STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

August 24, 2010 - 9:05 a.m. **DAY 2**
Public Utilities Commission **MORNING SESSION**
21 South Fruit Street **ONLY**
Suite 10
Concord, New Hampshire

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**

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Counsel for the Committee: Michael Iacopino, Esq.

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

ALSO PRESENT:

REPRESENTING LAIDLAW BERLIN BIOPOWER, APPLICANT:

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

REPRESENTING CITY OF BERLIN:

Merritt Schnipper, Esq.
(Downs Rachlin Martin)

REPRESENTING CLEAN POWER DEVELOPMENT:

James T. Rodier, Esq.

COUNSEL FOR THE PUBLIC:

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

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WITNESS PANEL: Steven J. Mongan
Curtis Richmond
Louis A. Bravakis

P R O C E E D I N G S

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

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

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

And now I would like to turn

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

MR. IACOPINO: Thank you, Mr. Chairman.

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

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

MR. IACOPINO: That's correct.

CHAIRMAN BURACK: Thank you.

(Committee Exhibit 1 marked for identification.)

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

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

(Committee Exhibit 2 marked for identification.)

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

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

(Discussion off the record.)

(Committee Exhibit 3 marked for identification.)

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

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

(Committee Exhibit 4 marked for identification.)

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

(Committee Exhibit 5 marked for identification.)

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

(Committee Exhibit 6 marked for identification.)

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

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

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

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

MS. VAUGHN: Sure.

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

CHAIRMAN BURACK: That should do it.

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

MR. NEEDLEMAN: May I approach?

CHAIRMAN BURACK: Yes, you may.

(Discussion off the record.)

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

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

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

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

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

EXAMINATION

BY CHAIRMAN BURACK:

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

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

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

in our application.
Q. Mr. Strickler, you want to --
A. (Strickler) Maybe try to clarify the question. Alternatives in terms of technology? Alternatives in terms of site or --
Q. Alternatives in terms of site, alternatives in terms of technology, both. Or any other alternatives that you might have considered to constructing the project in this manner.
A. (Bravakis) Yeah, I think we should defer it. I apologize.
Q. Thank you.

Would either of you be able to address the issue of effects on aesthetics? I do note that you have some simulated pictures behind you there. Are you able to address that issue, Mr. Bravakis?
A. (Bravakis) I can. For those of you who are unfamiliar with the property, this is currently the way the facility looks. See it? This is a recovery boiler. What we're looking at here is -- the boiler is right here (indicating). And this picture is

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

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

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

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

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

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

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

plant there.

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

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

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

Aesthetics, though not completely

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

CHAIRMAN BURACK: Very good. Thank you.

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

(Mr. Frecker joins witness panel.)

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

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

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

CHAIRMAN BURACK: Very good. Thank you.

BY CHAIRMAN BURACK:

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

A. (Bravakis) Yes, sir.

Q. Thank you.

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

CHAIRMAN BURACK: Very good. Thank you.

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

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

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

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

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

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

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

CHAIRMAN BURACK: Okay. Thank you.

BY CHAIRMAN BURACK:

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

A. (Strickler) Energy procurement and construction.

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

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

pre-EPC contract, yes.

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

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

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

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

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

A. (Strickler) That's correct.

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

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

Q. Thank you. Thank you for that.

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

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

A. (Strickler) Correct.

Q. -- to do that work on an EPC basis?
A. (Strickler) Yes. Yes.
Q. Okay. And would there then be an additional subcontractor under that separate EPC contract to actually do the interconnection work?
A. (Strickler) I'm not sure. It might be just one company that does the whole thing. I don't know if we'll have subcontracts or not. I don't know that right now.
Q. Thank you for that clarification.

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

A. (Bravakis) I spoke about that.
Q. That was you.
A. (Bravakis) Yes.
Q. Can you tell me how many different agreements there are currently between Laidlaw Berlin BioPower, LLC and the paper mill in Berlin -- I'm sorry -- the paper mill in Gorham?

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

Q. Okay.

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

MR. NEEDLEMAN: No, not at this point.

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

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

MR. BRAVAKIS: Yeah, we can get that.

CHAIRMAN BURACK: I'd request

that you submit that document to the Committee, please.

BY CHAIRMAN BURACK:

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

A. (Frecker) Bravakis, yes.

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

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

Q. Thank you.

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

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

A. (Strickler) Yes.

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

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

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

Q. Thank you.

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

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

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

A. (Frecker) I am.

Q. If you would proceed, please.

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

Site and Facility.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Q. Thank you.

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

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

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

I believe that covers those other documents.

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

A. (Frecker) That is correct.

Q. Thank you.

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

CHAIRMAN BURACK: Please.

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

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

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

CMSR. IGNATIUS: Thank you.

CHAIRMAN BURACK: Thank you.

BY CHAIRMAN BURACK:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Q. Thank you.

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

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

A. (Bravakis) I could address that.

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

Q. Great system?

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

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

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

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

Q. Thank you.

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

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

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

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

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

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

Q. Thank you.

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

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

developed into more of an industrial site.
Q. Forgive me this question, since I don't understand the details of the technology perhaps as well as you might, but is the sole form of heat that's going to be generated by the facility going to be in the form of hot water?
A. (Bravakis) Yes.
Q. So you're suggesting, then, that there's only one use or one set of uses that can be made of that hot water?
A. (Bravakis) Yes.
Q. Thank you.
And am I correct, Mr. Frecker, that the place in the application where you discuss the issue of alternatives is at Pages 50 to 51 in Exhibit 1, which is the application itself?
A. (Frecker) That is correct with regard to the project technology and layout alternatives. As I mentioned, the analysis of other technology alternatives associated with emission controls are contained in the air permit application included at Appendix C.

Q. Thank you.

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

MR. HARRINGTON: Excuse me, Mr. Chairman.

CHAIRMAN BURACK: Oh, I'm sorry.

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

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

EXAMINATION

BY MR. HARRINGTON:

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

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

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

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

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

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

Q. Thank you.

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

EXAMINATION

BY CHAIRMAN BURACK:

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

(Witness reviewing documents.)

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

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

CHAIRMAN BURACK: Sure.

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

CHAIRMAN BURACK: Thank you,

Mr. Harrington.
BY CHAIRMAN BURACK:
Q. This is at the bottom of Page 38, under Subsection (3)(d). And I'll just read what this says here.

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

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

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

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

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

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

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

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

A. (Bravakis) Yes.

Q. Thank you.

A. (Bravakis) For the project.

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

A. (Bravakis) Project, yes.

EXAMINATION

BY MR. HARRINGTON:

Q. Follow up on what you just...

And just so I get this straight, you're

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

A. (Bravakis) No.

A. (Strickler) No.

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

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

Q. Yeah.

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

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

A. (Strickler) It's actually --

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

A. (Strickler) -- from the city.

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

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

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

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

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

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

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

your cooling towers --
A. (Bravakis) Correct.
Q. -- and heating -- using the cooling potential from the water that would go down to Fraser.
A. (Bravakis) That's right.
Q. Of course, that raises their water temperature; so instead of getting 40-degree water, they're going to get 50-degree water.
A. (Bravakis) Well, they're getting 90- to 110-degree water, and maybe higher. We're going to investigate.
Q. What is the temperature -- what is it they're trying to get to, as far as --
A. (Bravakis) Well, anything above -- anything above what they get from the river. They prefer the 190-degree. I'm not sure we can get that high. But we're going to strive to get as much as we can without compromising the electrical output of the facility.

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

Q. Are you using reheaters in the plant at all in the loop for preheaters for your steam?
A. (Bravakis) Oh, sure. Yeah, that's -- I mean --
A. (Strickler) You mean for -- for the boiler, there's economizers and those kinds of things. But that's just --
Q. So this is a boiler just substituting the increased temperature of the water at Fraser for dumping the heat out of the cooling towers.
A. (Strickler) Yeah, it takes the load off the cooling tower.
Q. Okay. All right. Thank you.

CHAIRMAN BURACK: Thank you, gentlemen.

Mr. Iacopino.

MR. IACOPINO: Thank you.

EXAMINATION

BY MR. IACOPINO:

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

wood that actually is, a 30-day supply?
A. (Bravakis) We need to do that calculation. Can I --
Q. Sure. Let me move on and we'll come back to that.
I want to ask you some questions about the Cousineau agreement. And one thing that confused me yesterday is you indicated that --
A. (Bravakis) Excuse me. I'm sorry.
Q. I'm going to ask you some questions about the Cousineau agreement. And what confused me yesterday is you indicated that Cousineau is going to have a supply contract with your company to supply all of the fuel for the facility. And you indicated that in some circumstances Cousineau actually takes title to the fuel; is that correct?
A. (Bravakis) That's their business model, yes.
Q. Do they do that the majority of the time, some of the time, all of the time?
A. (Bravakis) I think they do that all the time. That's the way they operate. They buy the chips and then they sell them to

their clients.
Q. So they're not only a -- it's not like you're outsourcing a division of your company to them. They're actually going to be the organization from whom you are going to buy these wood chips.
A. (Bravakis) That's correct. It's a business relationship.
Q. What would happen if there is no agreement with Cousineau?
A. (Bravakis) If there was no agreement with Cousineau, we would seek to find an agreement with either another entity, or we would take on that role ourselves by hiring personnel to do that ourselves.
Q. When you provided estimates of the number of jobs that your facility would provide, were those procurement jobs that you're thinking about right now, were they part of that 40 jobs that are going to be there; and are we now going to lose jobs from the Berlin facility as a result of the Cousineau agreement?
A. (Bravakis) No, they were -- they did include

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

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

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

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

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

A. (Strickler) Two people.

A. (Bravakis) Two folks.

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

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

Q. Thank you.

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

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

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

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

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

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

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

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

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

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

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

A. (Strickler) Yes.

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

an open shop?

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

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

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

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

Q. Okay. Thank you.

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

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

Mr. Frecker that deals with this; correct?

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

A. (Frecker) That is correct.

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

A. (Frecker) Not in detail.

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

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

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

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

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

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

similar treatment.
Q. Do you think that there is any difference between the types of measurements? As I indicated, the FERC standard measures the sound not at a property line but at the nearest noise receptor. Is there any distinction to be made as we consider this, or as the Committee considers this, between that type of measurements -- the types of measurements that are being considered? Are we dealing with apples and apples?
A. (Frecker) Not entirely, because there is certainly a diminishing of sound with distance. So, depending upon how far away those receptors are from the property line, a 60 dB property line level may actually be a 55 decibel at a more distant receptor.
Q. And is there any part of any of the application that's been submitted that would give the Committee any idea on what it might be -- for instance, what the sound level might be at the church, what the sound level might be at the school, what it might be downtown?

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

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

A. (Frecker) Yes, it is.

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

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

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

A. (Frecker) Sure. The table basically

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

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

MR. FRECKER: The Eastern end. Thank you.

CHAIRMAN BURACK: Thank you.

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

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

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

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

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

CHAIRMAN BURACK: Thank you.

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

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

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

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

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

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

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

you. Okay.

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

CHAIRMAN BURACK: Yes. Thank you.

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

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

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

CHAIRMAN BURACK: Thank you.

BY MR. IACOPINO:

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

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

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

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

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

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

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

MR. BRAVAKIS: Laidlaw Berlin BioPower, LLC.

BY MR. IACOPINO:

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

A. (Bravakis) Yes, sir.

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

A. (Bravakis) No, sir.
Q. How does an industrial use of this remaining portion of the facility -- please tell us how this fits in with the planning laws of the town, the master plan, things like that?
A. (Bravakis) We have not investigated that in detail at all. We understand this is an industrially zoned property. And we also understand that there is a desire for economic development and activity in the community. And it's on those two assumptions that we have maintained this option.

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

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

MR. RODIER: Thank you.

MR. BRAVAKIS: So I want to --

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

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

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

MR. BRAVAKIS: Yes.

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

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

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

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

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

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

CHAIRMAN BURACK: That will be fine. Thank you.

MR. BRAVAKIS: Thank you.

BY MR. IACOPINO:

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

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

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

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

Q. Why the confidentiality then?

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

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

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

wood from within a certain geographic area?
A. (Bravakis) I believe our supply agreement instructs Cousineau to adhere to the sustainability policies and anything in the stipulations that we have with the City pertaining to wood procurement, which gives preference, without economically compromising the project, to local suppliers. So they will be required to and obligated to adhere to those policies and agreements that we already have in place, which gives preference to local suppliers.
Q. But it doesn't prohibit Cousineau from going out further, going further south, going to other states?
A. (Bravakis) No, sir.
Q. I've got a couple of just housekeeping questions on the fly ash. And it may not be the right people here. But I thought I heard somewhere that the fly ash could be used in the production of fertilizer. Is that correct?
A. (Bravakis) Yes.
Q. And the ash silo, there are no set

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

A. (Bravakis) Not yet.

A. (Strickler) That's correct.

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

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

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

A. (Strickler) Right. I understand.

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

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

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

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

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

A. (Bravakis) Right. I understand.

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

A. (Bravakis) That's my understanding.

Q. Other jurisdictions do; is that correct?

A. (Bravakis) Yes, sir.

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

correct?
A. (Bravakis) Uh-huh.
Q. You have to answer --
A. (Bravakis) Yes. I'm sorry.
Q. And my understanding, from what your testimony is, is that you expect that the market will drive those folks who work in the forest to capture more of the tops and branches, potentially up to about 70 percent, because of the increased demand for biomass.
A. (Bravakis) Yes.
Q. And I understand that other states may have standards and guidelines or even rules about this. But do you know of any study or any article or anything that you could point to that -- and I understand the common sense behind it. But is there any article or study that you could actually point to that actually documents that, you know, a new source of demand will do that in this particular industry with respect to this by-product of forestry?
A. (Bravakis) Excuse me. I'm not being rude.

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

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

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

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

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

MR. IACOPINO: Wonderful. Thank you.

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

MR. IACOPINO: I can get a copy.

MR. RODIER: We'll give it to

you at the break.

MR. IACOPINO: Thank you.

MR. RODIER: Certainly.

BY MR. IACOPINO:

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

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

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

(Discussion off the record)

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

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

this time?

MR. NEEDLEMAN: Not at this point.

CHAIRMAN BURACK: You do not. Okay.

Do you have some additional --

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

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

MR. BROOKS: A couple, yes.

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

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

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

I do have --

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

CHAIRMAN BURACK: Yes.

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

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

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

MR. ROTH: Okay.

CHAIRMAN BURACK: Okay?

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

CHAIRMAN BURACK: Of course. Thank you.

I do have one other question for this panel.

EXAMINATION

BY CHAIRMAN BURACK:

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

A. (Strickler) Yes.

Q. Was it you, Mr. Strickler?

A. (Strickler) Yes.

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

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

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

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

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

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

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

Q. Thank you.

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

A. (Strickler) That's right.

Q. Do you have any sense as to how that

compares with other similar facilities?
A. (Strickler) It's fairly consistent with other facilities that I'm aware of. You know, they can range from, you know, 80 to 95. Normally, plants can't run a hundred percent because there's always a period of time where you need to shut down for, you know, some sort of preventive maintenance and inspection program. So, you know, between 80 and 95 would be a good, you know, sort of range where most plants actually operate in a given year.
Q. So, again, the factors that would cause a plant to not operate would be what?
A. (Strickler) Two things: Unforced outages -- that is, equipment breakdown or failure; and scheduled outages, where the plant is scheduled to go down to do certain preventive maintenance and inspections of the entire facility.
Q. So how does a time period when the facility is not dispatched by ISO, how does that play into the capacity factor calculation?
A. (Strickler) In my view, that would always be

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

Q. So that's a third --

A. (Strickler) A third, sure.

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

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

CHAIRMAN BURACK: Thank you. Dr. Kent, you had a question?

DR. KENT: Maybe 15 to 30

minutes. You might want to break.

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

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

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

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

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

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

MR. NEEDLEMAN: That's my understanding.

CHAIRMAN BURACK: Okay. Thank you.

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

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

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

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

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

CHAIRMAN BURACK: Thank you.

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

MR. BROOKS: Yes, you did.

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

MR. IACOPINO: No.

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

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

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

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

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

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

(Public Council Exhibit 4 marked for identification.)

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

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

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

MR. IACOPINO: Thank you, Mr. Chairman.

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

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

CHAIRMAN BURACK: Again, the number on that is?

MR. IACOPINO: Applicant's Exhibit 61.

CHAIRMAN BURACK: Thank you.

(Laidlaw CONFIDENTIAL Exhibit 61 marked for identification.)

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

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

MR. IACOPINO: I'll get --

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

MR. IACOPINO: Okay. Who needed the --

CMSR. IGNATIUS: Me.

MR. HARRINGTON: And both of these are confidential?

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

MR. HARRINGTON: Short one again.

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

(Laidlaw CONFIDENTIAL Exhibit 62 marked for identification.)

CHAIRMAN BURACK: Thank you.

I'd like now to resume

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

Okay. Mr. Northrop.

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

EXAMINATION

BY MR. NORTHROP:

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

A. (Bravakis) No, sir.

Q. Okay. Thanks.

CHAIRMAN BURACK: Mr. Harrington.

EXAMINATION

BY MR. HARRINGTON:

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

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

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

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

A. (Strickler) Non-economic dispatch?

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

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

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

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

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

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

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

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

allow for a situation that a line is overloaded --

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

Q. Ice storms around here.

A. (Strickler) Ice storms, yeah.

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

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

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

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

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

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

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

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

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

CHAIRMAN BURACK: Thank you.

Any other questions from any of the Subcommittee members?

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

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

MR. NEEDLEMAN: Not at this time, no.

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

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

CROSS-EXAMINATION

BY MR. SCHNIPPER:

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

A. (Bravakis) That's correct.

Q. -- would go before the City --
A. (Bravakis) No, I was referring specifically to our project.
Q. But with regard to future co-located tenants, they would engage with the City of Berlin's processes.
A. (Bravakis) That's right.
Q. And just one final question about -- Chairman Burack asked about aesthetic considerations. And I know Attorney Van Oot yesterday discussed with you your participation in the negotiation of the stipulated conditions with the City.

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

A. (Bravakis) Yes, sir.

MR. SCHNIPPER: All right. Thanks. That's it.

CHAIRMAN BURACK: Thank you.

Attorney Rodier.

MR. RODIER: Thank you.

CROSS-EXAMINATION

BY MR. RODIER:

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

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

A. (Strickler) Yes.

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

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

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

A. (Bravakis) Yes, sir.

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

37-1/2; is that correct?
A. (Bravakis) Yes. But I believe, and I think Mr. Frecker can maybe -- or Mr. Strickler can help. The calculation on efficiency is a calculation, pure and simple. So they picked -- our engineers used 37.5, because that's the lower of the moisture spectrum, and based their calculation on that.
MR. BRAVAKIS: Would you gentlemen like to add anything to that?
BY MR. RODIER:
Q. That's okay. Thank you.
And the only other question that I have -- excuse me. I believe it was Commissioner Harrington yesterday that inquired about the possible, if not probable changes to the REC rules in Massachusetts. Do you recall that colloquy that you had with Commissioner Harrington?
A. (Bravakis) I do.
Q. And he asked you that -- or he suggested that there was a change afoot that could eliminate Laidlaw's ability to qualify for Mass. RECs. Do you remember that inquiry?

A. (Bravakis) I do.
Q. And you said what? You said it could happen.
A. (Bravakis) I'm sorry?
Q. You said it could happen.
A. (Bravakis) No. I believe I recall that I told Mr. Harrington that that wouldn't affect this project, since we have sold all of the renewable energy credits to PSNH that they will use to satisfy their requirement under New Hampshire's portfolio standard, of which we qualify for.
Q. Okay. That's right. You're right. Thank you.
So then, the question that I have is, if the regulations -- laws and regulations change in Massachusetts, they could change in New Hampshire, couldn't they?
A. (Bravakis) I believe they could.
Q. And so then the question is, what if it becomes you can't qualify for New Hampshire RECs?
A. (Bravakis) We have provisions in a confidential agreement with PSNH with

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

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

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

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

BY MR. RODIER:

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

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

A. (Bravakis) It's a hypothetical. If that's your belief, I guess, you know, that could happen. It's speculative.
Q. If certain types of biomass plants no longer qualify for Mass. RECs, if they're already built, they're going to go New Hampshire or some other place; isn't that right?
A. (Bravakis) That's your opinion. I mean, that's speculation. And I'll --
Q. It's not reasonable to assume they'd look for another market for their RECs if they can't qualify in Massachusetts?
A. (Bravakis) I would imagine one could speculate that and make assumptions based on that.
Q. Okay. So let's speculate and let's make it a hypothetical then. Let's say that that does happen. That would then dramatically -- or that would affect the value of New Hampshire RECs, wouldn't it?
A. (Bravakis) It might and it might not. You know, it's hard for me to say.
Q. Okay. Thank you.
CHAIRMAN BURACK: Thank you,

Attorney Rodier.

Counsel for the public.

MR. ROTH: Thank you.

CROSS-EXAMINATION

BY MR. ROTH:

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

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

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

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

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

A. (Frecker) That's correct.

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

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

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

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

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

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

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

MR. ROTH: That's correct.

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

BY MR. ROTH:

Q. Question No. 5 on Page 2 of Exhibit 20. And doesn't it, in fact, say there that the bottom ash is 100 to 250 tons per week?

A. (Frecker) Yes, it does.

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

A. (Frecker) I do not.

Q. Okay.

A. (Frecker) Excuse me. That number is significant.
A. (Strickler) Yeah, it is.
A. (Frecker) Let me be clear in my response.
Q. Thank you for --
A. (Strickler) Yeah. My memory was --
Q. In fact, couldn't that number be larger than the fly ash number?
A. (Frecker) Based upon the range that is presented there, that's correct.
Q. So, in fact, you're producing something like 1500 to 2,000 tons of ash per month; correct?
A. (Frecker) That is what is also stated further in response to Item 7.
Q. And is all of that ash going to Mount Carberry?
A. (Frecker) And as discussed further in response to Item 7, the Applicant had conversations with Mount Carberry about that quantity of ash going there, and the representative from the district indicated that they could handle that quantity of material.

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

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

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

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

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

A. (Frecker) It would be containerized.

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

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

A. (Strickler) Yes.
Q. Okay. Now, have you been given a copy of Public Counsel Exhibit No. 4? No?
MR. IACOPINO: I think counsel has.
A. (Strickler) No, not...
MR. IACOPINO: Anybody else need No. 4?
(Witnesses review document.)
BY MR. ROTH:
Q. I take it from the way you're looking at it, you haven't seen this letter before?
A. (Frecker) That's correct.
Q. Just for the record, I will identify this. This is a letter dated August 27th, 2008, that I wrote to Attorney Needleman regarding Laidlaw Berlin BioPower, LLC.
And can any of you, now that you've read it, tell the Committee basically what this letter says? You don't have to read it out loud. But, you know, kind of paraphrase it, if you don't mind.
A. (Frecker) It seems to indicate you indicating to Attorney Needleman that North

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

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

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

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

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

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

(Witness panel excused.)

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

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

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

CHAIRMAN BURACK: Thank you.

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

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

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

(Court Reporter Interjects.)

MR. NEEDLEMAN: I'm sorry. I

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

CHAIRMAN BURACK: Very good. Thank you.

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

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

I will note that we'll

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

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

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

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

STEVEN MONGAN, SWORN

CURTIS RICHMOND, SWORN

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

DIRECT EXAMINATION

BY MR. NEEDLEMAN:

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

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

Q. And could you briefly describe your educational background?

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

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

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

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

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

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

I've worn them all.

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

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

A. (Mongan) Yes, I do.

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

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

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

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

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

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

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

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

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

A. (Mongan) I am.

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

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

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

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

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

general manager of Cousineau Forest Products.

Q. And can you briefly describe your background.

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

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

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

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

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

Q. Briefly, what does Cousineau actually do?
A. (Richmond) We arrange for a procurement or supply into pulp facilities, biomass facilities, pellet facilities, colleges, schools that heat with biomass and biofilters, playground chips, mulches. Really, anything to do with forest products.
Q. What's the geographic scope of Cousineau's business?
A. (Richmond) We reach from Maine to Florida, and west to Buffalo.
Q. And is there any way for you to quantify what the sort of annual volume is of Cousineau's business?
A. (Richmond) Yes. Actually, currently we're doing about 750,000 tons. A year ago we were doing 1.5 million tons. So it varies with market conditions and quotas. Right now, our annual capacity is a little bit subdued due to everybody's on quotas. There's a surplus of chips, so we can't sell as much as we have available.
Q. Thank you.
MR. NEEDLEMAN: Mr. Chair, at

this point I have no further questions.

CHAIRMAN BURACK: Thank you.

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

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

CROSS-EXAMINATION

BY MR. SCHNIPPER:

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

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

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

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

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

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

Is that something that you understand

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

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

MR. SCHNIPPER: All right. Nothing further.

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

MR. RODIER: Thank you, Mr. Chairman.

CROSS-EXAMINATION

BY MR. RODIER:

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

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

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

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

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

it?
A. (Richmond) Yes, it is.
Q. How much wood do you procure for PSNH's Schiller Station?
A. (Richmond) We do some off-season piling down for them. So it varies on their needs. But anywheres from 5 to 10 percent, sometimes higher.
Q. Okay. Do you sell to any other wood-fired plants in New Hampshire?
A. (Richmond) Yes.
Q. Who?
A. (Richmond) We handle all the procurement for Indeck-Alexandria. We supply Springfield. We supply New England Wood Pellet, and the other facilities as needed. We handled a hundred percent of the procurement for Whitefield during BCAP.
Q. Excuse me. You handled a hundred percent of the procurement during what?
A. (Richmond) The BCAP, the federal program, BCAP. Biomass Crop Assistance Program.
Q. This is the Whitefield plant?
A. (Richmond) Was it just the Whitefield --

Q. No, no. You're talking about the Whitefield biomass plant?
A. (Richmond) Correct.
Q. The one that's owned by Marubeni?
A. (Richmond) Yes.
Q. You have a present relationship with them?
A. (Richmond) No. They used us for a service during the BCAP program.
Q. Okay. How about Bethlehem?
A. (Richmond) We supply them as needed, if they need some extra fuel.
Q. How about Ryegate?
A. (Richmond) As needed.
Q. Okay. So, in other words, you'd like to get business with all of these guys if you could, it sounds like.
A. (Richmond) If we had a chance, yes.
Q. Okay. Mr. Mongan, let's go back to pre-Laidlaw. I want to ask you about the report that LandVest did for -- is this mike on? It is on? Thank you.
I want to ask you about the report LandVest did for the North Country Council, November 2008. And you're nodding as if you

are familiar with that report.
A. (Mongan) Yes, I am. I had the same position in that report: I supervised the effort of the people who did the groundwork.
Q. Yeah. I noticed here you said there was 600,000 tons available.
A. (Mongan) I believe we said -- we gave a range, and I think we picked 640,000 tons, if I'm not mistaken.
Q. Well, let me read for you -- we're not making a big deal about it, because we're basically talking about the same thing. But the way I read it, it says under normal conditions there are about 600,000 green tons of low-grade wood available in the study area. I represent to you --
A. (Mongan) That's probably what it says.
Q. Okay. And how much is -- what's the size of the Laidlaw facility? 750,000 tons a year?
A. (Mongan) That's my understanding.
Q. Okay. So the North Country Council report that you did, which was greeted with great fanfare, has a conclusion in it that there's not enough wood for the Laidlaw plant;

right?
A. (Mongan) It has -- it's not a study for the Laidlaw plant, if you look at it. It's for a hypothetical facility.
Q. So Laidlaw then comes to you and says, Hey, by the way, 600,000 tons isn't going to work for us. We need something -- we need a higher number. And you said, Well, okay. We'll go out to a hundred miles.
A. (Mongan) No such thing.
Q. That's not what happened?
A. (Mongan) No.
Q. Okay. You said you'd go out to a hundred miles, didn't you?
A. (Mongan) I said -- I think I said earlier, and if you didn't hear, that facilities of this size have typically a 100-mile radius of procurement.
Q. Okay. So you knew the size of the project and you knew you'd have to go out a hundred miles. No?
A. (Mongan) That's roughly okay, I guess.
Q. All right. Thank you.
So, if -- let me ask you this: If

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

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

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

A. (Richmond) Yes, I did.

Q. -- to get the wood; right?

It's because of price; right?

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

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

couldn't you?
A. (Richmond) Probably.
Q. Yeah. Mr. Mongan, are you familiar with -- were you in the room when Laidlaw called to the attention of the Committee the Forest Biomass Retention and Harvesting Guidelines document?
A. (Mongan) Yes. That was just a few minutes ago, wasn't it?
Q. Excuse me?
A. (Mongan) Wasn't that just a few minutes ago when we rejoined this session?
Q. Yes.
A. (Mongan) Yeah, I was here.
Q. Are you familiar with that?
A. (Mongan) No.
Q. Who's Forest Guild?
A. (Mongan) They are an organization of foresters.
Q. Are they reputable?
A. (Mongan) Yes.
Q. They are reputable. Where are they out of?
A. (Mongan) I don't know.
Q. Okay. So if they said something, you would

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

A. (Mongan) It would have some credibility.

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

A. (Mongan) Yes, I am.

Q. What's that?

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

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

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

Q. It's good practices for managing forests.

A. (Mongan) Yes.

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

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

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

Somebody fill you in?

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

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

MR. ROTH: Two.

BY MR. RODIER:

Q. -- 2.

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

Q. Excuse me? You have it?

A. (Mongan) I have it.

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

A. (Mongan) I'm there.

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

Did I read that correctly?

A. (Mongan) You did.

Q. Footnote 6. Would you read Footnote 6 and tell me what that means?
A. (Mongan) It means the 6 million-plus green tons --
Q. Would you read it first?
A. (Mongan) Oh, I thought you asked me to tell you what it meant.
Q. Well, I meant, and maybe I didn't -- I wanted you to read it first --
A. (Mongan) Sure.
Q. -- into the record and then tell me what it means.
A. (Mongan) Footnote 6 says, "It is the sum of 15 percent of sawtimber, all pulpwood, and 50 percent of tops and branches from the FIA removals. See Appendix 2."

And now you'd like me to tell you what that means?
Q. Yeah, with specific focus on all pulpwood.
A. (Mongan) Pulpwood is considered low grade, generally.
Q. Pulpwood is a low-grade wood -- low-grade log?
A. (Mongan) You could say that. It's low-grade

wood.
Q. Okay. Low-grade wood. How about sawtimber?
A. (Mongan) Sawtimber is not considered low-grade wood.
Q. Okay. So you -- in this study you've got the high-grade wood. Some high-grade wood.
A. (Mongan) It's the residue from high-grade wood. When you process logs, there's leftovers.
Q. I missed that word, sir. Sorry.
A. (Mongan) Leftovers. When you process a log and you run it through a sawmill, there's slabs, there's sawdust, there's bark.
Q. Okay. Let's again look at the conclusion on Page 4 of the addendum, Exhibit 2. And I'm referring to the area of -- I'm sorry. The sentence that's in bold.
A. (Mongan) Okay.
Q. This came up yesterday. And I guess I'll take a turn and I'll read it. "Therefore, because this study" -- and this is the -- by the way, this is the Exhibit 2, the addendum, a sort of update to the study that was included as part of the application.

A. (Mongan) Fair enough. Clarification update, yeah.
Q. Who asked you to do the clarification?
A. (Mongan) Laidlaw.
Q. Why was that? Because the low number in your December study was too small for their plant? Is that why they wanted an update?
A. (Mongan) No.
Q. Okay. Why did they want an update?
A. (Mongan) Mostly because there were several questions that they were having trouble fielding and they needed more information. So we developed more information. Clarification.
Q. All right. You had no other instructions.
A. (Mongan) No.
Q. Okay. "Therefore, because this study is to estimate the sustainable availability of low-grade fiber to the proposed Laidlaw Berlin BioPower plant, it is our best estimate that producers will supply over 1 million tons per year" -- and not only is that in bold letters, that's underlined -- "in excess of current consumption."

Does it sound like I read that correctly to you?

A. (Mongan) It does, yeah.

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

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

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

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

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

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

Q. Is that how you got the --

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

Q. You didn't just take the mid-range point.
A. (Mongan) No, we didn't.
Q. Okay. What did you do?
A. (Mongan) We said -- we looked at the lower range, which was, we thought, available all the time. And we looked at the impact that we thought constructing the facility with this kind of demand would have on the area. And we looked at the known availability of extra biomass that's left in the woods. We know that normally about 50 percent is utilized. We believe that up to 70 percent can be utilized ecologically, in an ecologically sound manner. So that sets an upper limit. That, and in this refinement we also looked at, after talking to Cousineau and others, backhauls, potential for rail, whatever, as sort of added. But we figured some combination of increased competition, increased utilization of biomass, a little better handle on alternative supply would push it up to over a million. That's our best opinion.
Q. Okay. But you didn't -- well, all right.

Let's drop it.

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

A. (Mongan) Something like that.

Q. Yeah.

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

Q. Remember to keep your voice up here.

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

Q. Yeah. Okay.

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

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

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

Q. Have you heard anything about a pellet plant

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

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

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

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

Q. Why?

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

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

A. (Mongan) Sure.

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

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

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

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

A. (Mongan) It's economics.

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

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

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

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

Q. I'm sorry. Who did? Oh, Mr. Richmond did?
A. (Mongan) I think so.
Q. Okay. Well, Mr. Richmond, you could get --
A. (Mongan) But I wouldn't --
Q. Huh?
A. (Mongan) You're getting out there. I mean, what -- of course you can -- for some amount of money, you can get most anything from somewhere and somehow.
Q. All right. Let me ask you this: So the guy with the deep pockets comes into the area, Mr. Richmond -- I'll lay off Mr. Mongan here for a second.
A. (Mongan) Thanks.
Q. Mr. Richmond, you could procure the wood for a 70-megawatt, 750,000-ton plant, couldn't you?
A. (Richmond) Well, we usually have restrictions on how much they can pay, obviously. So they might come and ask us, feasibility-wise, what we thought, but --
Q. Well, let me ask you this. Total hypothetical. Somebody comes in and says, Hey, no problem. This is all going to go

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

A. (Richmond) Sure.

Q. You'd do it.

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

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

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

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

A. (Richmond) Yes.

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

A. (Richmond) Uh-huh.

Q. Coos County?

A. (Richmond) Yes.

Q. Where's Ryegate?

A. (Richmond) Just over the Vermont border.

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

What's that going to do to these other guys?
A. (Richmond) Well, I guess if there was one player that was willing to pay much more -- and coincidentally, we have that somewhat with the Schiller Station. They pay more than the market price. So that's already in place. You do have an entity that has --
Q. Whoa, whoa. I'm very sorry. Schiller pays more than the market price?
A. (Richmond) Yeah.
Q. Oh, let me write that down. I don't want to forget that. Hold your thought.
I'm very sorry. As you were saying, Schiller pays more than the market price. So then what?
A. (Richmond) Because their back is up to the water and they can only procure from 180-degree radius versus a 360. So it's part of their business plan that they have to maintain that.
Q. All right. That they can only go west -- they can only go west, north and south. They can't go east, because east is water.
A. (Richmond) Correct.

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

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

CHAIRMAN BURACK: Yes.

(Pause in proceedings)

BY MR. RODIER:

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

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

Q. Oh. I guess I did.

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

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

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

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

wood for the Schiller plant?
A. (Richmond) No.
Q. Why?
A. (Richmond) Because we have a set of suppliers. They have a set of suppliers. And there's a surplus.
Q. There's a surplus?
A. (Richmond) Sure. Quite a significant surplus out there.
Q. Did you hear Mr. Mongan's testimony?
A. (Richmond) Yeah, but that's based on a study. I'm talking real-world economics.
Q. Oh, okay. So, really what we should do, really what it comes down to, we don't have to think about what Laidlaw's got to say; right? Okay.
A. (Richmond) I didn't say that.
Q. What?
A. (Richmond) I didn't say that. A study is based on, I guess, a resource. And the way wood actually moves is much more complex than little concentric circles around a facility. So there's one way of looking at it and then there's the real world.

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

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

Q. Okay. I got it.

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

Q. I got it. Right.

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

A. (Richmond) Thank you.

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

A. (Richmond) Thank you.

CHAIRMAN BURACK: Thank you, Attorney Rodier.

Counsel for the Public.

MR. BROOKS: Thank you, Mr. Chair.

CROSS-EXAMINATION

BY MR. BROOKS:

Q. Mr. -- is it Mongan?

A. (Mongan) Mongan.

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

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

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

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

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

Q. Okay. Thank you for that clarification.

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

make more sense than another?
A. (Mongan) Actually, our report was and may still be expected to be a two-phased report. That's up to Laidlaw. But we were to look at the physical resource first, look at the existing competition out there first, look at what we thought was available for fiber. Now, the amendment, because of shapes -- used amoeba a couple of times. I did hear about that. You know, that's economics, the shape that -- and this study does our best at estimating that factor without doing an econometric study, which was or should be, and I'm sure Laidlaw will -- they will cost out their wood before they go for wood, I would imagine.
Q. Do you know whether the actual procurement from Cousineau -- and I will ask the same question to the representative from Cousineau -- actually matches what you had predicted in the LandVest study? In other words --
A. (Mongan) I'm sorry.
Q. -- will the fuel actually be coming from the

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

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

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

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

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

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

A. (Mongan) Theoretically, yes.

Q. Can you explain how that is?

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

Q. Of course.

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

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

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

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

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

Q. Oh, you're right. They're 29. They came --
A. (Bravakis) Yeah, 29.5, I believe.
MR. RODIER: Three hundred and forty thousand tons.
A. (Bravakis) So they were -- I believe they were at 300 -- we'll say 350,000 tons, and we're 750,000 tons. So that's 1.1 million tons.
A. (Mongan) I mean, again, economics aside, that looks like it would use up pretty much the wood in the study area by adding another, if we estimated up to 1.2 million or 1.3 million. Sounds like that would fill it up.
Q. Thank you.
MR. BROOKS: I'm going to let Attorney Roth ask a couple more questions probably of -- well, whoever he wants to ask questions.
I just wanted to point out, though, to Mr. Chair, that I do have a number of questions for the Cousineau representative, but many of them pertain to the confidential document that we have. So, just keep that in mind as we

go through.

CHAIRMAN BURACK: Understood. And I suspect we may all have similar-type questions related to that confidential document. Thank you.

Attorney Roth.

CROSS-EXAMINATION

BY MR. ROTH:

Q. Mr. Mongan, in your addendum you pointed out that the 6.7 million tons was at 50-percent utilization and that 7.2 million tons was in a more competitive environment.

And as I understand it, what you're suggesting in your testimony today is that utilization can increase to 70 percent, and that accounts for that difference. Is that what you mean by the more competitive environment?

A. (Mongan) Primarily that's what accounts. As I mentioned earlier, I would also think a more competitive environment makes backhauls more likely, makes rail more likely.

Q. Okay. We'll talk about backhauls in a minute.

And you said, also, that up to 70 percent of this is ecologically sound and is the upper range. Is that -- do you recall that?

A. (Mongan) That's my understanding, yes.

Q. And what happens if you go beyond 70-percent utilization?

A. (Mongan) I don't think it's a hard line. What I think the Forest Guild who floated that, and I think I've heard from them, they're not calling it a hard line either. But they floated that out there, and other people have supported it. It means that you want the soil in the forest to replenish itself. You want it to be healthy, good soils. So if you continue rotation after rotation, took out every last twig, over some number of rotations the soil's productive capacity would start to decline. In order to prevent that, they would recommend leaving 30 percent of the tops in the woods.

Q. Does the, let's call it over-utilization, also affect wildlife?

A. (Mongan) I probably shouldn't comment since I'm not a wildlife expert.
Q. So you don't have any expertise in forest ecology?
A. (Mongan) I do, but not enough to comment on -- you know, various forest practices affect wildlife in various and different ways. I know many, many species of wildlife prefer wide-open clear-cuts, others want closed canopy forests. So, you know, I think it really calls for a wildlife expert to comment on that.
Q. Is it your understanding that the competitive environment could go -- could take the utilization beyond 70 percent if left to its own devices?
A. (Mongan) I suppose so.
Q. And are you aware of, or do you know whether, in fact, the competitive environment goes beyond 70 percent?
A. (Mongan) I'm sorry. I'm not sure I follow that.
Q. Let me -- I'll try a hypothetical that Attorney Brooks mentioned.

So we've got 750,000 tons going to the Applicant's project. Let's say Clean Power comes online and they want another -- what was the figure, 350?

A. (Mongan) Yeah, something like that. I think you're right.

Q. If we only looked at, you know, the study area, would the utilization increase beyond the 750 to get more wood for Clean Power?

A. (Mongan) I think it's possible.

Q. Okay. So it could go beyond 70 percent?

A. (Mongan) It could.

Q. Okay.

A. (Mongan) I think there starts to be economic constraints to increased utilization, however. I mean, this has to do with -- this is expensive logging machinery that's out there in the forest doing this work. Whole-tree harvesters trying to get value out of tiny branchlets becomes a very expensive proposition. I'm guessing there's -- and I haven't seen it. I suppose I shouldn't guess too much in a session like this. But I'm guessing there's some

economic imposed limit on how much you can utilize.

Q. Kind of like getting rice out of a bowl with chopsticks?

A. (Mongan) Yeah, kind of like that at the end. So it's never going to get -- it couldn't get to a hundred percent. Got the leaves, the branchlets. So I don't know. But could it get past 70, hypothetically? Yes.

Q. Okay. Now, you mentioned in your introduction that LandVest manages 1.4 million acres.

A. (Mongan) That's right.

Q. Is that North Country property or is that all over the place?

A. (Mongan) It's all in what's come to be known as the Northern Forest, which is: The Adirondacks of New York, northern Vermont, north of the Notches in New Hampshire, central and northern Maine.

Q. And without getting into any specifics, would some of those management-managed properties perhaps be involved in delivering fuel to this project?

A. (Mongan) It is possible.
Q. Okay. And do your management agreements provide for LandVest to get any percentage from timber sales or harvest from the properties that you manage?
A. (Mongan) Yes, they do.
Q. Okay. So, in a way, it's to your advantage to have -- to your economic advantage to have this project go through and utilize more wood from the Northern Forest, which might include properties you manage.
A. (Mongan) That's fair to say.
Q. Okay. Now I want to talk about the backhauls. You had -- my notes are a little bit disorganized, so forgive me. But I saw somewhere, and I think it was your primary report, that you estimated backhauls providing something like 50,000 tons. Does that number sound right?
A. (Mongan) I wouldn't disagree with you. I'd have to look it up. But if you say so, I believe you.
Q. If my notes are to be believed, it would be on Page 12 of your -- the primary report

that you did.
A. (Mongan) Uh-huh.
Q. And you described that as your opinion.
CHAIRMAN BURACK: Excuse me. Attorney Roth, could you just give us that exhibit reference again for the primary report?
MR. ROTH: I was going off of the application. And I don't know which exhibit that is in the application.
CHAIRMAN BURACK: I think it may be Exhibit P.
MR. ROTH: It's not -- oh, it's Appendix P.
CHAIRMAN BURACK: Appendix P. Thank you.
A. (Mongan) All right. I found the page, yeah.
BY MR. ROTH:
Q. It's probably Exhibit 1.
A. (Mongan) Yeah. I found it.
Q. And so 50,000 tons is what you estimated for backhauls?
A. (Mongan) Yes.
Q. And using my lawyer math late at night, I came up with 50,000 tons being approximately

6 percent of the 750,000 tons that the project requires. Correct? Does that sound right to you?

A. (Mongan) I wouldn't doubt it.

Q. Again, I don't know math. But I think I got that right. I did it a couple of times just to make sure.

And in your -- the process to come up with backhaul information, you telephoned or visited with trucking companies?

A. (Mongan) Hmm-hmm. People like Cousineau that do the supplying, sure. I think we actually did talk to them as part of the process.

Q. You did? I was going to ask you if you talked to Mr. Richmond.

A. (Mongan) I believe so. It was back some time. But I think they were one of the folks we interviewed.

Q. And how many others did you consult with?

A. (Mongan) I couldn't say exactly. I don't recall.

Q. A dozen?

A. (Mongan) I don't think it was that many. I

think it was a handful.

Q. Handful. Okay.

Now, there seemed to be a focus on backhauling bark. And as I understood it, wood chips are produced in southern places and brought to northern New Hampshire, and then tree bark is brought back to southern places. In Massachusetts suburbs, I assume?

A. (Mongan) Could I defer to the person next to me on that one? I think that's true, but I think he knows better than me.

Q. Sure. Either one of you, feel free.

A. (Richmond) That's exactly how it happens. You have paper mills, sawmills in Maine and Canada that produce large amounts of bark as a residual product. That's used in landscaping throughout the southern New England states. It's a huge market. It includes thousands of truckloads a year. And we manage a large percentage of them. And yes, indeed, the bark goes from the north to the south. And down south you have what we call a push economy. They have tipping fees to get rid of brush and waste.

So there's a driver to drive the residual products north. We capitalize on that. Our trucks go down, pick up the -- drop off the bark, pick up the biomass fuel and bring it back north. That's it.

Q. Now, I've seen on I-93, going through Concord, log trucks going north. And is it -- can you haul bark on a log truck?

A. (Richmond) No. It's usually in an open-floor, box-type trailer. A live-floor, box-type trailer, open top.

Q. But you can haul bark in the same kind of truck that you use to haul chips; is that correct?

A. (Richmond) Correct.

Q. And are there any other -- either of you answer this -- any other products in the North Country that lend themselves to backhauls other than bark?

A. (Mongan) Yeah. I mean, it's not an uncommon -- just trucking efficiency is what happened. I recall one -- just not to take everybody's time. But when I was a young forester working in the Adirondacks, people

were shipping softwood pulp to New York. Those trucks, on the way back, would pick up cherry logs in the Adirondacks and bring them up to Beecher Falls, Vermont. And today you see, oftentimes if you go on Route 201 in Maine, you will see log trucks headed north with spruce and fir going to Canada, coming back with hardwood pulp for the mill in Skowhegan. It's actually not in Skowhegan. It's --

A. (Richmond) Hinkley.

A. (Mongan) -- Hinkley. Thank you.

So that's -- the backhaul is a very common trucking efficiency that's used in the forest products business.

Q. Now, Mr. Richmond, perhaps this one is for you. But the project -- the Applicant needs 750,000 tons. And you testified that you have supply arrangements established essentially throughout New England.

A. (Richmond) Hmm-hmm.

Q. What percentage of that 750,000 tons do you think you're going to source within, say, Coos County?

A. (Richmond) It's hard to say. It's going to take -- you know, when it's all said and done and when we get going with the project, there would be a significant investment in infrastructure, the resource is still there. It's been there since the demise of the paper company. Some of the infrastructure has gone away. Loggers have quit and gone into construction and such.

So it would depend on us talking with the suppliers and seeing what's needed for infrastructure: Chippers and trucks and such up there. They're pulp farmers, generally speaking, up there. They're producing pulpwood for the paper markets. And they don't have a lot of demand for the chips, so we would bring in chippers and trucks and stuff. So that would have to be developed before I could really answer that. But the quick answer is, as much as I can.

Q. And you're going to develop that market by simply providing that equipment for free, or are you going to sell it and finance it?

A. (Richmond) There would be arrangements made

with our current base of suppliers and ones that would sign on and how we would arrange that. But, no, it would not be for free. It's very expensive equipment.

Q. And how long do you think it will take to develop that infrastructure in Coos County?

A. (Richmond) That machinery is readily available. By the time that they start burning, we would have that in place.

Q. Okay. That's good.

MR. ROTH: I also have a few questions about the confidential agreement. I don't know whether these questions would touch on confidential stuff, but -- so I don't know how you want to -- do we want to -- how do we want to handle this now?

CHAIRMAN BURACK: I think my preference would be to ask your question in open session if you think it can be, and we'll see if folks feel that it goes to a confidential business matter.

BY MR. ROTH:

Q. Mr. Richmond, you would agree that the fuel supply arrangement is a vital aspect of the

Applicant's business?
A. (Richmond) Yes.
Q. And a failure of the fuel supply arrangement, they can't generate electricity.
A. (Richmond) Well, there's other options for them to procure fuel. But, yes.
Q. Does your agreement with the Applicant provide for posting a performance bond?
A. (Richmond) It's confidential.
Q. That's confidential?
A. (Richmond) Yeah.
Q. Does your agreement provide for a cut-through to the supply chain in the event of Cousineau's failure to deliver?
A. (Richmond) All of my agreements with all of my clients, they could go -- if I fail, they can go directly to my suppliers.
Q. Okay. So there's --
A. (Richmond) I have no legal binding with my suppliers. I have a memorandum of understanding, let's say.
Q. Okay. And does your business involve establishing futures contracts with -- I'm

not looking for the specifics of who they're with or how much they cost or anything like that -- but establishing futures contracts with wood suppliers so that you can ensure that, say, next year you will have a supply available to deliver?

A. (Richmond) Not specifically. My suppliers have been with me for 10, 15 years. They're very loyal. So I don't really need that. They'll be with me next year.

Q. And did the -- I'll save this last one for later.

MR. ROTH: Okay. That's all the questions I have.

MR. BROOKS: Mr. Chair, I do have one follow-up question for Mr. Richmond.

CHAIRMAN BURACK: Please.

CROSS-EXAMINATION

BY MR. BROOKS:

Q. Earlier, Mr. Roth asked Mr. Mongan about the viability of a greater than 70-percent, basically, haul from any particular site. And I noticed that you were nodding your head when his answer was there are some

economics that don't work in to get down to the last leaf and the last twig.

So I was looking for your perspective on that same question about the actual viability of getting beyond, let's say a 70-percent haul from a specific site, and why that would or would not occur.

A. (Richmond) Well, I tend to agree with what he's saying. It's very expensive machinery. You're not going to chase the twigs and stuff. The fact of the matter is, in the logging operation, when you drop the tree, when you fell the tree, it hits the ground, breaks branches and leaves off. You leave some there. You hook on it with a skidder and you drag it through the woods. You're breaking off branches and leaves and leaving parts there. So you lose a considerable amount in the regular logging operation that is indeed left in the woods. And then you bring the tree out and you process it for the sawlogs and the pulp, and then you chip what is left.

I don't see my suppliers changing their

logging operations to accommodate this. They're already working their land to its fullest extent under the management, the forest management plan that they have in place.

So I don't really see them out picking up the scraps and trying to get them through the chipper. That just would not be economical.

MR. BROOKS: Thank you. I have nothing further.

CHAIRMAN BURACK: Thank you.

I think, given the hour, what we're going to do is break now for lunch for one hour. We will return here at 1:25, at which time the Subcommittee will begin its questioning of this panel.

So we'll stand adjourned for one hour now. Thank you.

(Whereupon the Day 2 Morning Session recessed for lunch at 12:25 p.m. Day 2 Afternoon Session to resume under separate cover so designated.)

C E R T I F I C A T E

I, Susan J. Robidas, a Licensed Shorthand Court Reporter and Notary Public of the State of New Hampshire, do hereby certify that the foregoing is a true and accurate transcript of my stenographic notes of these proceedings taken at the place and on the date hereinbefore set forth, to the best of my skill and ability under the conditions present at the time.

I further certify that I am neither attorney or counsel for, nor related to or employed by any of the parties to the action; and further, that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

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Susan J. Robidas, LCR/RPR
Licensed Shorthand Court Reporter
Registered Professional Reporter
N.H. LCR No. 44 (RSA 310-A:173)

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