you can get it from further
3 away.

4 Q. Okay. So when you get right down to it, you
5 know, it seems like discussions of this
6 amoeba out there, this force field that
7 works some way, some mysterious way that we
8 don't really understand, it's really money.

9 A. (Mongan) It's economics.

10 Q. So, hypothetically speaking, let me ask
11 you if -- total hypothetical. Say a biomass
12 plant wanted to move to the area, wanted to
13 use 750,000 tons a year. Let's just say
14 that money was no object because they were
15 passing through the fuel bill to somebody
16 else. No problem. Talking about an
17 additional plant now, an additional
18 hypothetical plant. There could be a study
19 that would say, no problem, we could do it;
20 right?

21 A. (Mongan) I wouldn't speculate on that.

22 Q. Oh. You said you could get wood for a plant
23 in Boston.

24 A. (Mongan) No. I think he said that.

1 Q. I'm sorry. Who did? Oh, Mr. Richmond did?

2 A. (Mongan) I think so.

3 Q. Okay. Well, Mr. Richmond, you could get --

4 A. (Mongan) But I wouldn't --

5 Q. Huh?

6 A. (Mongan) You're getting out there. I mean,
7 what -- of course you can -- for some amount
8 of money, you can get most anything from
9 somewhere and somehow.

10 Q. All right. Let me ask you this: So the guy
11 with the deep pockets comes into the area,
12 Mr. Richmond -- I'll lay off Mr. Mongan here
13 for a second.

14 A. (Mongan) Thanks.

15 Q. Mr. Richmond, you could procure the wood for
16 a 70-megawatt, 750,000-ton plant, couldn't
17 you?

18 A. (Richmond) Well, we usually have
19 restrictions on how much they can pay,
20 obviously. So they might come and ask us,
21 feasibility-wise, what we thought, but --

22 Q. Well, let me ask you this. Total
23 hypothetical. Somebody comes in and says,
24 Hey, no problem. This is all going to go

1 right through the PSNH ratepayers, dollar
2 for dollar, okay. Can you do it? Money's
3 no object.

4 A. (Richmond) Sure.

5 Q. You'd do it.

6 A. (Richmond) Sure. If money's no object, I
7 can get the wood.

8 Q. All right. That's good. What would this do
9 to your current clients?

10 A. (Richmond) Well, if money was no object, I
11 would be looking far away.

12 Q. No, I'm talking about Whitefield, Berlin.
13 Whitefield's in Coos County; right?

14 A. (Richmond) Yes.

15 Q. Bethlehem plant you're familiar with; right?

16 A. (Richmond) Uh-huh.

17 Q. Coos County?

18 A. (Richmond) Yes.

19 Q. Where's Ryegate?

20 A. (Richmond) Just over the Vermont border.

21 Q. Yeah. You're familiar with all those three.
22 What's it going to do to their economics if
23 somebody comes in and says they want all the
24 wood for this new second 70-megawatt plant?

1 What's that going to do to these other guys?

2 A. (Richmond) Well, I guess if there was one
3 player that was willing to pay much more --
4 and coincidentally, we have that somewhat
5 with the Schiller Station. They pay more
6 than the market price. So that's already in
7 place. You do have an entity that has --

8 Q. Whoa, whoa. I'm very sorry. Schiller pays
9 more than the market price?

10 A. (Richmond) Yeah.

11 Q. Oh, let me write that down. I don't want to
12 forget that. Hold your thought.

13 I'm very sorry. As you were saying,
14 Schiller pays more than the market price.
15 So then what?

16 A. (Richmond) Because their back is up to the
17 water and they can only procure from
18 180-degree radius versus a 360. So it's
19 part of their business plan that they have
20 to maintain that.

21 Q. All right. That they can only go west --
22 they can only go west, north and south.
23 They can't go east, because east is water.

24 A. (Richmond) Correct.

1 Q. Okay. Now, further hypothetical -- well,
2 let me just check my list to see if I got
3 anything else here about...

4 MR. RODIER: May I have one
5 moment, Mr. Chairman? I may be through. May I
6 have just one moment to confer with my colleague?

7 CHAIRMAN BURACK: Yes.

8 (Pause in proceedings)

9 BY MR. RODIER:

10 Q. Okay. I think the last area is, you say
11 Schiller procures wood going to the north,
12 didn't you?

13 A. (Richmond) No, I didn't say that.

14 Q. Oh. I guess I did.

15 A. (Richmond) You came up with the directions.

16 Q. Do they procure wood, to the best of your
17 knowledge, north of -- in northern New
18 Hampshire?

19 A. (Richmond) Oh, I'm sure there's a few
20 suppliers that come down that way. I mean,
21 you will go anyplace you can today. There's
22 quotas everyplace.

23 Q. I got it. So with your job for the Laidlaw
24 plant, is that going to increase the cost of

1 wood for the Schiller plant?

2 A. (Richmond) No.

3 Q. Why?

4 A. (Richmond) Because we have a set of
5 suppliers. They have a set of suppliers.
6 And there's a surplus.

7 Q. There's a surplus?

8 A. (Richmond) Sure. Quite a significant
9 surplus out there.

10 Q. Did you hear Mr. Mongan's testimony?

11 A. (Richmond) Yeah, but that's based on a
12 study. I'm talking real-world economics.

13 Q. Oh, okay. So, really what we should do,
14 really what it comes down to, we don't have
15 to think about what Laidlaw's got to say;
16 right? Okay.

17 A. (Richmond) I didn't say that.

18 Q. What?

19 A. (Richmond) I didn't say that. A study is
20 based on, I guess, a resource. And the way
21 wood actually moves is much more complex
22 than little concentric circles around a
23 facility. So there's one way of looking at
24 it and then there's the real world.

1 Q. Okay. So, the real world says -- big part
2 of it is, like you said, logistics, what
3 somebody's able to pay. You're very eager,
4 and obviously you're very -- you do a very
5 good job of going out and aggregating wood
6 at the -- if the price is there; right? If
7 the willingness to pay that price is there,
8 you can find it; right?

9 A. (Richmond) I'm more under a constraint of
10 the top dollar I can pay at facilities. And
11 a lot of the facilities I procure for set
12 the price that I have to pay for it.

13 Q. Okay. I got it.

14 A. (Richmond) So I don't have an open
15 checkbook.

16 Q. I got it. Right.

17 Let me just say this, Mr. Richmond: I
18 found you to be a very forthright witness.

19 A. (Richmond) Thank you.

20 Q. Not that Mr. Mongan wasn't. But you were
21 particularly good. Thank you very much.

22 A. (Richmond) Thank you.

23 CHAIRMAN BURACK: Thank you,
24 Attorney Rodier.

1 Counsel for the Public.

2 MR. BROOKS: Thank you,

3 Mr. Chair.

4 CROSS-EXAMINATION

5 BY MR. BROOKS:

6 Q. Mr. -- is it Mongan?

7 A. (Mongan) Mongan.

8 Q. Mongan. I just wanted to clarify some of
9 your testimony. When Attorney Rodier asked
10 you about the hundred-mile radius, I believe
11 you said as a clarification that you had
12 previously said that that's typical for
13 power plants of that size. But I had
14 thought I heard you say previously that
15 Laidlaw had been the one that asked you to
16 go out to a hundred-mile radius to perform
17 that. Can you just clarify what happened?

18 A. (Mongan) That's a good question. I thank
19 you for the question, actually.

20 It was a cooperative effort. But if
21 you look at the North Country study, which I
22 guess is part of the evidence here, you'll
23 see that in that one, when we have
24 facilities of this size, of this magnitude,

1 750,000 tons, we had -- and this was long
2 before Laidlaw came to us -- we had assigned
3 a 100-mile radius to those.

4 But in discussions with Laidlaw as we
5 led up to this project, we talked about
6 that. And it was a mutually-agreed radius
7 that made sense to them and made sense to
8 us, so...

9 Q. Okay. Thank you for that clarification.

10 When you're doing this type of study,
11 why wouldn't it make sense, instead of
12 starting from a constraint of a hundred-mile
13 circle, 50 miles, whatever you want to
14 choose, to say -- well, let's see -- do
15 something based on price or actual
16 transportation corridors and how far you
17 might get things, so that you actually end
18 up instead of with a circle, maybe with
19 either some type of amoeba or something that
20 can slide the scale based on whatever prices
21 you choose. And I think the study done by
22 the consultant for CPD ended up choosing \$32
23 per green ton and then figured out what they
24 wanted to do from there. Why would yours

1 make more sense than another?

2 A. (Mongan) Actually, our report was and may
3 still be expected to be a two-phased report.
4 That's up to Laidlaw. But we were to look
5 at the physical resource first, look at the
6 existing competition out there first, look
7 at what we thought was available for fiber.
8 Now, the amendment, because of shapes --
9 used amoeba a couple of times. I did hear
10 about that. You know, that's economics, the
11 shape that -- and this study does our best
12 at estimating that factor without doing an
13 econometric study, which was or should be,
14 and I'm sure Laidlaw will -- they will cost
15 out their wood before they go for wood, I
16 would imagine.

17 Q. Do you know whether the actual procurement
18 from Cousineau -- and I will ask the same
19 question to the representative from
20 Cousineau -- actually matches what you had
21 predicted in the LandVest study? In other
22 words --

23 A. (Mongan) I'm sorry.

24 Q. -- will the fuel actually be coming from the

1 wood basket identified in the LandVest
2 study, as far as you know?

3 A. (Mongan) Actually, I think Cousineau
4 envisions different shapes to the wood
5 basket. Ours, again, you know, without the
6 specific knowledge of who the procurement
7 agent would be, what does it look like out
8 there. I think they have specific expertise
9 that they will bring to bear which may
10 change the shape of the wood basket, I
11 guess. That's what I...

12 Q. Based on the study that you did do and what
13 you know, does supplying the Laidlaw
14 facility preclude CPD or someone else from
15 establishing another, let's say, 60-watt
16 biomass plant in the Berlin area?

17 A. (Mongan) How much tonnage would a 60-mass
18 biomass plant use?

19 Q. Well, if you want to use the same
20 assumptions that you used for whatever per
21 ton, per, you know, megawatt, whatever you
22 used for the Laidlaw -- in fact, if you want
23 to change it slightly and just say if
24 Laidlaw wanted to increase their output by

1 60 megawatts, could they do that, based on
2 your study?

3 A. (Mongan) Theoretically, yes.

4 Q. Can you explain how that is?

5 A. (Mongan) I didn't do that. I may be wrong.
6 Actually, could I back up on that?

7 Q. Of course.

8 A. (Mongan) Because I don't have a calculator,
9 I didn't do the math. Didn't convert
10 megawatt hours to tons. And I can't do that
11 at the moment, without a calculator, in a
12 minute or two.

13

14 MR. MONGAN: Can you tell me
15 what we're talking about for green tons,
16 somebody?

17 A. (Bravakis) Did you say -- excuse me. Did
18 you say 60 megawatts? Another 60-megawatt
19 plant?

20 Q. And I choose that number because that's my
21 recollection of what the proposed CPD
22 plant -- what was --

23 A. (Bravakis) I believe they were under the
24 FSEC. So they were lower than 30.

1 Q. Oh, you're right. They're 29. They came --

2 A. (Bravakis) Yeah, 29.5, I believe.

3 MR. RODIER: Three hundred and
4 forty thousand tons.

5 A. (Bravakis) So they were -- I believe they
6 were at 300 -- we'll say 350,000 tons, and
7 we're 750,000 tons. So that's 1.1 million
8 tons.

9 A. (Mongan) I mean, again, economics aside,
10 that looks like it would use up pretty much
11 the wood in the study area by adding
12 another, if we estimated up to 1.2 million
13 or 1.3 million. Sounds like that would fill
14 it up.

15 Q. Thank you.

16 MR. BROOKS: I'm going to let
17 Attorney Roth ask a couple more questions
18 probably of -- well, whoever he wants to ask
19 questions.

20 I just wanted to point out,
21 though, to Mr. Chair, that I do have a number of
22 questions for the Cousineau representative, but
23 many of them pertain to the confidential document
24 that we have. So, just keep that in mind as we

1 go through.

2 CHAIRMAN BURACK: Understood.

3 And I suspect we may all have similar-type
4 questions related to that confidential document.

5 Thank you.

6 Attorney Roth.

7 CROSS-EXAMINATION

8 BY MR. ROTH:

9 Q. Mr. Mongan, in your addendum you pointed out
10 that the 6.7 million tons was at 50-percent
11 utilization and that 7.2 million tons was in
12 a more competitive environment.

13 And as I understand it, what you're
14 suggesting in your testimony today is that
15 utilization can increase to 70 percent, and
16 that accounts for that difference. Is that
17 what you mean by the more competitive
18 environment?

19 A. (Mongan) Primarily that's what accounts. As
20 I mentioned earlier, I would also think a
21 more competitive environment makes backhauls
22 more likely, makes rail more likely.

23 Q. Okay. We'll talk about backhauls in a
24 minute.

1 And you said, also, that up to
2 70 percent of this is ecologically sound and
3 is the upper range. Is that -- do you
4 recall that?

5 A. (Mongan) That's my understanding, yes.

6 Q. And what happens if you go beyond 70-percent
7 utilization?

8 A. (Mongan) I don't think it's a hard line.
9 What I think the Forest Guild who floated
10 that, and I think I've heard from them,
11 they're not calling it a hard line either.
12 But they floated that out there, and other
13 people have supported it. It means that you
14 want the soil in the forest to replenish
15 itself. You want it to be healthy, good
16 soils. So if you continue rotation after
17 rotation, took out every last twig, over
18 some number of rotations the soil's
19 productive capacity would start to decline.
20 In order to prevent that, they would
21 recommend leaving 30 percent of the tops in
22 the woods.

23 Q. Does the, let's call it over-utilization,
24 also affect wildlife?

1 A. (Mongan) I probably shouldn't comment since
2 I'm not a wildlife expert.

3 Q. So you don't have any expertise in forest
4 ecology?

5 A. (Mongan) I do, but not enough to comment
6 on -- you know, various forest practices
7 affect wildlife in various and different
8 ways. I know many, many species of wildlife
9 prefer wide-open clear-cuts, others want
10 closed canopy forests. So, you know, I
11 think it really calls for a wildlife expert
12 to comment on that.

13 Q. Is it your understanding that the
14 competitive environment could go -- could
15 take the utilization beyond 70 percent if
16 left to its own devices?

17 A. (Mongan) I suppose so.

18 Q. And are you aware of, or do you know
19 whether, in fact, the competitive
20 environment goes beyond 70 percent?

21 A. (Mongan) I'm sorry. I'm not sure I follow
22 that.

23 Q. Let me -- I'll try a hypothetical that
24 Attorney Brooks mentioned.

1 So we've got 750,000 tons going to the
2 Applicant's project. Let's say Clean Power
3 comes online and they want another -- what
4 was the figure, 350?

5 A. (Mongan) Yeah, something like that. I think
6 you're right.

7 Q. If we only looked at, you know, the study
8 area, would the utilization increase beyond
9 the 750 to get more wood for Clean Power?

10 A. (Mongan) I think it's possible.

11 Q. Okay. So it could go beyond 70 percent?

12 A. (Mongan) It could.

13 Q. Okay.

14 A. (Mongan) I think there starts to be economic
15 constraints to increased utilization,
16 however. I mean, this has to do with --
17 this is expensive logging machinery that's
18 out there in the forest doing this work.
19 Whole-tree harvesters trying to get value
20 out of tiny branchlets becomes a very
21 expensive proposition. I'm guessing
22 there's -- and I haven't seen it. I suppose
23 I shouldn't guess too much in a session like
24 this. But I'm guessing there's some

1 economic imposed limit on how much you can
2 utilize.

3 Q. Kind of like getting rice out of a bowl with
4 chopsticks?

5 A. (Mongan) Yeah, kind of like that at the end.
6 So it's never going to get -- it couldn't
7 get to a hundred percent. Got the leaves,
8 the branchlets. So I don't know. But could
9 it get past 70, hypothetically? Yes.

10 Q. Okay. Now, you mentioned in your
11 introduction that LandVest manages 1.4
12 million acres.

13 A. (Mongan) That's right.

14 Q. Is that North Country property or is that
15 all over the place?

16 A. (Mongan) It's all in what's come to be known
17 as the Northern Forest, which is: The
18 Adirondacks of New York, northern Vermont,
19 north of the Notches in New Hampshire,
20 central and northern Maine.

21 Q. And without getting into any specifics,
22 would some of those management-managed
23 properties perhaps be involved in delivering
24 fuel to this project?

1 A. (Mongan) It is possible.

2 Q. Okay. And do your management agreements
3 provide for LandVest to get any percentage
4 from timber sales or harvest from the
5 properties that you manage?

6 A. (Mongan) Yes, they do.

7 Q. Okay. So, in a way, it's to your advantage
8 to have -- to your economic advantage to
9 have this project go through and utilize
10 more wood from the Northern Forest, which
11 might include properties you manage.

12 A. (Mongan) That's fair to say.

13 Q. Okay. Now I want to talk about the
14 backhauls. You had -- my notes are a little
15 bit disorganized, so forgive me. But I saw
16 somewhere, and I think it was your primary
17 report, that you estimated backhauls
18 providing something like 50,000 tons. Does
19 that number sound right?

20 A. (Mongan) I wouldn't disagree with you. I'd
21 have to look it up. But if you say so, I
22 believe you.

23 Q. If my notes are to be believed, it would be
24 on Page 12 of your -- the primary report

1 that you did.

2 A. (Mongan) Uh-huh.

3 Q. And you described that as your opinion.

4 CHAIRMAN BURACK: Excuse me.

5 Attorney Roth, could you just give us that
6 exhibit reference again for the primary report?

7 MR. ROTH: I was going off of
8 the application. And I don't know which exhibit
9 that is in the application.

10 CHAIRMAN BURACK: I think it
11 may be Exhibit P.

12 MR. ROTH: It's not -- oh,
13 it's Appendix P.

14 CHAIRMAN BURACK: Appendix P.
15 Thank you.

16 A. (Mongan) All right. I found the page, yeah.

17 BY MR. ROTH:

18 Q. It's probably Exhibit 1.

19 A. (Mongan) Yeah. I found it.

20 Q. And so 50,000 tons is what you estimated for
21 backhauls?

22 A. (Mongan) Yes.

23 Q. And using my lawyer math late at night, I
24 came up with 50,000 tons being approximately

1 6 percent of the 750,000 tons that the
2 project requires. Correct? Does that sound
3 right to you?

4 A. (Mongan) I wouldn't doubt it.

5 Q. Again, I don't know math. But I think I got
6 that right. I did it a couple of times just
7 to make sure.

8 And in your -- the process to come up
9 with backhaul information, you telephoned or
10 visited with trucking companies?

11 A. (Mongan) Hmm-hmm. People like Cousineau
12 that do the supplying, sure. I think we
13 actually did talk to them as part of the
14 process.

15 Q. You did? I was going to ask you if you
16 talked to Mr. Richmond.

17 A. (Mongan) I believe so. It was back some
18 time. But I think they were one of the
19 folks we interviewed.

20 Q. And how many others did you consult with?

21 A. (Mongan) I couldn't say exactly. I don't
22 recall.

23 Q. A dozen?

24 A. (Mongan) I don't think it was that many. I

1 think it was a handful.

2 Q. Handful. Okay.

3 Now, there seemed to be a focus on
4 backhauling bark. And as I understood it,
5 wood chips are produced in southern places
6 and brought to northern New Hampshire, and
7 then tree bark is brought back to southern
8 places. In Massachusetts suburbs, I assume?

9 A. (Mongan) Could I defer to the person next to
10 me on that one? I think that's true, but I
11 think he knows better than me.

12 Q. Sure. Either one of you, feel free.

13 A. (Richmond) That's exactly how it happens.
14 You have paper mills, sawmills in Maine and
15 Canada that produce large amounts of bark as
16 a residual product. That's used in
17 landscaping throughout the southern New
18 England states. It's a huge market. It
19 includes thousands of truckloads a year.
20 And we manage a large percentage of them.
21 And yes, indeed, the bark goes from the
22 north to the south. And down south you have
23 what we call a push economy. They have
24 tipping fees to get rid of brush and waste.

1 So there's a driver to drive the
2 residual products north. We capitalize on
3 that. Our trucks go down, pick up the --
4 drop off the bark, pick up the biomass fuel
5 and bring it back north. That's it.

6 Q. Now, I've seen on I-93, going through
7 Concord, log trucks going north. And is
8 it -- can you haul bark on a log truck?

9 A. (Richmond) No. It's usually in an
10 open-floor, box-type trailer. A live-floor,
11 box-type trailer, open top.

12 Q. But you can haul bark in the same kind of
13 truck that you use to haul chips; is that
14 correct?

15 A. (Richmond) Correct.

16 Q. And are there any other -- either of you
17 answer this -- any other products in the
18 North Country that lend themselves to
19 backhauls other than bark?

20 A. (Mongan) Yeah. I mean, it's not an
21 uncommon -- just trucking efficiency is what
22 happened. I recall one -- just not to take
23 everybody's time. But when I was a young
24 forester working in the Adirondacks, people

1 were shipping softwood pulp to New York.
2 Those trucks, on the way back, would pick up
3 cherry logs in the Adirondacks and bring
4 them up to Beecher Falls, Vermont. And
5 today you see, oftentimes if you go on Route
6 201 in Maine, you will see log trucks headed
7 north with spruce and fir going to Canada,
8 coming back with hardwood pulp for the mill
9 in Skowhegan. It's actually not in
10 Skowhegan. It's --

11 A. (Richmond) Hinkley.

12 A. (Mongan) -- Hinkley. Thank you.

13 So that's -- the backhaul is a very
14 common trucking efficiency that's used in
15 the forest products business.

16 Q. Now, Mr. Richmond, perhaps this one is for
17 you. But the project -- the Applicant needs
18 750,000 tons. And you testified that you
19 have supply arrangements established
20 essentially throughout New England.

21 A. (Richmond) Hmm-hmm.

22 Q. What percentage of that 750,000 tons do you
23 think you're going to source within, say,
24 Coos County?

1 A. (Richmond) It's hard to say. It's going to
2 take -- you know, when it's all said and
3 done and when we get going with the project,
4 there would be a significant investment in
5 infrastructure, the resource is still there.
6 It's been there since the demise of the
7 paper company. Some of the infrastructure
8 has gone away. Loggers have quit and gone
9 into construction and such.

10 So it would depend on us talking with
11 the suppliers and seeing what's needed for
12 infrastructure: Chippers and trucks and
13 such up there. They're pulp farmers,
14 generally speaking, up there. They're
15 producing pulpwood for the paper markets.
16 And they don't have a lot of demand for the
17 chips, so we would bring in chippers and
18 trucks and stuff. So that would have to be
19 developed before I could really answer that.
20 But the quick answer is, as much as I can.

21 Q. And you're going to develop that market by
22 simply providing that equipment for free, or
23 are you going to sell it and finance it?

24 A. (Richmond) There would be arrangements made

1 with our current base of suppliers and ones
2 that would sign on and how we would arrange
3 that. But, no, it would not be for free.
4 It's very expensive equipment.

5 Q. And how long do you think it will take to
6 develop that infrastructure in Coos County?

7 A. (Richmond) That machinery is readily
8 available. By the time that they start
9 burning, we would have that in place.

10 Q. Okay. That's good.

11 MR. ROTH: I also have a few
12 questions about the confidential agreement. I
13 don't know whether these questions would touch on
14 confidential stuff, but -- so I don't know how
15 you want to -- do we want to -- how do we want to
16 handle this now?

17 CHAIRMAN BURACK: I think my
18 preference would be to ask your question in open
19 session if you think it can be, and we'll see if
20 folks feel that it goes to a confidential
21 business matter.

22 BY MR. ROTH:

23 Q. Mr. Richmond, you would agree that the fuel
24 supply arrangement is a vital aspect of the

1 Applicant's business?

2 A. (Richmond) Yes.

3 Q. And a failure of the fuel supply
4 arrangement, they can't generate
5 electricity.

6 A. (Richmond) Well, there's other options for
7 them to procure fuel. But, yes.

8 Q. Does your agreement with the Applicant
9 provide for posting a performance bond?

10 A. (Richmond) It's confidential.

11 Q. That's confidential?

12 A. (Richmond) Yeah.

13 Q. Does your agreement provide for a
14 cut-through to the supply chain in the event
15 of Cousineau's failure to deliver?

16 A. (Richmond) All of my agreements with all of
17 my clients, they could go -- if I fail, they
18 can go directly to my suppliers.

19 Q. Okay. So there's --

20 A. (Richmond) I have no legal binding with my
21 suppliers. I have a memorandum of
22 understanding, let's say.

23 Q. Okay. And does your business involve
24 establishing futures contracts with -- I'm

1 not looking for the specifics of who they're
2 with or how much they cost or anything like
3 that -- but establishing futures contracts
4 with wood suppliers so that you can ensure
5 that, say, next year you will have a supply
6 available to deliver?

7 A. (Richmond) Not specifically. My suppliers
8 have been with me for 10, 15 years. They're
9 very loyal. So I don't really need that.
10 They'll be with me next year.

11 Q. And did the -- I'll save this last one for
12 later.

13 MR. ROTH: Okay. That's all
14 the questions I have.

15 MR. BROOKS: Mr. Chair, I do
16 have one follow-up question for Mr. Richmond.

17 CHAIRMAN BURACK: Please.

18 CROSS-EXAMINATION

19 BY MR. BROOKS:

20 Q. Earlier, Mr. Roth asked Mr. Mongan about the
21 viability of a greater than 70-percent,
22 basically, haul from any particular site.
23 And I noticed that you were nodding your
24 head when his answer was there are some

1 economics that don't work in to get down to
2 the last leaf and the last twig.

3 So I was looking for your perspective
4 on that same question about the actual
5 viability of getting beyond, let's say a
6 70-percent haul from a specific site, and
7 why that would or would not occur.

8 A. (Richmond) Well, I tend to agree with what
9 he's saying. It's very expensive machinery.
10 You're not going to chase the twigs and
11 stuff. The fact of the matter is, in the
12 logging operation, when you drop the tree,
13 when you fell the tree, it hits the ground,
14 breaks branches and leaves off. You leave
15 some there. You hook on it with a skidder
16 and you drag it through the woods. You're
17 breaking off branches and leaves and leaving
18 parts there. So you lose a considerable
19 amount in the regular logging operation that
20 is indeed left in the woods. And then you
21 bring the tree out and you process it for
22 the sawlogs and the pulp, and then you chip
23 what is left.

24 I don't see my suppliers changing their

1 logging operations to accommodate this.
2 They're already working their land to its
3 fullest extent under the management, the
4 forest management plan that they have in
5 place.

6 So I don't really see them out picking
7 up the scraps and trying to get them through
8 the chipper. That just would not be
9 economical.

10 MR. BROOKS: Thank you. I
11 have nothing further.

12 CHAIRMAN BURACK: Thank you.

13 I think, given the hour, what
14 we're going to do is break now for lunch for one
15 hour. We will return here at 1:25, at which time
16 the Subcommittee will begin its questioning of
17 this panel.

18 So we'll stand adjourned for
19 one hour now. Thank you.

20 (Whereupon the Day 2 Morning Session
21 recessed for lunch at 12:25 p.m. Day 2
22 Afternoon Session to resume under
23 separate cover so designated.)

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C E R T I F I C A T E

I, Susan J. Robidas, a Licensed
Shorthand Court Reporter and Notary Public
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**{SEC 2009-02} [DAY 2 - AM SESSION] - August 24, 2010
LAIDLAW BERLIN BIOPOWER, LLC**

	55:11	8:3;9:2;114:15;130:24	3d (1)	140:6;157:10
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