

SITE EVALUATION COMMITTEE

DAY 9
AFTERNOON SESSION ONLY

PRESENT:	SITE EVALUATION COMMITTEE:
Amy L. Ignatius, Chairman (Presiding Officer)	Public Utilities Commission
Kate Bailey, Engineer	Public Utilities Commission
Harry Stewart, Dir.	NH DES - Water Division
Craig Green, Designee	Dept. of Transportation
Johanna Lyons, Designee	Dept. of Resources & Econ. Dev.
Brad Simpkins, Dir.	DRED - Div. of Forests & Lands
Richard Boisvert, Designee	Division of Historic Resources
Brook Dupee, Designee	Dept. of Health & Human Services

COUNSEL FOR THE PUBLIC: Peter C. L. Roth, Esq.
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COURT REPORTER: Steven E. Patnaude, LCR No. 52

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Douglas L. Patch, Esq. (Orr & Reno)
Rachel A. Goldwasser, Esq. (Orr & Reno)

Reptg. Antrim Board of Selectmen:
Galen Stearns, Town Administrator
Michael Genest, Selectman, Town of Antrim

Reptg. the Harris Center for Cons. Edu.:
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Reptg. Antrim Planning Board:
Martha Pinello, Member
Charles Levesque, Member

Reptg. Edwards/Allen Intervenor Group:
Mary Allen
Robert Edwards

Reptg. the Abutters Intervenor Group:
Janice Duley Longgood
Mark Schaefer

Reptg. Audubon Society of New Hampshire:
Amy Manzelli, Esq. (BCM Envir. & Land Law)
Frances Von Mertens

Reptg. North Branch Group of Intervenors:
Richard Block
Loranne Carey Block
Annie Law

1	I N D E X	
2		PAGE NO.
3	WITNESS PANEL:	PHILLIP BROWN
4		PAUL NICKERSON
5		CAROL FOSS
6		FRANCES VON MERTENS
7	Interrogatories by Mr. Simpkins	6
8	Redirect examination by Ms. Manzelli	8
9	WITNESS:	JANICE DULEY LONGGOOD
10	Direct examination by Mr. Iacopino	15
11	Cross-examination by Mr. Roth	17
12	Cross-examination by Mr. Block	31
13	Cross-examination by Ms. Goldwasser	36
14	Interrogatories by Mr. Iacopino	44
15	Redirect statement by Witness Longgood	47
16	WITNESS PANEL:	CHARLES A. LEVESQUE
17		MARTHA E. PINELLO
18	Direct examination by Mr. Iacopino	48
19	Cross-examination by Mr. Roth	52
20	Cross-examination by Ms. Longgood	68
21	Cross-examination by Ms. Manzelli	70
22	Cross-examination by Ms. Allen	71
23	Cross-examination by Mr. Block	75
24	Cross-examination by Mr. Stearns	84
25	Cross-examination by Ms. Goldwasser	85
26	Interrogatories by Ms. Bailey	111
27	Interrogatories by Mr. Iacopino	128
28	WITNESS PANEL:	MARY E. ALLEN
29		ROBERT L. EDWARDS
30	Direct examination by Mr. Iacopino	132
31	Cross-examination by Mr. Roth	135
32	Cross-examination by Ms. Longgood	150
33	Cross-examination by Mr. Stearns	153
34	Cross-examination by Mr. Block	157
35	Cross-examination by Mr. Patch	170
36	Interrogatories by Mr. Iacopino	198
37	Redirect statement by Witness Allen	208
38	Redirect statement by Witness Edwards	210

E X H I B I T S

EXHIBIT NO.	D E S C R I P T I O N	PAGE NO.
ASNH-32	N.H. Audubon Policy on Wind Energy Projects (Approved by Board of Trustees 1/24/2012)	8
AWE 45	Response to Record Request re: Total length of roadway designed with permeable base	premarked
AWE 46	Response to Record Request re: Acciona employees in the Chicago Remote Operations Center, please provide...	premarked
AWE 47	Response to Record Request re: Compare/explain relationship between liquids in Application Table E.6.B...	premarked
AWE 48	Response to Record Request re: Please provide dates, etc. associated with Exhibit AWE 15	premarked
AWE 49	Response to Record Request re: Please indicate whether AWE project can comply...	premarked
AWE 50	Response to Record Request re: Did AWE's conversations with the State Fire Marshal...	premarked
Abutters 5	Pre-filed Testimony of Clark A. Craig, Jr.	premarked
Abutters 6	Plan of Lots in Antrim, N.H. Owned by William F. & Margaret H. Longgood	premarked

P R O C E E D I N G

CHAIRMAN IGNATIUS: Good afternoon.

We're back on the record, resuming the hearings. And, Mr. Iacopino has just distributed to everyone a -- the testimony of Mr. Craig, which had previously been circulated, but I guess was mislabeled. So, it's now identified as "Abutters 5"?

MR. IACOPINO: Yes.

CHAIRMAN IGNATIUS: And, then, something that's been -- you referred to as "Abutters 6", that's a Plan of Lots in Antrim, New Hampshire. And, did you say there's agreement among the parties that this be admitted?

MR. IACOPINO: That's my understanding.

CHAIRMAN IGNATIUS: And, you've made copies available to everyone?

MR. IACOPINO: I have.

CHAIRMAN IGNATIUS: Thank you. All right. That's for the panel that's not yet here. We're still working with the Audubon panel. And, before we go to redirect from Ms. Manzelli, another issue came up over the lunch break from one of the Committee members that he wanted to inquire of. And, so, I'll allow that.

Mr. Simpkins.

MR. SIMPKINS: Thank you. I just wanted

[WITNESS PANEL: Brown~Nickerson~Foss~Von Mertens]

1 to clarify something briefly that was in my line of
2 questioning this morning, just to make sure on the record
3 it's correct.

4 BY MR. SIMPKINS:

5 Q. And, this question is for you, Mr. Nickerson. Just to
6 confirm, the energy conversation policy that's
7 currently an exhibit, AWE 26, I believe, was supplant
8 -- that was from 2007. That was supplanted by a new
9 policy on wind energy in 2012?

10 A. (Nickerson) That's correct.

11 Q. Okay. The reason I asked, is I checked the Audubon
12 website over the break, and I can't find the 2012
13 policy, but the 2007 policy is still on the website as
14 an environmental policy statement. So, I think we're
15 going to get copies of the 2012. Does that actually
16 have evidence on it on when that was voted by the Board
17 of Trustees as the official policy?

18 A. (Nickerson) Yes. It was voted 1/24 of '12,
19 January 24th of 2012.

20 Q. Okay. Is there a reason that's not on the website, but
21 the 2007 policy is still on the website?

22 A. (Nickerson) I don't know the answer to that. Other
23 than sometimes it takes a while, we still have board
24 members that are no longer board members that show up

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Brown~Nickerson~Foss~Von Mertens]

1 on the website. So, we'll attribute it to catch-up.

2 MR. SIMPKINS: All right. Thank you.

3 MS. MANZELLI: And, for the record, I
4 believe that will be "ASNH-32", that newer policy.

5 CHAIRMAN IGNATIUS: And, Ms. Manzelli,
6 has that policy been previously distributed or is this all
7 coming out today?

8 MS. MANZELLI: I do not know. And, I
9 apologize for that. It's appearance in the file predates
10 my appearance in this matter. And, I checked with
11 Attorney Geiger, and, as far as I understand, she also is
12 not sure if this even is in the record already.

13 MS. GEIGER: I can't -- I don't know,
14 from memory, if it is. And, we've looked and we don't --
15 let's leave it at that. I can't remember if it is. I
16 don't remember seeing it, I don't remember reading it.
17 The only one that I'm familiar with is the one that we
18 marked. We looked on the -- Attorney Goldwasser looked on
19 the website, I think as Mr. Simpkins did, and the last one
20 we found was the older policy.

21 CHAIRMAN IGNATIUS: Well, why don't you
22 produce it. We'll mark it for identification as
23 "ASNH-32". Whether it's admitted, whether there's any
24 further proceedings related to it, I guess we have to wait

[WITNESS PANEL: Brown~Nickerson~Foss~Von Mertens]

1 and see. Are you intending to go into it on redirect?

2 MS. MANZELLI: Not at all. And, I do
3 believe that Attorney Iacopino has my only copy.

4 MR. IACOPINO: Uh-oh.

5 CHAIRMAN IGNATIUS: For the record, Mr.
6 Iacopino just said "uh-oh".

7 MS. MANZELLI: Or perhaps it's with the
8 reporter.

9 MR. IACOPINO: All right. Do you have
10 it, Steve?

11 MR. PATNAUDE: Yes, I think so.

12 CHAIRMAN IGNATIUS: All right. Whew!

13 (Laughter.)

14 (The document, as described, was
15 herewith marked as **Exhibit ASNH-32** for
16 identification.)

17 CHAIRMAN IGNATIUS: Okay. So, redirect.

18 MS. MANZELLI: Thank you.

19 CHAIRMAN IGNATIUS: Ms. Manzelli.

20 **REDIRECT EXAMINATION**

21 BY MS. MANZELLI:

22 Q. Francie, is it adequate to control invasive species
23 only during construction, but not during operation?

24 A. (Von Mertens) No.

[WITNESS PANEL: Brown~Nickerson~Foss~Von Mertens]

1 MS. GEIGER: Excuse me. I'm going to
2 object to that. I think this witness has indicated that
3 she's a layperson. And, I know that she has talked about
4 invasive species before, but there were other witnesses
5 here who were experts. And, so, I would object to her
6 answering this type of question. But I'll leave it to the
7 Committee to let you give it the weight you think the
8 answer deserves, based on Ms. Von Mertens' admission this
9 morning that she's a "layperson".

10 CHAIRMAN IGNATIUS: So, are you not
11 objecting, just pointing that out?

12 MS. GEIGER: Both.

13 CHAIRMAN IGNATIUS: Well, then,
14 Ms. Manzelli, your thoughts?

15 MS. GEIGER: I'm giving you a choice.

16 MS. MANZELLI: I guess I would encourage
17 the Committee to give it the weight it feels it deserves.

18 CHAIRMAN IGNATIUS: I think Ms. Geiger
19 is right. She is not here as a biologist or -- and has
20 said she's a "layperson", although with tremendous
21 experience in certain areas, but it didn't sound like
22 invasive species was necessarily one of them. So, I don't
23 know how long -- how far you're going with it?

24 MS. MANZELLI: That's my last question

1 on that topic.

2 CHAIRMAN IGNATIUS: All right. And,
3 she's answered that "no, it's not adequate."

4 MS. MANZELLI: Correct.

5 CHAIRMAN IGNATIUS: So, we will take
6 that and move on. Thank you.

7 BY MS. MANZELLI:

8 Q. Carol, there's been some discussion earlier in this
9 hearing whether one year or three years is the
10 appropriate period of time for post-construction
11 monitoring. Is that issue at all related to nighthawk
12 mitigation?

13 A. (Foss) No. And, can I just clarify, that that's
14 post-construction mortality monitoring that is referred
15 to, not -- it's that specific monitoring.

16 Q. Thank you. And, Phil, in your capacity as an employee
17 of New Hampshire Audubon, did you and others from New
18 Hampshire Audubon meet with representatives of this
19 Applicant about this Project?

20 A. (Brown) Yes, we did.

21 Q. Francie, you testified earlier that this Project would
22 have "no impact on hunting". Did you mean that this
23 Project would have no impact on wildlife at all?

24 A. (Von Mertens) No, I was addressing strictly hunting.

[WITNESS PANEL: Brown~Nickerson~Foss~Von Mertens]

1 Q. Carol, do the Land-Based Wind Guidelines deal with
2 assessing the risk category of golden eagles?

3 A. (Foss) No.

4 Q. Now, Francie, you testified earlier, and there were
5 some questions about an apparent inconsistency between
6 a "Forever Wild" easement and a wind project. Now, is
7 it New Hampshire Audubon's primary position in this
8 case that there should be no wind project in this
9 location?

10 A. (Von Mertens) That's correct.

11 Q. And, is it only in the alternative position, if this
12 Committee decides to approve such a project, that
13 you're requesting a "Forever Wild" protection for the
14 long term, after the decommissioning project --
15 decommissioning of this Project?

16 A. (Von Mertens) That's correct.

17 Q. And, Phil, will this Project fragment the habitat?

18 A. (Brown) Yes.

19 Q. And, Francie, you testified earlier that part of
20 Willard Pond is protected by a Forest Legacy easement.
21 Does such easements require public access?

22 A. Yes, they do.

23 MS. MANZELLI: I have no further
24 questions. Thank you.

[WITNESS PANEL: Brown~Nickerson~Foss~Von Mertens]

1 CHAIRMAN IGNATIUS: Thank you. And, I
2 appreciate your obviously concerted effort to make very
3 streamlined and specific questions on redirect. So, the
4 panel is excused. Thank you for your hard work this
5 morning and into the afternoon.

6 We move now to another panel, of
7 abutters, Ms. Longgood, Mr. Schaefer, and Mr. Craig. You
8 know that Ms. Longgood is present.

9 MS. LONGGOOD: Yes.

10 CHAIRMAN IGNATIUS: I don't believe
11 Mr. Schaefer or Mr. Craig -- oh. Oh, good. I thank you.
12 Mr. Craig's testimony, I believe, as you're getting
13 settled, was identified -- should be properly identified
14 as "Abutters 5", and that's what was just spoken to by
15 Mr. Iacopino a few moments ago, though it was prefiled
16 earlier on.

17 Mr. Schaefer, I'm not aware of testimony
18 being prefiled by you?

19 MR. SCHAEFER: I didn't file prefiled.

20 CHAIRMAN IGNATIUS: All right. If you
21 haven't prefiled testimony, then our procedure is that you
22 can't then do oral testimony. And, --

23 MR. SCHAEFER: May I be called as a
24 witness with Ms. Longgood then?

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

1 CHAIRMAN IGNATIUS: Called -- well, no.
2 I mean, the whole idea of testimony is that people
3 prefile, there's an opportunity for people to review it in
4 advance, and engage in what's called "discovery", asking
5 questions about it outside of the hearing room. So, we
6 don't allow people to testify from the stand without
7 anything being prefiled.

8 What we can offer you, if you would
9 like, would be an opportunity to make a public statement,
10 which we offer anyone who would like to just speak to the
11 matters, before we conclude the hearings. And, we could
12 do it at some point later today. It wouldn't mean having
13 to come back again. That means a public statement that's
14 taken on the record. There's no cross-examination of it.
15 But it's something that we do at public hearings. And, we
16 offer at any point during the evidentiary hearings with
17 that opportunity. So, if you'd like to do that, we'd make
18 that available to you.

19 MR. SCHAEFER: I can do that by e-mail
20 then?

21 MS. GOLDWASSER: Chairman Ignatius?

22 CHAIRMAN IGNATIUS: All right. You can
23 do it. You can submit it to the record. Yes, I hear a
24 voice?

1 MS. GOLDWASSER: I apologize. The
2 Applicant would object to oral testimony, just given the
3 late date at this time. There was time for public
4 hearing. We're in Day, now I'm confused, 9, I think, you
5 know, to subject us to more time to be spent, when there
6 was time for public testimony before, would be
7 disadvantageous.

8 If Mr. Schaefer wants to submit a
9 written public comment, then we would ask that that be
10 treated as merely a written public comment, like any other
11 member of the public, and not as an intervenor.

12 CHAIRMAN IGNATIUS: Well, and I think
13 that's what I was trying to say. That we will take, in
14 lieu of testimony, as it would be an opportunity to make a
15 public statement, not as a party, but a public statement
16 from a member of the community. And, if you'd like to do
17 that in writing, that's also often done and perfectly
18 acceptable. So, I'll let you think about that.

19 But why don't we go ahead with the
20 panel, that now consists of Ms. Longgood.

21 (Whereupon **Janice Duley Longgood** was
22 duly sworn by the Court Reporter.)

23 **JANICE DULEY LONGGOOD, SWORN**

24 **DIRECT EXAMINATION**

[WITNESS: Longgood]

1 BY MR. IACOPINO:

2 Q. Please introduce yourself to the Committee by telling
3 them your name and your address.

4 A. My name is Janice Duley Longgood. I live at 156 Salmon
5 Brook Road, in Antrim.

6 Q. Okay. And, are you the same Janice Longgood who
7 offered prefiled testimony as an intervenor in this
8 matter, which has been marked as Abutters Exhibit
9 Number 2?

10 A. Yes, I am.

11 Q. Okay. And, with that testimony, if you were to be
12 asked the same questions contained in that testimony
13 today, would you give the same answers today?

14 A. I would.

15 Q. And, is that testimony true and correct to the best of
16 your acknowledge and belief?

17 A. Yes, it is.

18 Q. Okay. You also have before you what's been marked as
19 Abutters Exhibit Number 5, which is the prefiled
20 testimony of Clark Craig.

21 A. That's correct.

22 Q. Okay. And, I understand that you have asked to enter
23 that into the record as well as part of this
24 proceeding, and that there's no objection to that?

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS: Longgood]

1 A. That is my understanding as well. Thank you.

2 Q. There will be no need to read it.

3 A. Okay.

4 Q. It will be part of the record. Finally, you've offered
5 a new exhibit today, which has been marked as "Abutters
6 Number 6". Can you just please explain to the
7 Committee what that is?

8 A. This is a map that, when the Longgoods lived --
9 although my testimony states I have lived in the
10 residence for 27-28 years, the property has been in the
11 Longgood family for -- since the early '70s. And, this
12 shows that they owned it. And, they separated out and
13 sold 38 acres to the Schaefers, with the covenants and
14 the restrictions. And, Bill Longgood was very much of
15 a naturalist and very passionate about keeping the land
16 unfragmented, natural, and, you know, as undeveloped as
17 possible. So, that is the reason for putting this map
18 into the evidence.

19 Q. Okay. And, finally, after you filed your prefiled
20 direct testimony, other parties may have filed
21 supplemental testimony. Do you intend to offer any
22 type of rebuttal testimony to any of that testimony?

23 A. Not to my knowledge. I'm very ignorant about these
24 processes.

[WITNESS: Longgood]

1 Q. Okay.

2 A. And, most likely would have filed something
3 supplemental, but I was not on the ball. So, I
4 apologize.

5 Q. No. No, this would have been the time.

6 A. Okay.

7 Q. So, you're fine. You haven't missed anything.

8 A. Okay.

9 MR. IACOPINO: But you're now ready for
10 cross-examination.

11 WITNESS LONGGOOD: Thank you.

12 CHAIRMAN IGNATIUS: Thank you. Mr.
13 Roth, questions to begin?

14 MR. ROTH: Yes. Thank you, Ms.
15 Longgood.

16 **CROSS-EXAMINATION**

17 BY MR. ROTH:

18 Q. I'm looking at the plan that you just filed. And, I
19 would like you to help me understand what it is I'm
20 looking at here. And, I see, if I hold it up so that I
21 can actually read the words from left to right, and I
22 guess the arrow points north, there's Salmon Brook
23 Road, and then there's something called "Lot 1" -- or,
24 "Lot F-1" and "Lot F-2", is that correct?

[WITNESS: Longgood]

1 A. That's correct.

2 Q. Are both of those your property?

3 A. No. It used to be the Longgood's property. I own Lot
4 F-2, the Schaefers own Lot F-1.

5 Q. Okay. And, on the right, there's a boundary, and then
6 it says "Town of Antrim". And, then, slightly north of
7 that, it says "Chabourn" and "Rowton", correct?

8 A. Correct.

9 Q. And, then, on top of it, on the northern edge, it's
10 "Phillip Kuchko", looks like --

11 A. "Cutter".

12 Q. -- "Cutter", and "Gary", if I'm reading that right?

13 A. Correct.

14 Q. Okay. Now, I understand you're an abutter, and I'm
15 trying to understand which way the Project is from this
16 map?

17 A. The Project would be on Lot F-2 and Lot F-1, on the far
18 right-hand side.

19 Q. So, the area that's designated "Town of Antrim"?

20 A. The "Town of Antrim", right. The 1,725 feet of
21 property line there on the back of my acreage.

22 Q. Okay. And, where is your house in this? Is it the
23 little square there between the Beaver Pond and the
24 road?

[WITNESS: Longgood]

1 A. No. Actually, it is not. It's down -- it's right next
2 to the Beaver Pond. So, there was a road that -- this
3 was the original road that went down to the Beaver
4 Pond. Since the '70s, when we were first going there
5 and hauling water, we would walk over to a little
6 cabin. But we built another road that goes in. It's
7 further, up above where that road is, it's right on the
8 Beaver Pond as well.

9 Q. Okay.

10 A. But it's a little bit -- it's a little bit, but it is
11 right in by the Beaver Pond.

12 Q. All right. And, do you have a view across your lot
13 where you can see the Project property?

14 A. Most definitely. My home is oriented to look out over
15 the Beaver Pond, look out over the ridge, all of the
16 large windows, the deck, the orchards, and the hot tub
17 are all looking out into the woods. So, as you drive
18 down the driveway, there are not a lot of windows.
19 They're mostly facing the east, facing the ridge,
20 looking out over the Beaver Pond.

21 Q. Are you on an elevated spot here yourself? Are you on
22 a ridge of some kind or a knoll or is it down in the
23 valley?

24 A. I'm not on a ridge. It's kind of, you know, it's

[WITNESS: Longgood]

1 certainly high up on Salmon Brook Road. So, I'm in a
2 higher elevation, but the house is kind of down in a
3 bit of a hollow, looking out over the Beaver Pond.

4 Q. And, when you look from your deck and the side viewing
5 the Beaver Pond and the ridge, how many of the
6 Project's turbines would you expect to see, based on
7 the information you've been given you thus far?

8 A. I would expect to see all of them or most of them. I
9 know that there are four that are closer than a mile to
10 my house. And, I was also informed during these
11 proceedings that I would have the most shadow-flicker
12 of anyone in the Project area. So, I suspect it would
13 be quite an impact visually, as --

14 Q. Okay.

15 A. But it's hard for me to know. I requested a visual
16 impact study, and I did not -- I was not granted one,
17 so --

18 Q. You mean a "visual simulation"?

19 A. Right.

20 Q. Okay. Now, of the four, you say that there are -- the
21 four turbines that are close, less than a mile from
22 your house?

23 A. Correct.

24 Q. Do you expect that you would see all four of those?

[WITNESS: Longgood]

1 A. I certainly do.

2 Q. Okay. And, are the -- the view of those four turbines,
3 based on what you know thus far, and I understand you
4 didn't get a photosimulation, do you expect to see,
5 like, you know, part of the turbine tower and the
6 nacelle and the blades, or just blade tips flashing by,
7 or what's your expectation?

8 A. It's very hard to judge. But, at 500 feet, I expect to
9 see tower, blade tips, flashing light. I expect to see
10 a lot of it, because I -- as I drive up and look at the
11 60-foot met tower, that's quite visible. And, I can
12 only imagine what the extra footage would appear like.

13 Q. Okay. Now, I know you've been present for many of
14 these hearings, but, forgive me, I just don't remember
15 which ones you were not here, or perhaps your sister
16 was here instead. So, I don't know if you were here
17 during Mr. Tocci's testimony, were you?

18 A. Refresh me what he --

19 Q. He was the noise expert that I retained.

20 A. I was here for a portion of it, I believe, and a
21 portion of Mr. James as well.

22 Q. Did you have occasion to look at Mr. Tocci's report in
23 his testimony?

24 A. Not in depth.

[WITNESS: Longgood]

1 Q. Okay. I'm going to -- I'd ask you to look at it now.

2 MR. ROTH: Somebody walked off with it
3 from the official folder.

4 MR. IACOPINO: What are you looking for?

5 MR. ROTH: PC 5.

6 MR. IACOPINO: You know, there are
7 several exhibits over here on the table.

8 MR. ROTH: Ah-ha.

9 (Short pause.)

10 MR. ROTH: Looks like Greg Tocci took
11 it.

12 BY MR. ROTH:

13 Q. I'm going to show you my own copy.

14 A. Okay.

15 (Atty. Roth showing document to the
16 witness.)

17 BY MR. ROTH:

18 Q. And, --

19 A. I have seen this before. But thank you for refreshing
20 my memory. There's so much information, it's hard to
21 know exactly what you were referencing.

22 Q. Okay. Now, have you seen that chart before, too?

23 A. Yes, I have.

24 Q. All right. Would you take a moment and find and direct

[WITNESS: Longgood]

1 your -- point to your residence the best you can on
2 that, on that map.

3 A. I believe it's that one.

4 Q. And, that's near --

5 A. It's within the blue line.

6 Q. Okay. So, we're looking at AWE Number 41, is that
7 right? No? Yes, number 41. And, I'm sorry, can you
8 do that again?

9 A. (Witness indicating on AWE 41).

10 Q. And, you're pointing to the blue square right near the
11 "L3" designated on the chart?

12 A. Correct.

13 Q. Okay. Did Mr. O'Neal, the Applicant's sound expert,
14 monitor background sound near your home?

15 A. It was above my driveway. My home is in closer to the
16 Project area.

17 Q. So, he measured it, the background sound, closer to the
18 Salmon Brook Road?

19 A. Correct.

20 Q. Okay.

21 A. I'm 800 feet in from there.

22 Q. And, according to the table there in front of you, in
23 Mr. Tocci's report, you see where it says "L3"?
24 Location 3?

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS: Longgood]

1 A. L3. Oh, yes, I do. Yes.

2 Q. And, is that -- do you believe that location to be that
3 "L3" on the map that was close to your home?

4 A. I do.

5 Q. And, what's your understanding of what level of wind
6 turbine project sound they're modeling and predicting
7 for your residence?

8 A. It appears from this chart, I will have the most sound.
9 I would suspect that I would be very annoyed.

10 Q. Well, I haven't asked you that question yet.

11 A. Oh, okay. Okay.

12 Q. You're getting ahead of me.

13 A. Those numbers, I have 42 AWE sound level, the dBAs, so
14 that is the greatest of any area that was measured.

15 Q. Okay. And, you see from Mr. Tocci's discussion there
16 in that table, he says some percentage of people would
17 be "annoyed" and some percentage of people would be
18 "very annoyed", correct?

19 A. Correct.

20 Q. And, then, apparently, those percentages don't add up
21 to 100. So, there would be some percentage of people
22 who presumably either wouldn't say one way or the other
23 or aren't annoyed, correct?

24 A. I would assume.

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS: Longgood]

1 Q. Which of those three categories would you place
2 yourself in?

3 MS. GOLDWASSER: I'm going to -- I'm
4 just going to object to the way that question is phrased.
5 It's "which of these categories would you place yourself
6 in?", today, in the present tense, and there's no towers
7 there.

8 CHAIRMAN IGNATIUS: Why don't you
9 rephrase the question.

10 BY MR. ROTH:

11 Q. Should the Project be built and become operational, and
12 sound from the wind turbine project be experienced at
13 your property at 41 -- was it 41 or 42?

14 A. Forty-two.

15 Q. -- at 42 decibels, would you expect yourself to be
16 unconcerned, annoyed or very annoyed?

17 A. Very annoyed, since I chose to move there for the
18 quiet, the peace, and solitude.

19 Q. And, what does -- since "very annoyed", apparently,
20 according to Mr. Tocci and others, is sort of a
21 self-reporting standard, and has meaning to the person
22 perhaps unique to them, what does that mean to you?

23 A. "Very annoyed" would mean that it would forever change
24 my experience, and that I would not be able to live in

[WITNESS: Longgood]

1 my residence.

2 Q. You heard -- did you hear Mr. James the other day?

3 A. I heard some of Mr. James, which again leads me to be
4 more concerned about some of the sound leveling
5 equipment and measurements that were done.

6 Q. Okay. But Mr. James indicated that, in some
7 circumstances, he believes that people would abandon
8 their residence?

9 A. Correct. And, I -- I shouldn't testify to things that
10 I'm not asked. Sorry.

11 Q. I'm sorry?

12 A. I was just going to say, provide information that you
13 didn't ask me to. So, --

14 Q. Oh, you can --

15 A. Okay. Talking about Mr. James, certainly lead me to
16 believe, I've had significant health problems in the
17 past, and I've become more and more concerned as I've
18 been here at these hearings as to the effect that these
19 turbines and this Project will have on my life.

20 Q. Okay. So, I asked you the question what -- how would
21 -- what would "very annoyed" do to you? And, you
22 seemed to suggest that you would abandon your home, is
23 that correct?

24 A. Correct. That's correct.

[WITNESS: Longgood]

1 Q. Okay. Now, in terms of the use of your property,
2 assuming you don't abandon your home right away,
3 because maybe that's a little dramatic, don't you
4 think?

5 A. It would seem so.

6 Q. Yes. So, you don't abandon ship right away, but you
7 try to live there. How would the experience of
8 42 decibels on your deck, in your hot tub, in your yard
9 and the like affect your use and enjoyment of those
10 things?

11 MS. GOLDWASSER: Objection. There has
12 been no evidence that Ms. Longgood has any knowledge about
13 what 42 decibels would sound like.

14 CHAIRMAN IGNATIUS: Mr. Roth.

15 MR. ROTH: I think that, you know, the
16 testimony -- if that's the case, then, you know, I mean,
17 right now we have Ms. Longgood, who has already testified
18 she would be "very annoyed" at 42 decibels. That question
19 wasn't objected to. I'm just trying to explore what that
20 means to her and how that would affect her life.

21 CHAIRMAN IGNATIUS: I think that's a
22 fair question. Proceed.

23 **BY THE WITNESS:**

24 A. I spend a lot of time outdoors. I have fruit trees, a

[WITNESS: Longgood]

1 garden. I enjoy being outside. I have my windows
2 open. I think it would impact the way that I use my
3 land. I would want to be in, I would want the windows
4 closed. I might want white noise to cover up. It is
5 extraordinarily quiet. I do not hear the highway. I
6 hear an occasional plane. But it would be very, very
7 different, the experience living there, if that were to
8 be.

9 BY MR. ROTH:

10 Q. Is your home insulated?

11 A. Yes.

12 Q. Do you have thermal pane windows?

13 A. Yes. In the '80s, I got Anderson windows, yes. Big
14 ones.

15 Q. They're double pane?

16 A. Yes.

17 Q. Okay. Do you have air conditioning?

18 A. I do not.

19 Q. Okay. If you were to complain about noise, and the
20 Project owner at the time were to offer you things like
21 new windows, more insulation, air conditioning, fans,
22 that sort of thing, would that be sufficient for you to
23 make you want to stay?

24 A. No, because noise is not the only factor that will be

[WITNESS: Longgood]

1 of a -- highly annoying to me.

2 Q. And, would you think those things would help you with
3 the issues in being outdoor?

4 A. Absolutely not.

5 Q. Okay. And, what are the other things that, assuming
6 they could make the sound problem go away, what are the
7 other things that would be problematic?

8 A. Certainly, shadow-flicker. The visual impact of
9 looking out my windows and seeing rotating blades.
10 Lighting, as I sit in the hot tub in the evening, where
11 I see the night sky, it would be forever changed.

12 Q. Okay. I want to ask you about shadow-flicker a minute.
13 Have you experienced shadow-flicker before?

14 A. No. It's been told to me that it's similar to strobe
15 lights, which I can't stand. So, --

16 Q. Okay. Do you suffer from any vision problems or
17 migraines or anything like that?

18 A. My daughter has migraines. I have -- I wear contacts,
19 I have some vision problems.

20 Q. Okay. In your testimony, you say that your home "will
21 be surrounded by the largest turbines in New England."
22 What do you base that on?

23 A. That was my understanding, that these are -- will be
24 the largest in New England. I don't know if I read it,

[WITNESS: Longgood]

1 if I heard it. But that the 500 foot is higher than
2 any of the others that have been erected has been.

3 Q. Okay.

4 A. It was my understanding. I might be wrong.

5 Q. Okay.

6 A. To the best of my knowledge.

7 MR. ROTH: Thank you very much, Ms.
8 Longgood. That's all the questions I have.

9 WITNESS LONGGOOD: You're welcome.

10 CHAIRMAN IGNATIUS: Thank you, Mr. Roth.
11 Mr. Froling?

12 (No verbal response)

13 CHAIRMAN IGNATIUS: Mr. Beblowski?

14 (No verbal response)

15 CHAIRMAN IGNATIUS: Mr. Jones?

16 (No verbal response)

17 CHAIRMAN IGNATIUS: Ms. Sullivan?

18 (No verbal response)

19 CHAIRMAN IGNATIUS: Mr. Stearns?

20 MR. STEARNS: No questions.

21 CHAIRMAN IGNATIUS: Ms. Pinello?

22 MS. PINELLO: No questions.

23 CHAIRMAN IGNATIUS: Ms. Manzelli?

24 MS. MANZELLI: No questions. Thank you.

[WITNESS: Longgood]

1 CHAIRMAN IGNATIUS: Ms. Allen?

2 MS. ALLEN: No questions.

3 CHAIRMAN IGNATIUS: Mr. Block or Ms.

4 Block?

5 MR. BLOCK: Just a couple. Thank you.

6 BY MR. BLOCK:

7 Q. And, you may have said this earlier, but how long have
8 you lived in Antrim?

9 A. Over 27 years I've actually resided there. The
10 property has been in the family for many more years
11 than that.

12 Q. Okay. The Plan of Lots that you handed out earlier
13 says "Owned by William F. & Margaret H. Longgood"?

14 A. That is correct.

15 Q. What's their relationship to you?

16 A. My in-laws. They are both deceased.

17 Q. Okay. So, did they live there before or did they just
18 use it as a vacation?

19 A. They had built a cabin there as kind of a refuge, and
20 used it to vacation in.

21 Q. So, you inherited the property from them or bought it?
22 How did that work?

23 A. Purchased it.

24 Q. Purchased it. So, the question is, I guess, I don't

[WITNESS: Longgood]

1 know if you can answer for them, but for you, why would
2 you choose a piece of property on basically the most
3 remote road in Antrim?

4 A. That's why we didn't move in in the '70s, because we
5 had to haul water, the home was lit with propane,
6 propane refrigerator. I decided that, to live in this
7 century, I had to move to an apartment in Concord. We
8 chose to move there after someone else moved part way
9 down the road and had power put in. And, then, we
10 could afford the price of the \$200 a month for the
11 privilege of electricity for five years. Prior to
12 somebody moving halfway down the road and sharing that
13 cost, it would have been prohibitive. And, I don't
14 believe that I would be there now if that had not
15 happened.

16 Q. So, why did you make this choice? Why go through all
17 that to live in this -- on this spot?

18 A. It's beautiful. I love it. Abundant wildlife. I've
19 never -- I grew up in New Hampshire. I've lived in
20 Concord. I have never seen such a wild place. I could
21 not go camping and be as remote as I am in my home.

22 Q. When you purchased this, were there any restrictions on
23 your deed?

24 A. There certainly were. There were quite a few covenants

[WITNESS: Longgood]

1 and restrictions. And, as one of the exhibits of the
2 quitclaim deed, when I got divorced, not that I like to
3 divulge all this personal information, but still, in
4 2008, the premises were always subject to -- "conveyed
5 subject to and with the benefit of covenants,
6 restrictions, reservations, conditions, rights of
7 approval and easements as set forth in a Declaration
8 of Protective Covenants and Restrictions by Land/Vest
9 Properties, dated March 18th, 1974." And, it states
10 that "agree on behalf of herself, her administrators,
11 executors, heirs and assigns and personal
12 representatives, that she will well and truly observe
13 and perform said covenants, restrictions, reservations,
14 conditions, rights of approval and easements which
15 shall be a burden upon and run with the land."

16 Q. Are you familiar with one of your panel colleagues,
17 Clark Craig?

18 A. Yes, I am.

19 Q. Do you know where his house is?

20 A. I do.

21 Q. Can you point that out on the map?

22 A. I can try. I might need some help. He would be one of
23 these right here [indicating], I believe. Rich, maybe
24 you can help me? Right in here. This one right here.

[WITNESS: Longgood]

1 Yes, that's what I thought, too. Okay. Got it. He's
2 on the other side of the ridge from my home. It's
3 right -- this one there [indicating].

4 Q. Now, according to his --

5 CHAIRMAN IGNATIUS: So, before you go
6 on, Mr. Block, just so that, for people trying to
7 reconstruct reading a transcript, you just pointed to one
8 of those blue markings of a house, just on the eastern
9 side of the ridge, in the band between -- can you see what
10 the sound bands are, just so we get the zone, the sort of
11 sense of where it is?

12 WITNESS LONGGOOD: Between the purple
13 and the blue.

14 CHAIRMAN IGNATIUS: All right. Thank
15 you.

16 BY MR. BLOCK:

17 Q. Do you have his testimony in front of you?

18 A. I do.

19 Q. Can you just tell us from there when that -- the date
20 that he gives on there when that homestead was
21 purchased by his grandfather?

22 A. He stated "in 1895".

23 Q. Thank you. Do you have -- you don't -- I assume you
24 have no idea when he built that house, do you, or when

[WITNESS: Longgood]

1 that house was built?

2 A. No. But I sought it was on one of the historical homes
3 that was recorded, and I was here actually for that
4 testimony. So, I did see his home in that part of the
5 testimony.

6 Q. Do you have any idea if that home is eligible for
7 listing in the National Historic Register?

8 A. I have no idea, personally.

9 Q. Okay. Going back to your home. On the sound study
10 that was made nearby, I guess, I think it lists about
11 24 decibels ambient. Does that sound logical and
12 reasonable for where you're living?

13 A. It's very quiet. I guess it sounds logical and
14 reasonable. That's -- you know, I'm not a sound
15 expert.

16 Q. Okay. Last question. As a private citizen, are you
17 currently involved in any lawsuit involving this
18 Project?

19 A. I am.

20 Q. I don't --

21 A. It's pending.

22 MR. BLOCK: It's pending. All right. I
23 guess that's all. Thank you. No more questions.

24 WITNESS LONGGOOD: Thank you.

[WITNESS: Longgood]

1 CHAIRMAN IGNATIUS: Thank you.

2 Dr. Kimball?

3 (No verbal response)

4 CHAIRMAN IGNATIUS: Ms. Linowes?

5 (No verbal response)

6 CHAIRMAN IGNATIUS: Then, the Applicant.

7 And, who's doing the questioning?

8 MS. GOLDWASSER: I am.

9 CHAIRMAN IGNATIUS: Ms. Goldwasser,
10 please.

11 BY MS. GOLDWASSER:

12 Q. Ms. Longgood, you just were asked about a lawsuit. I
13 just want to clarify. Is that a lawsuit against the
14 Applicant or against the Town of Antrim?

15 A. The Town.

16 Q. Okay. Thank you. How many miles do you live from
17 Route 9, would you estimate?

18 A. A couple of miles.

19 Q. Okay. I want to make sure I understand exactly where
20 your home is, okay? I'm going to come and join you up
21 there. So, I think you've indicated a few times during
22 this proceeding that your home is 800 feet down from
23 the sound receptor for L3, is that correct?

24 A. My driveway is an 800-foot driveway. I don't know

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS: Longgood]

1 exactly how far away from the sound receptor it is.

2 But, you know, the topography of the land is

3 undulating.

4 Q. Got it. Okay. So, as I'm looking here at AWE 41, is
5 your home it looks like to the northeast of L3 or to
6 the -- or almost due east of L3?

7 A. Northeast.

8 Q. Okay.

9 A. If I'm reading the map correctly, again. It's like, I
10 think the other one must be the hunting cabin that's
11 across the pond, up above. It's the way I assess that.

12 Q. Okay. We're looking here at Exhibit 39B.

13 CHAIRMAN IGNATIUS: That's AWE 39B?

14 MS. GOLDWASSER: Yes.

15 CHAIRMAN IGNATIUS: Thank you.

16 BY MS. GOLDWASSER:

17 Q. I'm going to place my finger on Salmon Brook Road and
18 try to follow this map with you, okay?

19 A. Uh-huh.

20 Q. And, I want to make -- I want to make sure I get this
21 right, so stop me if I'm not on Salmon Brook Road, from
22 your understanding.

23 A. I'm not a great map reader, but I will try.

24 CHAIRMAN IGNATIUS: We should ask first,

[WITNESS: Longgood]

1 "are you colorblind? That's probably important.

2 WITNESS LONGGOOD: No, not to my
3 knowledge.

4 CHAIRMAN IGNATIUS: All right.

5 BY MS. GOLDWASSER:

6 Q. And, if we need to, we can go refer back to the other
7 map, where we're a little bit more oriented. So,
8 here's Salmon Brook Road here, correct?

9 A. Uh-huh.

10 Q. And, I've got my finger right -- right where it says "1
11 mile", the 1-mile circle around the Project is, and it
12 says "Salmon Brook Road". And, I follow that, and then
13 there's a "V" in the road, and I'm going to bring my
14 finger south, across the 1-mile line. So far so good?

15 A. Uh-huh.

16 Q. Okay. And, I'm going to keep going down that road, and
17 it takes a little jog towards the east and then towards
18 the south again. Am I still, as far as you're aware,
19 on Salmon Brook Road?

20 A. Yes. Well, it dead-ends up at the very top of the
21 hill.

22 Q. Okay. So, it dead-ends here, where my finger is, at
23 the end of the hill, is that what your understanding
24 is? And, I can go back to the --

[WITNESS: Longgood]

1 A. Well, there's a lot of paths through the woods. But
2 there is a cabin, which I think, actually, one of the
3 physicians wrote a letter in, who lives in
4 Massachusetts, who has that. But I'm the last place
5 where the Town plows. It becomes a Class 6 road after
6 my driveway.

7 Q. Do you have any understanding on this road here where
8 it becomes a Class 6 road?

9 A. They stop plowing at the end of my driveway. I assume
10 that's Class 6.

11 Q. I guess I'm asking where, where on this map do you
12 believe that that location is?

13 A. Well, it would have to be out, if I look here, if this
14 is my home [indicating], it's out here.

15 Q. Right. So, I'm looking on -- you were pointing at
16 Exhibit 41, I'm looking at Exhibit 39B. Let me give
17 you a couple of other locations that I hope I'm
18 transposing correctly.

19 A. Well, I'm the closest to Tower 5, is my understanding,
20 that I was told by the Applicant. So, I would assume
21 that it's right up here. I don't know.

22 Q. Okay.

23 A. It's hard for me to ascertain that information by
24 looking at this, this map.

[WITNESS: Longgood]

1 Q. So, you testified that it's somewhere in the vicinity
2 of where the road sort of curves towards the east.

3 MS. GOLDWASSER: And, I'm sorry I'm
4 blocking the view of the Committee.

5 CHAIRMAN IGNATIUS: That's all right.

6 MS. GOLDWASSER: If I can represent it
7 properly for the Committee, I believe that that --

8 MR. ROTH: I'm going to object here now.
9 Ms. Goldwasser is testifying. And, I'm not sure what the
10 point of any of it is. But, you know, in the interest of
11 time and fairness, I don't think Ms. Goldwasser should
12 testify. And, I think, this line of questioning, wherever
13 it's going, about where Ms. Longgood's house is on
14 Exhibit 39 is, ought to be made some sense of here.

15 CHAIRMAN IGNATIUS: Well, I think
16 they're two different things. One is, if it's testifying,
17 I agree with you. I thought you were just identifying
18 where your finger is?

19 MS. GOLDWASSER: That was all I'm going.
20 And, I'm going to get to the end in two questions.

21 CHAIRMAN IGNATIUS: All right.

22 MR. ROTH: I think she was starting to
23 say where Ms. Longgood's house is on the map, and that
24 sounds like testifying to me.

[WITNESS: Longgood]

1 MS. GOLDWASSER: I'll indicate to Ms.
2 Longgood and ask her whether she agrees with me, and we
3 can move on.

4 CHAIRMAN IGNATIUS: All right.

5 BY MS. GOLDWASSER:

6 Q. Ms. Longgood, is -- I'm trying to make it so that both
7 Ms. Longgood and the Committee can see me, and that's
8 my problem here. Is where my finger is proximately
9 where you think they stop plowing your road?

10 A. It's really hard for me to answer that question,
11 without any homes located or any houses there. I know
12 where they stop plowing, but it's hard for me to
13 exactly pinpoint it on that map.

14 MR. ROTH: The witness has already
15 testified she's not good with maps.

16 CHAIRMAN IGNATIUS: Mr. Roth, you don't
17 need to characterize the witness, her responses. Do you
18 have another question?

19 MS. GOLDWASSER: Yes.

20 BY MS. GOLDWASSER:

21 Q. Would you agree with me that, in this vicinity where my
22 finger is, directly where the road is, the colors that
23 are shown are purple and blue? The shading is purple
24 and blue?

[WITNESS: Longgood]

1 A. Right.

2 Q. And, that is right up against -- and that's right up
3 against the road, is that correct? That shading?

4 A. The shading is, correct.

5 Q. Directly proximate to the road?

6 A. (Witness nodding in the affirmative).

7 Q. And, would you agree with me that this is
8 Mr. Guariglia's vegetated viewshed map for the Project?

9 A. That's what it says.

10 Q. And, would you agree with me that the number of
11 turbines visible directly proximate to Salmon Brook
12 Road, as Mr. Guariglia has determined, would be one to
13 two, because that's the purple shading?

14 A. That's what that map states.

15 Q. And, so, the map shows that directly proximate to
16 Salmon Brook Road to the north, would you agree with me
17 that's where that purple shading is, to the north of
18 the end of Salmon Brook Road?

19 A. That's what it appears to be.

20 Q. Is there any -- is there any colored shading sort of
21 further to the north and east of Salmon Brook Road?

22 A. Not that I can see.

23 Q. I'm going to show you what's AWE Exhibit 3, Appendix
24 13B. And, this is Mr. Guariglia's Shadow-Flicker

[WITNESS: Longgood]

1 Technical Memorandum. Would you agree with me, we're
2 looking at the paragraph that's titled "Screening from
3 Vegetation and Structures". Would you agree with me
4 that the second sentence in that paragraph -- or,
5 excuse me, I'll read both sentences. That the
6 sentences in that paragraph reads: "Results from
7 WindPro assume that the area lacks vegetation and
8 structures. This assumption is considered
9 conservative, as shadows should not occur in areas
10 where the turbine is substantially screened by
11 vegetation and/or structures."

12 A. That's what it says.

13 Q. You mentioned before that -- you mentioned before that
14 you can "see the met tower as you drive up". I just
15 wanted to clarify. Did you mean as you drive up to
16 your home?

17 A. As I drive up Salmon Brook Road, correct.

18 Q. As you drive up Salmon Brook Road.

19 A. Correct.

20 Q. Can you see the met tower from your home?

21 A. I cannot. Again, I believe that's 60, 65 feet. We're
22 talking about 500-foot structures.

23 Q. Do you know what 42 decibels sounds like?

24 A. I've been told. I've Googled it.

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS: Longgood]

1 Q. And, what have you been told?

2 A. I believe, when I was here, they said it is the sound
3 of the air that's going on now here.

4 Q. And, when you say "now here", you mean the HVAC system
5 in this room?

6 A. The HVAC system in this room, is what I believe I
7 recall hearing.

8 Q. Do you understand that your property is located almost
9 directly upwind of the turbines, due to the prevailing
10 wind directions?

11 A. I didn't know that.

12 MS. GOLDWASSER: I have no further
13 questions.

14 CHAIRMAN IGNATIUS: Thank you. Any
15 questions from Committee members?

16 (No verbal response)

17 CHAIRMAN IGNATIUS: Mr. Iacopino,
18 questions?

19 MR. IACOPINO: Thank you. Thank you,
20 Ms. Longgood.

21 BY MR. IACOPINO:

22 Q. I just, if you look at your Exhibit 6, Abutters-6,
23 which is the Plan of Lots in Antrim.

24 A. Uh-huh.

[WITNESS: Longgood]

1 Q. At the very top end of the part of that exhibit that's
2 marked as "Beaver Pond", there appears to be a line
3 drawn in. Do you understand that to be the Salmon
4 Brook?

5 A. Correct.

6 Q. Okay. And, does Salmon Brook travel along side of
7 Salmon Brook Road for pretty much its whole length?

8 A. Yes. And, it goes down into the Contoocook, North
9 Branch.

10 Q. And, when --

11 A. Again, to my knowledge.

12 Q. Okay. And, along Salmon Brook Road, before you come to
13 your house, I looked at this map, and I see, on AWE 41,
14 before you get to your house, there's these other
15 little blue squares here [indicating]?

16 A. Correct.

17 Q. Which are identified as "community receptors". Are
18 those all homes?

19 A. Yes, there are.

20 Q. Okay. There's about --

21 A. I believe there's -- there's several residents that
22 live along Salmon Brook Road.

23 Q. Okay. I counted 16 little squares in here. Is that --

24 A. That's too many.

[WITNESS: Longgood]

1 Q. Okay. So, there might be other shacks or --

2 A. I think there's some hunting cabins that are up there.

3 Q. Okay.

4 A. I can try to count off or have my neighbors certainly
5 help me. One, two, three, four, five, six -- there's
6 eight residences on Salmon Brook Road that are full
7 time. Does that seem correct? Okay.

8 Q. And, the rest would be either temporary shelters or
9 hunting cabins, things like that?

10 A. I guess so, yes.

11 Q. Okay.

12 A. Garages, I don't know, or sheds. Or, I have a couple
13 outbuildings, I don't know if those would be.

14 Q. And, does the brook run along Salmon Brook Road? It's
15 about, from what I could tell from your Exhibit 6, that
16 the brook itself was about 800 feet off the road, too.
17 Is that fairly accurate?

18 A. Yes. It kind of comes and goes. And, there's another
19 brook that goes and will feed in, feeds in from the
20 other side as well.

21 Q. And, is that brook on the east side or the west side of
22 your road? The other brook, not Salmon Brook, the
23 other one you're speaking of?

24 A. Would be on the west side.

[WITNESS: Longgood]

1 MR. IACOPINO: Okay. Thank you. I
2 don't have any further questions.

3 CHAIRMAN IGNATIUS: All right. Any --
4 well, I guess we don't have any redirect, unless there's
5 anything that you wanted to add, Ms. Longgood?

6 WITNESS LONGGOOD: Alls I can say is, I
7 certainly think that, for the reasons of which I chose to
8 live in the wilderness, built the house, I know every nail
9 that's in there, raised three children there, this Project
10 is untenable to me. I think, financially, I'm petrified
11 as to the impact that it will have on my ability, if I
12 cannot continue to live or choose to live in an
13 environment. I chose to live in the wilderness, having
14 grown up in Concord. I'm getting close to retirement.
15 And, if I'm going to be in the middle of an industrial
16 facility, I think the financial impact of this Project, as
17 well as the aesthetics, the shadow-flicker, it changes --
18 it changes the entire nature of the property. And, I
19 chose there knowing I have to drive 55 minutes to work, I
20 have to drive to -- you know, it was a conscious decision,
21 and which did not factor in to anything such as this ever,
22 ever impacting me, living in such a wilderness rural
23 environment.

24 CHAIRMAN IGNATIUS: All right. Thank

[WITNESS: Longgood]

1 you.

2 WITNESS LONGGOOD: You're welcome.

3 CHAIRMAN IGNATIUS: Then, you're

4 excused.

5 WITNESS LONGGOOD: Thank you.

6 CHAIRMAN IGNATIUS: We now have a panel

7 of Ms. Levesque and Mr. Pinello -- no, that's not right.

8 (Laughter.)

9 CHAIRMAN IGNATIUS: Mr. Levesque and Ms.
10 Pinello.

11 (Whereupon **Charles A. Levesque** and
12 **Martha E. Pinello** were duly sworn by the
13 Court Reporter.)

14 MR. IACOPINO: Thank you.

15 **CHARLES A. LEVESQUE, SWORN**

16 **MARTHA E. PINELLO, SWORN**

17 **DIRECT EXAMINATION**

18 BY MR. IACOPINO:

19 Q. Would each of you, starting with Ms. Pinello, please
20 state your name, your position, and address also.

21 A. (Pinello) My name is Martha Pinello. I'm a member of
22 the Antrim Planning Board. I live at 318 Smith Road,
23 in Antrim.

24 Q. Okay. And, Mr. Levesque.

[WITNESS PANEL: Pinello~Levesque]

1 A. (Levesque) Charles Levesque. I am a member of the
2 Antrim Planning Board. My address is 37 Old Pound
3 Road, in Antrim.

4 Q. Okay. I'm going to start with Ms. Pinello. Before
5 you, do see Exhibit APB Number 14.

6 A. (Pinello) I do.

7 Q. And, do you recognize that to be your prefiled
8 testimony in this case?

9 A. (Pinello) Yes, I do.

10 Q. I've forgotten the date. What's the date of it?

11 A. (Pinello) The date is July 31st, 2012.

12 Q. And, did you file supplemental testimony in this case?

13 A. (Pinello) No, I did not.

14 Q. Okay. If you were asked the same questions as
15 contained in APB Number 14 today, would you give the
16 same answers as you did previously?

17 A. (Pinello) Yes.

18 Q. Okay. And, is the contents of APB 14 true and correct
19 to the best of your knowledge and belief?

20 A. (Pinello) Yes.

21 Q. And, Mr. Levesque, you have before you APB Number 9.
22 Is that your prefiled testimony in this matter?

23 A. (Levesque) Yes.

24 Q. Okay. And, if you were asked the same questions as

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 contained in APB Number 9 today, would you give the
2 same answers as you gave on -- what's the date that it
3 was entered?

4 A. (Levesque) July 31st.

5 Q. -- on July 31st?

6 A. (Levesque) Yes.

7 Q. Okay. And, is the contents of APB Number 9 true and
8 correct to the best of your knowledge and belief?

9 A. (Levesque) Yes, it is.

10 Q. And, did you file any supplemental testimony?

11 A. (Levesque) I did not.

12 Q. Okay. Since the time that each of you have filed your
13 direct testimony, other parties have filed supplemental
14 testimonies. Did you have anything that you wanted to
15 offer in rebuttal to anybody's supplemental testimony?

16 A. (Levesque) With just the supplemental?

17 Q. Yes. That's the question. Just the supplemental.

18 A. (Levesque) I can't remember if the agreement between
19 the Town and Antrim Wind was also filed separately as a
20 supplemental, since it was signed after the initial
21 Application was filed. If it was, I have something to
22 offer on that.

23 Q. Okay.

24 MS. GOLDWASSER: I believe --

[WITNESS PANEL: Pinello~Levesque]

1 MR. IACOPINO: I would, I mean, I'm not
2 a partisan here. So, I would just, you know, why don't
3 you -- why don't you tell us what it is your going to --

4 WITNESS LEVESQUE: Sure.

5 MR. IACOPINO: -- the type of
6 information you want to offer.

7 WITNESS LEVESQUE: Again, this was the
8 agreement between the Town, signed by the Board of
9 Selectmen, and Antrim Wind. It's been referenced by a
10 number of witnesses who have been before the Committee.
11 And, I just had some comments about it, based on what has
12 been said here.

13 MS. GOLDWASSER: Can I interject that it
14 was filed far before the October 11th deadline for
15 supplemental testimony.

16 CHAIRMAN IGNATIUS: And, I think I was
17 going to ask Mr. Levesque, are there comments about the
18 agreement itself or is it comments about something said
19 during the hearings that's different than what you
20 understood the agreement to be?

21 WITNESS LEVESQUE: It's kind of related
22 to both. I mean, I can give you a flavor of -- and, what
23 I have to say is very short.

24 CHAIRMAN IGNATIUS: Well, let me tell

[WITNESS PANEL: Pinello~Levesque]

1 you, as to the agreement itself, and how you read it and
2 interpret it or your views about it, that has been in the
3 record for quite a while. You could have addressed that
4 in your prefiled supplemental testimony. So, I would
5 agree with Ms. Goldwasser that that's not appropriate. If
6 it's something testified to that changed your
7 understanding of that agreement that you want to address,
8 then I think that's fair.

9 WITNESS LEVESQUE: I won't offer
10 anything on it.

11 MR. IACOPINO: Witnesses are available
12 for cross-examination.

13 CHAIRMAN IGNATIUS: Thank you. Mr.
14 Roth.

15 MR. ROTH: Good afternoon.

16 WITNESS PINELLO: Good afternoon.

17 **CROSS-EXAMINATION**

18 BY MR. ROTH:

19 Q. I'm going to start off with Ms. Pinello. And, I look
20 -- I see in your testimony, on Page 5 and 6, you were
21 asked if you are "for the Antrim Wind Project or
22 against it?" And, you responded: "Neither. I am for
23 insuring that the process is sound and for a full
24 development of the facts in advance of deciding whether

[WITNESS PANEL: Pinello~Levesque]

1 to support or oppose the project." Is that your
2 testimony?

3 A. (Pinello) Yes, it is.

4 Q. With that, would your desire to "insure the process is
5 sound" and "a full development of the facts" include
6 speaking to potential bias of another -- of other
7 witnesses in this case?

8 A. (Pinello) I think, if it's relevant to the case, yes.

9 Q. Okay. Now, during our last series of hearings, there
10 was a witness by the name of Mr. Stevenson, from A. D.
11 Marble.

12 A. (Pinello) Yes.

13 Q. Are you familiar with Mr. Stevenson and A. D. Marble?

14 A. (Pinello) I am.

15 Q. And, is it your information, and upon your information
16 and belief and knowledge, was Mr. Kenworthy, Mr. Drew
17 Kenworthy, either an employee or principal or owner of
18 A. D. Marble at some point?

19 MS. GOLDWASSER: I'm going to object.

20 Ms. Pinello asked the folks from A. D. Marble about
21 Mr. Kenworthy's relationship to the company then. She is
22 testifying today on behalf of the Antrim Planning Board,
23 not in any other capacity.

24 CHAIRMAN IGNATIUS: Mr. Roth?

[WITNESS PANEL: Pinello~Levesque]

1 MR. ROTH: She testified -- in her
2 testimony, she said she's "for a full and" -- "a
3 development of the facts" and "insuring that the process
4 is sound", and she just told us that that would include
5 disclosing information that she has which might reveal
6 bias on the part of another witness. I think it's -- this
7 question, as to whether Drew Kenworthy had an interest in
8 or employed by the consultant employed by the Applicant,
9 is relevant towards showing that bias.

10 CHAIRMAN IGNATIUS: I think that Ms.
11 Goldwasser's point that this is testimony on behalf of the
12 Planning Board is going to be very important to
13 distinguish when you're -- that she's not here
14 individually. I understand that she's here as a
15 representative of the Planning Board, am I correct.

16 WITNESS PINELLO: I am.

17 CHAIRMAN IGNATIUS: All right.

18 WITNESS PINELLO: I have --

19 CHAIRMAN IGNATIUS: Well, if that's who
20 you're representing, that's important to keep in mind.
21 So, I --

22 MR. ROTH: Can I ask a follow-up to --
23 in that light?

24 CHAIRMAN IGNATIUS: All right.

1 BY MR. ROTH:

2 Q. Ms. Pinello, as a member of the Planning Board, would
3 the Planning Board expect you to testify fully and
4 fairly about knowledge you have about a potential bias
5 of another witness?

6 MR. PATCH: I'm going to object. She
7 had an opportunity to put any knowledge of bias into her
8 direct testimony, and she didn't do so.

9 CHAIRMAN IGNATIUS: I mean, I think
10 that's a fair point. I don't know when this information
11 you're talking about, I think it was a day I wasn't here.
12 So, when something may have come to light, and is it
13 before and after the date of the prefiled testimony
14 deadlines? If it's before those deadlines, then I think
15 it's not appropriate to do now.

16 MR. ROTH: Okay. I'll let it go at
17 that, that my -- the objection has been sustained.

18 BY MR. ROTH:

19 Q. Now, Ms. Pinello or Mr. Levesque, can -- both of your
20 testimonies seem to describe the -- kind of the
21 planning board/planning type functions of the Town.
22 And, it's kind of boring stuff, right? And, what I'm
23 trying to figure out is, and I'm going to show you an
24 exhibit, this is AWE Number 17. Are either of you or

[WITNESS PANEL: Pinello~Levesque]

1 both of you familiar with this graphic?

2 A. (Levesque) Yes.

3 Q. All right. And, what does this represent to you?

4 A. (Levesque) I also had another hat on relative to this,
5 because I was the Chair of the Open Space Committee
6 that was appointed by the selectmen, and created the
7 report from which this map comes.

8 Q. Okay.

9 A. (Levesque) So, I do have knowledge about the map. And,
10 after a year-long process, both of technical research
11 and focus groups and public meetings in town, the
12 Committee, which was appointed by the selectmen, came
13 to the conclusion that this map best represents the
14 areas of Antrim that should be permanently protected
15 from development. That's really what it represents.

16 Q. Okay. Now, how did the Committee get formed? You said
17 it was "appointed by the selectmen", correct?

18 A. (Levesque) Correct.

19 MS. GOLDWASSER: I'm just going to
20 remind -- restate my statement before, which is that Mr.
21 Levesque is speaking on behalf of the Planning Board.
22 And, I just don't want to get too far afield here. I'm
23 just trying to keep us moving.

24 MR. ROTH: No, you're not. You're

[WITNESS PANEL: Pinello~Levesque]

1 trying to keep me from not moving. And, what I'm trying
2 to establish here is some connection between this
3 particular document, and the Master Plan and the Planning
4 Board and the like, and to understand what all the
5 connection is.

6 WITNESS LEVESQUE: Madam Chair, may I
7 speak?

8 CHAIRMAN IGNATIUS: Well, hold on a
9 second. I think it's fair for some linkage between the
10 two. I don't think we're going too far there, but some
11 connection I think I'll allow you to do.

12 MR. ROTH: Right. And, that's what I'm
13 trying to do here. And, that's where my question is
14 going.

15 BY MR. ROTH:

16 Q. So, how was your Open Space Planning Committee formed?
17 You said it was "by the Selectboard", correct?

18 A. (Levesque) That's correct.

19 Q. And, was that pursuant to something in the Master Plan?

20 A. (Levesque) No, this was prior to the revision of the
21 Master Plan. There were discussions that occurred in
22 the Conservation Commission that ultimately led to a
23 discussion with the Board of Selectmen. And, the Board
24 made a decision to appoint a special Open Space

[WITNESS PANEL: Pinello~Levesque]

1 Committee to undertake the task that I've described.
2 And, ultimately, which this map probably is the best
3 single page that represents the results of.

4 Q. In terms of these Open Space Protection Priorities that
5 are graphically shown here, is this something that the
6 Planning Board considers when it's facing a proposal to
7 do something in the town?

8 A. (Levesque) Yes. You didn't ask the question, but this
9 document is directly referenced in the Antrim Master
10 Plan, --

11 Q. Okay.

12 A. (Levesque) -- which was revised in 2010. So, this was
13 produced before that. It was produced and released at
14 the end of 2005. It was adopted at town meeting in
15 2006.

16 Q. Okay.

17 A. (Levesque) And, then, ultimately, by reference,
18 incorporated into the Master Plan.

19 Q. Ah, that's very helpful. And, I'm showing my ignorance
20 about the way town stuff works. And, I appreciate that
21 elucidation. When the Planning Board looks at a
22 proposal --

23 CHAIRMAN IGNATIUS: Mr. Roth, just one
24 second. I'm not even sure I'm in the right document. Can

[WITNESS PANEL: Pinello~Levesque]

1 you tell me again what you're looking at?

2 MR. ROTH: At AWE 17.

3 WITNESS LEVESQUE: Madam Chair?

4 (Witness Levesque showing the Exhibit
5 AWE 17 for reference.)

6 CHAIRMAN IGNATIUS: I was in
7 Appendix 17, which is not even remotely close.

8 MS. GOLDWASSER: It's also APB 7. To
9 the extent you're in the APB documents, that may be
10 helpful.

11 CHAIRMAN IGNATIUS: Thank you. Go
12 ahead.

13 MR. ROTH: Okay.

14 BY MR. ROTH:

15 Q. So, when the Planning Board looks at a project, and I
16 don't mean a wind project, but any project. Some
17 property owner wants to do something and it requires
18 the Planning Board to look at it. Does it pull up this
19 map and say "Hmm, where is that" -- how does it relate
20 that proposal to this map?

21 A. (Pinello) This map is one of many planning documents
22 that we use when we look at a proposal. There is
23 certainly the zoning ordinances, as well as this map.
24 Then, there are a number of ordinances and aspect of

[WITNESS PANEL: Pinello~Levesque]

1 our site plan regulations that we would look at. We
2 have, for instance, in 1988, we adopted a Steep Slope
3 Ordinance. Prior to that we adopted --

4 Q. Ms. Pinello, I don't -- I do mean to cut you off.

5 A. (Pinello) Good. Okay.

6 Q. What I'm trying to focus on is this particular map.

7 A. (Pinello) This map is used --

8 Q. Okay.

9 A. (Pinello) -- as one of many in planning documents.

10 Q. Okay. Thank you. I appreciate that.

11 A. (Pinello) Thank you.

12 Q. When this is used in the planning process, what does
13 this -- what does the Open Space Protection Priority
14 mean to the Planning Board, in the terms of how does it
15 weigh into that decision-making?

16 A. (Levesque) I would say that it more takes its form
17 through the Master Plan, which ultimately gets
18 reflected in the zoning ordinances that are adopted
19 through votes at the town level, than it is in a direct
20 way. So, as with the rest of the Master Plan, and I
21 think my testimony speaks to that, the Master Plan is a
22 plan and a guiding document that ultimately is used to
23 develop zoning ordinances, site plan and subdivision
24 regulations. And, this is really part of that.

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 Q. Okay. Thank you. Who develops the Master Plan?

2 A. (Levesque) The Planning Board does.

3 Q. Okay. And, whether it's in the Master Plan or some
4 other, maybe there's a conservation plan itself that's
5 not part of this graphic, but that this graphic is part
6 of, is there some document that expresses what the
7 values of the Planning Board and/or the community are
8 with respect to its Open Space Protection Priorities?

9 A. (Levesque) I think the best place for that is really
10 located in the Master Plan itself.

11 Q. Okay. Just from your knowledge and memory, rather than
12 having us have you read through the Master Plan, what
13 are the kind of values, and I don't know what -- call
14 it what you will, standards or criteria, I suppose it's
15 values I'm really thinking about, that are manifested
16 by all this yellow ink?

17 A. (Levesque) I can give you a better answer if I go back
18 to my testimony. But the Master Plan itself has a
19 "Vision" section. All of the Master Plan revision
20 resulted from extensive community involvement, a series
21 of public meetings and more, and the Vision really
22 speaks to that issue, as it does to a number of values
23 that community members have. And, I don't want to try
24 to paraphrase, because I don't know them by heart.

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 But, ultimately, the Vision, it's in my prefiled,
2 speaks to the value of open space and the rural
3 character of the community that the people in Antrim
4 value. So, that's part of it. And, those are only a
5 few of the words that are in there. And, there are, in
6 fact, many more that talk about the rural nature of the
7 town and that value that people have in town.

8 Q. Okay. So, when Ms. Vissering was looking at this map,
9 as an -- I think she testified she looked at this map
10 as an "aid" to her to understand what sort of the
11 values of the community were with respect to the open
12 space priorities. Was that a reasonable thing for her
13 to do?

14 A. (Levesque) Absolutely.

15 A. (Pinello) Yes.

16 Q. Okay. In your testimony, Mr. Levesque, on Page 13, you
17 point out that the Economic Development section of the
18 Master Plan says, and I'm not sure what it -- it's
19 under "Infrastructure Recommendations", says to
20 "Explore the use of alternative energy sources
21 including geothermal, solar, wood pellets, wind, and
22 water power in providing long-term improvements in a
23 sustainable fashion." What's your understanding of
24 what's meant by that?

[WITNESS PANEL: Pinello~Levesque]

1 A. (Levesque) I actually want to find it, and I'm not
2 finding it based on the page number.

3 Q. Page 13. And, I'm looking at a January 31st, 2012?

4 A. (Levesque) Yes. Yeah.

5 Q. Line 15.

6 A. (Levesque) Okay. I'm sorry. Yeah.

7 Q. What's your understanding about what's meant that the
8 -- in the plan to "explore the use of alternative
9 energy sources", which, you know, listed and include
10 wind power?

11 A. (Levesque) I need to say that the Master Plan was
12 adopted by the Planning Board before I was on the
13 Planning Board. So, I need to say that. So, anything
14 I say would be pure speculation on my part. So, I
15 don't really know what the Planning Board had intended
16 at the time.

17 And, I don't know, Martha, if you have,
18 because that's just a quote right out of the Master
19 Plan, if you have further knowledge about that?

20 A. (Pinello) The Master Plan speaks, in terms of
21 "alternative energy", in other portions, to the fact
22 that the Town should be using alternate energy for
23 powering its fleet and other sorts of things like that.
24 So, it speaks to it very locally, in terms of our

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 municipal facilities using different energy sources,
2 some other things about insulation and that sort of
3 thing, in regards to alternative energy. So, it's not
4 in terms so much -- those are the parts of it. And,
5 the Master Plan was also before I was on the Planning
6 Board.

7 Q. Okay. Was there an occasion when the Town was
8 considering installing a hydropower turbine?

9 A. (Pinello) The dam at -- in town was -- I went --
10 personally went to the Board of Selectmen at that time,
11 and they told me "no, they were not interested in
12 putting in hydropower."

13 Q. Okay. But is that the sort of thing you were thinking
14 of?

15 A. (Pinello) Yes, it was. Yes.

16 Q. Okay. Now, in the -- and I guess this, again, is Mr.
17 Levesque, your testimony. You were asked "what are the
18 permitted uses and accessory uses and special exception
19 uses in the Highway Business District?" And, this is
20 on Page 17 and 18. And, listed amongst those things is
21 "public utilities". Now, is, and, you know, I
22 understand that this may result in sort of a dead-stop
23 here, because of your own adjudicatory role, but I'm
24 going to try anyway. To your understanding, is a

[WITNESS PANEL: Pinello~Levesque]

1 portion of the Project, other than the driveway,
2 located within the Highway Business District?

3 A. (Levesque) Yes, it is.

4 Q. Okay. And, which portion is that?

5 A. (Levesque) It's -- I think I did it on a map in here.
6 It's approximately a thousand feet, starting at Route
7 9, the entrance to the Project, in a road that would be
8 constructed, not yet constructed, approximately a
9 thousand feet from Route 9 in on that road. And, then,
10 it turns into the Rural Conservation District.

11 Q. Understood. What I'm trying to do is understand if
12 something other the driveway into the -- in from Route
13 9, if there's some portion or component of the Project
14 which is located within the Highway Business District?

15 A. (Levesque) As I understand it from the plans, the
16 substation would be within that district.

17 Q. Okay. And, I note on the next page of your testimony,
18 on Page 18, that the -- I guess this is the Highway
19 Business District principal permitted uses includes
20 public utilities, correct?

21 A. (Levesque) Correct.

22 Q. And, would you assume that a substation constitutes
23 "public utilities"?

24 A. (Levesque) To be honest with you, I don't know.

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 Q. Okay. And, I guess we're going to run into maybe the
2 same kind of answer here, but I'm going to ask you the
3 question anyway. On Page 20 of your testimony, you
4 describe the "permitted uses in the Rural Conservation
5 District", correct?

6 A. (Levesque) Correct.

7 Q. And, is it your understanding that some components of
8 the Project are proposed to be developed in the Rural
9 Conservation District?

10 A. (Levesque) That's correct.

11 Q. And, I note that "principal permitted uses" include
12 "public utilities", right?

13 A. (Levesque) Right.

14 Q. And, would you believe that wind generating power
15 plants would constitute "public utilities"?

16 A. (Levesque) I do not know the answer to that.

17 Q. Now, Mr. Levesque, on Page 22 of your testimony, you
18 were asked: "Under the zoning ordinance in Antrim, is
19 it possible to build an industrial scale wind farm in
20 Antrim as being proposed by Antrim Wind Energy?" And,
21 your answer was: "If a variance is granted by the
22 Zoning Board of Adjustment, yes." What were the -- why
23 is a variance necessary?

24 A. (Levesque) As I understand it, simply because the

[WITNESS PANEL: Pinello~Levesque]

1 proposed use within the Rural Conservation District
2 would not meet any permitted uses that are listed.
3 Now, having said what I said just before in the
4 previous answer, I need to say that any knowledge I
5 have about that issue, relative to the permitted use
6 "public utility" in that listing, is really informed
7 mostly by the fact that the previous Planning Board,
8 before I was elected to the Planning Board in 2011, as
9 a result of advice from legal counsel, put forth in an
10 amendment to hearing of the zoning ordinance to, in
11 fact, make large-scale wind, industrial wind
12 development a permitted use within the zone. So, at
13 that time, the Planning Board believed that the current
14 list, which is the one that you have before you of
15 permitted uses, did not include this activity. And,
16 so, that is where I get my knowledge on that topic.

17 Q. Or your lack of knowledge?

18 A. (Levesque) Yes.

19 Q. Since you said you "didn't know"?

20 A. (Levesque) Yes.

21 MR. ROTH: And, I appreciate that.

22 Thank you. That's all the questions I have.

23 CHAIRMAN IGNATIUS: Thank you.

24 Mr. Froling?

[WITNESS PANEL: Pinello~Levesque]

1 (No verbal response)

2 CHAIRMAN IGNATIUS: Mr. Beblowski?

3 (No verbal response)

4 CHAIRMAN IGNATIUS: Mr. Jones?

5 (No verbal response)

6 CHAIRMAN IGNATIUS: Ms. Sullivan?

7 (No verbal response)

8 CHAIRMAN IGNATIUS: Ms. Longgood,

9 questions?

10 MS. LONGGOOD: Hi. I just have a brief

11 question here.

12 BY MS. LONGGOOD:

13 Q. In regards to the zoning, can you please tell me a
14 little bit about why it was perceived that the Rural
15 Conservation Zone and District was important to the
16 Town of Antrim? Either one of you.

17 A. (Pinello) There were a couple of different documents
18 that reveal some of that. Certainly, the Open Space
19 Plan does. But, also, in the mid '80s, the Town of
20 Antrim, the Conservation Commission, and a number of
21 citizens got together and proposed that a change in the
22 Town of Antrim's zoning occur. And, that change was to
23 create a rural conservation district. So, that's one
24 of the overlying reasons why that. That change came

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 about, and was proposed for the area that is the Rural
2 Conservation District. There was a increase to that, I
3 believe, maybe two or three years later, maybe as much
4 as five. And, within that zone, there was a change in
5 the acreage that was permitted. But, also, at the same
6 time, and this is reflective of New Hampshire's way of
7 doing zoning, in a series of things, so you don't get a
8 straight answer from one piece of it, we also voted
9 for, in 1988, for a Steep Slope Ordinance. And, that
10 Steep Slope Ordinance, per suggestion of and support
11 from Southwest Regional Planning and the State Office
12 of Planning, was another tool that the Town could use,
13 so that you change the lot size to a larger lot,
14 three acres, and then you employ steep slope coverage,
15 where ours is 10 percent, 15, and then above 25, 25
16 percent and higher you're not allowed to build on.
17 That allows for conservation of steep and rural aspects
18 of a community. And, as late as 2007, our Steep Slope
19 Ordinance and rural conservation were used by other
20 regional planning commissions as a model.

21 MS. LONGGOOD: Thank you.

22 CHAIRMAN IGNATIUS: Ms. Manzelli?

23 MS. MANZELLI: Yes. Thank you.

24 BY MS. MANZELLI:

[WITNESS PANEL: Pinello~Levesque]

1 Q. To either one of you that can answer. Earlier
2 testimony in this matter was that "residential
3 construction was permitted by right in the Project
4 area." Can you comment on whether people can just
5 start building houses in that area or whether there
6 might be some processes and approvals that would be
7 required by the Town?

8 A. (Pinello) In addition, so, I won't repeat what I did
9 with the last question, in addition, there are some
10 other planning tools and zoning ordinances that speak
11 to that. And, that is the whole issue of back lots and
12 of private versus public roads, and the specifications
13 for those private roads and how they need to be to Town
14 specifications, even if the Town isn't doing those as a
15 good planning measure. But, also, it does tend to
16 limit by intent. So, if you have to build a road that
17 reaches, you're going to have to also put some effort
18 into it and be somewhat more under control. So, steep
19 slopes, rural conservation, back lots, and then a
20 series also of standard wetlands delineations and that.

21 And, the Town of Antrim also has another
22 aspect that works, the Planning Board works with the
23 developer and the Conservation Commission for
24 conservation benefits. And, that routinely is set

[WITNESS PANEL: Pinello~Levesque]

1 aside of property, but it can be a number of -- again,
2 it's not like A, B, C. It's "let's talk about what's
3 here, let's look at the land." And, that can be
4 conservation easements, it can be reductions of lots,
5 it can be changes. So, it's quite complex and nuanced.

6 Q. And, so far, everything you've talked about is just on
7 the local level?

8 A. (Pinello) That's only at the local level that I've
9 spoken to.

10 Q. And, so, would some of these processes, for example,
11 putting in a road to Town standards, as far as you
12 know, if you know, would those require approvals or
13 processes from state or federal government?

14 A. (Pinello) Yes, they do.

15 MS. MANZELLI: Thank you. No further
16 questions.

17 CHAIRMAN IGNATIUS: Thank you. Ms.
18 Allen?

19 MS. ALLEN: Yes, I have two.

20 BY MS. ALLEN:

21 Q. After Antrim created zoning in the 1970s, at that
22 point, the part of town, as I understand, it was not
23 just a Highway Business District or the Village
24 Business, it was just, in general, called the "Rural

[WITNESS PANEL: Pinello~Levesque]

1 Zone". Somewhere in the late '70s or '80s came in the
2 "Rural Conservation Zone". And, can you explain what
3 the difference is between Rural -- the "Rural Zoning
4 District" and the "Rural Conservation District"?

5 A. (Pinello) Okay. The "Rural Conservation District" is
6 different than the "Rural Zone" in a couple of ways.
7 One is, right off, is the lot size. The minimum lot
8 size is two acres, with 210 frontage on a town road in
9 the Rural Zone. Rural Conservation, it's three acres.
10 But, also, by the very nature of the community, and
11 this is what happens with overlays, the Steep Slope
12 Ordinance, essentially, is very much in effect in the
13 Rural Conservation Zone. So, that also changes the
14 nature of the kind of development that can happen
15 there. There's also, in terms of the types of
16 development that can happen, and, in our zoning
17 ordinances, there are some very specific ones.

18 The Rural Zone is much more flexible.
19 You can -- there's a lot of agricultural, there's
20 sawmills, a number of other kinds of related groups.
21 Where, in the Rural Conservation, it's slightly less.
22 And, because of the land use requirements, in terms of
23 the Steep Slope and other things, it's quite limited.
24 That's it.

[WITNESS PANEL: Pinello~Levesque]

1 It's, by looking -- it's important to
2 understand that our documents are very nuanced. And,
3 it's not like you can just go "oh, and, on Page 2, it's
4 this." It's very layered as to how our zoning and site
5 plan regulations work.

6 Q. Would you say that the purpose -- the section of zoning
7 that begins with, you know, setting out the purpose of
8 the Zoning District, is usually the driving force. Is
9 the purpose of the Rural Conservation Zone different
10 than the Rural Zone?

11 A. (Pinello) Yes, it is. And, I could recite that or --
12 but it's also -- okay, thank you. Okay. I'll read the
13 Rural. "The Rural District is intended to be a
14 district of rural residential dwellings complemented by
15 other traditional rural agricultural uses. The
16 District also permits certain non-residential uses that
17 are compatible with the rural character of the
18 District. Such uses are permitted by special
19 exception."

20 Q. And, one last question, if I could.

21 A. (Pinello) I'm sorry, I have Rural Conservation --

22 Q. Oh, I'm sorry.

23 A. (Pinello) I'll read the Rural Conservation intent.

24 "The Rural Conservation District is intended to

[WITNESS PANEL: Pinello~Levesque]

1 protect, conserve, and preserve the remote mountainous
2 portions of Antrim from excessive development pressures
3 and/or activities that would be detrimental to the
4 unique environmental characteristics and qualities of
5 this District and detract from the peaceful enjoyment
6 and the tranquility that this District affords local
7 residents."

8 Q. And, one last question, if I could. Was that zone
9 expanded and -- at a later time? And, how are these
10 ordinances adopted? Is it by -- does the Planning
11 Board vote it in or does the entire town?

12 A. (Pinello) Well, it's multistage. As you can see,
13 nothing is simple with planning. It goes, first, it's
14 the Planning Board, either comes by petition or by --
15 within its own to vote that. The Rural Conservation
16 District came from the Planning Board. It's then
17 recommended to town meeting. It is then voted on by
18 town meeting. The expansion to the District came by
19 petition to the Planning Board, was voted by the
20 Planning Board, and then voted by the town meeting.
21 And, I believe it's maybe somewhere between late
22 '80s/early '90s that that expansion was added.

23 A. (Levesque) And, of course, there are public hearings
24 that are required that the Planning Board must hold

[WITNESS PANEL: Pinello~Levesque]

1 before any votes happen, to send it to a vote to the
2 voters.

3 MS. ALLEN: Thank you. That's all.

4 CHAIRMAN IGNATIUS: Thank you.

5 Dr. Kimball?

6 (No verbal response)

7 CHAIRMAN IGNATIUS: Mr. Block? I'm
8 sorry, I took you out of order. Mr. Block.

9 MR. BLOCK: Yes. Thank you. Just a few
10 questions.

11 BY MR. BLOCK:

12 Q. The Rural Conservation District, either of you can
13 answer this, how unique is the Rural Conservation
14 District? In other words, are you aware of any other
15 towns that have similar districts in the state?

16 A. (Levesque) I'm not sure that I can answer the question.

17 A. (Pinello) Excuse me. I can't answer that question
18 either.

19 Q. Okay. The "visioning" sessions you mentioned, when
20 were they done, roughly?

21 A. (Levesque) It's in my testimony. I don't know it, you
22 know, by heart. You probably know it from that
23 question. So, --

24 Q. Well, I'll just rephrase it. Was that a direct part of

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 the creation -- the creation process of the current
2 Master Plan or what was the Master Plan then?

3 A. (Levesque) Yes. There was a series of public meetings,
4 including the visioning sessions, that were -- that
5 occurred before that 2010 adoption of the current
6 version of the Master Plan.

7 Q. So, specifically -- well, I guess, broadly, what were
8 the results? In other words, the prime, on those
9 visioning sessions, what were the prime findings?

10 A. (Levesque) Again, I wasn't part of that. I was a
11 member of the public at the time, and attended most of
12 those sessions. So, I'm not sure that I can give you
13 the results beyond what's in the prefiled testimony.

14 Q. Okay. How did those -- do you know how those visioning
15 sessions ultimately impacted the Master Plan? Were
16 they -- were the results of that incorporated and
17 became part of that?

18 A. (Levesque) As I understand it, yes. I mean, certainly,
19 the Master Plan speaks to that directly. I mean, what
20 I don't have, and never have looked at, is sort of a
21 side-by-side comparison of the older Master Plan with
22 the one that was adopted in 2010.

23 Martha, you may have more information on
24 that.

[WITNESS PANEL: Pinello~Levesque]

1 A. (Pinello) No, I don't.

2 Q. Okay. You mentioned the "Open Space Report". And, I
3 know you were involved in that, and I believe you were
4 Chair of that Committee?

5 A. (Levesque) That's correct.

6 Q. And, that was essentially absorbed into or became, by
7 reference, part of the Master Plan, is that what you
8 said?

9 A. (Levesque) Yes, it is, in fact, referenced in the
10 Master Plan in a number of locations.

11 Q. Okay. On that map we were looking at, with all that
12 yellow space on there, there's yellow in a number of
13 places on there. But, when I looked in the Open Space
14 Report itself, it lists -- there was a place that says
15 "The following areas of Antrim are recommended for
16 permanent land conservation", and adding to protected
17 land it lists "West Antrim" first. Was that because of
18 a priority consideration? Was that one of the first
19 priorities?

20 A. (Levesque) Yes, it was.

21 Q. Okay. Does Antrim's Master Plan specifically address
22 wind energy?

23 A. (Levesque) It's does, in fact, mention it. And, I
24 think it's in my prefiled testimony, I think it was

[WITNESS PANEL: Pinello~Levesque]

1 referenced by Mr. Roth earlier. So, that is the
2 location that it's referenced.

3 Q. Do you know is there -- does it say a lot about it in
4 the Master Plan or --

5 A. (Levesque) Well, the reference that we discussed before
6 is in the Infrastructure Recommendations. And, it says
7 "Explore the use of alternative energy sources
8 including geothermal, solar, wood pellets, wind, and
9 water power in providing long-term improvements in a
10 sustainable fashion."

11 Q. Okay. So, I know you -- I just want to get sort of a
12 summary here. So, then, the zoning ordinance is
13 created based on or follows a lot of the
14 recommendations in the Master Plan in general, that's
15 correct?

16 A. (Levesque) That's probably pretty accurate. Remember,
17 it doesn't have to, but, generally, it does.

18 Q. So, the Master Plan is kind of a guide?

19 A. (Levesque) Correct.

20 Q. Okay. Does our zoning -- what does our zoning
21 ordinance currently incorporate for any regulations
22 regarding wind energy? And, I know that's in your --
23 it's mentioned in your thing. I'd just like you to
24 summarize that quickly.

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 A. (Levesque) What we have in the zoning ordinance is a
2 Small Wind Energy Ordinance section, dealing with 100
3 kilowatts or less. And, so, that's a whole section in
4 the ordinance that covers that size wind facility.

5 Q. And, is that fairly specific in what is allowed or what
6 the requirements are?

7 A. (Levesque) Yes, it is.

8 A. (Pinello) Yes.

9 Q. Okay. And, so, at this point, there is no -- nothing
10 in the zoning ordinance for -- that specifies
11 regulations for systems beyond that size, is that
12 correct?

13 A. (Levesque) That's correct.

14 Q. Okay. You mentioned the "Steep Slopes Ordinance".
15 Would the Steep Slopes Ordinance, does it have the
16 potential to impact this Project at all? And, if so,
17 how?

18 A. (Levesque) Go ahead.

19 MS. GOLDWASSER: I'm just going to
20 interject and make sure I understand the question. Mr.
21 Block, did you ask "if the Steep Slope Ordinance would
22 create an issue with this Project?"

23 MR. BLOCK: Basically, I know the Steep
24 Slopes Ordinance, as far as I understand, is an overlay

[WITNESS PANEL: Pinello~Levesque]

1 that kind of sometimes adds some additional restrictions.
2 Is that true?

3 MS. GOLDWASSER: Okay. I'm just going
4 to -- oh, go ahead.

5 MR. BLOCK: So, I would just want to
6 know, and I don't have the Steep Slopes overlay in front
7 of me, but I want to know, would that have any impact, if
8 the Town were regulating on this, how it would --

9 MS. GOLDWASSER: And, the reason for my
10 objection is that, in the course of discovery, the
11 Applicant --

12 MR. ROTH: Excuse me. I don't think she
13 made an objection yet. She made an interjections with a
14 question for a clarification.

15 MS. GOLDWASSER: Okay. I object.

16 MR. ROTH: I think he clarified it.

17 CHAIRMAN IGNATIUS: All right. Now that
18 Mr. Block has clarified his question, do you have an
19 objection?

20 MS. GOLDWASSER: Yes. During the
21 pendency of these proceedings, the Applicant submitted
22 discovery to the Planning Board requesting explanation of
23 what elements of the planning documents the Planning Board
24 indicated would be a problem for this Project. And, the

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 Planning Board responded by indicating that it would not
2 provide specific information regarding this Project. And,
3 so, Mr. Block has asked a question that we've asked and
4 were not given an answer to.

5 MR. BLOCK: Can I withdraw the question
6 and --

7 CHAIRMAN IGNATIUS: You may.

8 MR. BLOCK: -- and ask it in a different
9 manner.

10 CHAIRMAN IGNATIUS: You can withdraw the
11 question and we'll see where it goes.

12 MR. BLOCK: Okay.

13 BY MR. BLOCK:

14 Q. Somebody mentioned earlier about the zoning allowing,
15 with certain restrictions, residences built in that
16 area. If the Town was presented with some potential
17 residents' projects in the area where the wind farm is
18 projected, would the Steep Slopes Ordinance have any
19 affect on them?

20 A. (Pinello) I'm going to give you an answer that I'm not
21 clear, that it's -- in planning, we don't make
22 judgments before we see a project. You have to see
23 what's there and understand the project. It's not
24 something that I could direct to. Certainly, there is

[WITNESS PANEL: Pinello~Levesque]

1 a Steep Slope Ordinance, there's a topo map, and there
2 is -- you can make a judgment from that.

3 Q. So, there are -- I guess I just want to know. Are
4 there steep slopes in that area that would be of
5 concern? Without being -- just in general, in
6 necessarily, let's say, in that general area of the
7 Project?

8 A. (Levesque) I don't know if we could say that would be
9 of concern. We can say that there are areas of the
10 overlay that are, in fact, in the Rural Conservation
11 District.

12 Q. That's close enough. Thank you. Final question. And,
13 this is for Martha. In a tech session, I know you made
14 some -- a comment about Pillsbury State Park and the
15 Lempster wind farm, and you mentioned the term
16 "collateral noise". Could you explain what you meant
17 by that?

18 A. (Pinello) "Collateral noise" is a term that I learned
19 through studying the wind -- wind facilities throughout
20 the nation. It's a term that refers to the fact that
21 there is layering of noise. That you would have noise
22 in one place, and by either, in some cases, it could be
23 multiple wind facilities or multiple layers of noise
24 adding to that noise.

[WITNESS PANEL: Pinello~Levesque]

1 In regards to wind facilities, where I
2 specifically read it was, and I can't cite the article,
3 but where people were concerned about, as wind
4 facilities expand, and you have one wind facility and
5 then you have another wind facility, you could possibly
6 have that happen. It could be -- it could relate to
7 wind, it could relate to a series of other noises,
8 layers.

9 MR. BLOCK: Thank you. No further
10 questions.

11 CHAIRMAN IGNATIUS: Thank you. Ms.
12 Linowes?

13 (No verbal response)

14 CHAIRMAN IGNATIUS: We move then to the
15 Applicant.

16 MR. STEARNS: Excuse me. Somehow I
17 think you skipped over me.

18 CHAIRMAN IGNATIUS: Oh. I'm sorry.

19 MR. STEARNS: I did have a couple
20 questions, if I could, before the Applicant?

21 CHAIRMAN IGNATIUS: I'm sorry. You
22 know, wouldn't you know it, the time you want to ask a
23 question.

24 MR. STEARNS: That's all right.

[WITNESS PANEL: Pinello~Levesque]

1 CHAIRMAN IGNATIUS: I apologize. Mr.
2 Stearns.

3 MR. STEARNS: Just a couple questions.

4 BY MR. STEARNS:

5 Q. Earlier you were asked about the Open Space Protection
6 Plan, and you stated that it was used in the planning
7 process, when you had plans presented before you for
8 consideration. I guess my question is, can the
9 Planning Board use this to deny a plan? Such as with a
10 subdivision, and their subdivision was in your Open
11 Space Protection area?

12 A. (Levesque) You mean the map itself that's in the Open
13 Space Plan?

14 Q. Correct.

15 A. (Levesque) That's not part of the ordinances or the
16 site plan review or a subdivision regulation. So, the
17 answer is "no".

18 Q. Another question is, when this map was generated, were
19 all the property owners contacted and asked if they
20 agreed with having their property in this protection
21 plan area?

22 A. (Levesque) Not directly. We made an effort to invite
23 all of the landowners who were identified in any parts
24 of the plan to public meetings that we had. But they

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 were not asked specifically that question.

2 MR. STEARNS: Thank you.

3 CHAIRMAN IGNATIUS: Thank you. And, I
4 apologize. The Applicant, is it Ms. Goldwasser?

5 MS. GOLDWASSER: Yes. Thank you.

6 CHAIRMAN IGNATIUS: All right. Please
7 proceed.

8 MS. GOLDWASSER: Good afternoon, Mr.
9 Levesque and Ms. Pinello. You know me. I'm Rachel
10 Goldwasser. I represent the Applicant.

11 BY MS. GOLDWASSER:

12 Q. You were just being asked about the Antrim Open Space
13 Plan meetings. How many people attended those
14 meetings?

15 A. (Levesque) I don't have the report in front of me. I
16 think the report describes that. I'm not sure if the
17 whole report is an exhibit from anyone, I don't recall.
18 There are a number of people that went to public
19 meetings, but I don't recall exactly.

20 The more important answer to that
21 question is that the Open Space Plan, which was adopted
22 unanimously by the Open Space Committee that was
23 appointed by the selectmen, then was presented to town
24 meeting in March of 2006, and it was adopted

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 unanimously by voice vote at that town meeting.

2 Q. Thank you. Okay. Let's start back at the beginning.

3 The Planning Board hasn't taken a position regarding

4 the Antrim Wind Project, is that correct?

5 A. (Levesque) That's correct.

6 Q. And, that's confirmed, you can open these exhibits, if

7 you'd like, they're in the gray binder right in front

8 of you, that's confirmed by Ms. Pinello in Exhibit AWE

9 23 and Mr. Levesque in AWE 24, is that correct?

10 A. (Levesque) Correct.

11 A. (Pinello) Correct.

12 Q. And, the Planning Board -- does the Planning Board

13 intend to take a position regarding the Antrim Wind

14 Project?

15 A. (Levesque) I mean, it's hard to say. The meeting comes

16 up every, you know, twice a month. So, anything can

17 happen, but I don't know.

18 Q. Okay. And, the Planning Board hasn't taken a position

19 regarding whether the Project will interfere with the

20 orderly development of the region or have an

21 unreasonable adverse effect on aesthetics, historic

22 sites, air and water quality, the natural environment,

23 and public health and safety, correct?

24 A. (Levesque) It has not taken that issue up specifically.

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 Q. I'll refer you to, I think Ms. Pinello has it in --

2 MR. ROTH: I'm going to object. Because
3 I believe the testimony, at least of Ms. Pinello, very
4 clearly says they're not taking a position for or against
5 the Project. I think that means all this stuff in there,
6 too.

7 MS. GOLDWASSER: I was about to --

8 MR. ROTH: So, this is not really
9 necessary.

10 MS. GOLDWASSER: I was about to refer to
11 a data request, which indicates that their response would
12 be "no, they are not taking a position on whether the
13 Project implicates the order" -- or, excuse me, "adversely
14 affects the orderly development of the region."

15 CHAIRMAN IGNATIUS: So, isn't that
16 confirming what you've already heard? Why do you need to
17 explore it, if you already have the answer that they're
18 not taking a position?

19 MS. GOLDWASSER: Because they just said
20 -- I thought I heard them say they weren't sure.

21 WITNESS LEVESQUE: Well, I mean, the
22 reality is, to date, we haven't taken a position on it. I
23 mean, I know that I can't say that the Planning Board,
24 which is meeting next -- next Thursday night, you know,

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 won't take a position one way or another. I don't think
2 it will. But the Planning Board is a body of seven
3 people. And, in fact, it could do that. It has not done
4 that to date. I don't think it will.

5 BY MS. GOLDWASSER:

6 Q. But let me back up. I may have misspoken. My question
7 was merely whether the Planning Board had taken a
8 position regarding the orderly development of the
9 region. And, I thought, based on the discovery
10 responses that we have received from the Planning
11 Board --

12 MR. ROTH: I just want to -- I'm sorry
13 to interrupt, but I do have an objection pending. And,
14 there's sort of an argument now with the witness about
15 what the question was. But, I think, very clearly, in the
16 prefiled testimony, it says they don't -- they're not for
17 it or again it. So, this type of testimony -- or,
18 cross-examination is really not conducive to anything here
19 other than a waste of time.

20 CHAIRMAN IGNATIUS: All right. Well,
21 let's everybody take a breath. As I understand, you asked
22 did they have a position on the Project, and the answer
23 was "no". And, then, you asked a more specific question
24 about the terms that would require permitting of the

[WITNESS PANEL: Pinello~Levesque]

1 Project, and I must say I'm not sure why, if they've
2 already said they're not taking a position. And, now,
3 what are you asking --

4 MS. GOLDWASSER: I can move on.

5 CHAIRMAN IGNATIUS: All right.

6 MS. GOLDWASSER: I can move on.

7 BY MS. GOLDWASSER:

8 Q. The Planning Board also isn't taking a position at this
9 time regarding the conservation package for the Antrim
10 Wind Project, is that correct?

11 A. (Pinello) That is correct.

12 Q. And, is that correct, Mr. Levesque, from your
13 perspective as well?

14 A. (Levesque) Again, we have not taken a position yet.
15 There are seven people. I'm one person. Martha's the
16 second person. We're not even a quorum here. So,
17 anything can happen at a Planning Board meeting. We
18 have not, and I doubt that we will take a position.

19 Q. Have you made any recommendations to the Planning Board
20 in your -- as members of the Planning Board that it
21 should take a position in this Project?

22 A. (Levesque) No.

23 A. (Pinello) No.

24 Q. Okay. Why not?

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 MR. ROTH: Objection. I mean, this line
2 of questioning is completely irrelevant. The Planning
3 Board has not taken a position. They have said so in the
4 testimony. Whether they thought about it, and didn't do
5 it, and now we're really turning into, you know, Adventure
6 Land. This is not relevant testimony.

7 CHAIRMAN IGNATIUS: Ms. Goldwasser.

8 MS. GOLDWASSER: The Committee has a
9 statutory obligation to take into account the viewpoints
10 of the Planning Board. As representative of the
11 Applicant, I have an obligation to explore what those
12 viewpoints are and how they have been expressed and that
13 -- in many ways, including in their testimony. And, I
14 have a right to ask them if they have, as representatives
15 of the Planning Board to this proceeding, have given
16 advice to their board regarding whether they should take a
17 viewpoint.

18 MR. ROTH: I would suspect that there's
19 probably also some privilege, you know, deliberative
20 privileged information that's being sought here as well.
21 And, I just think, you know, as I said, we're venturing
22 into a land of irrelevance, in terms of testimony. If the
23 Planning Board hasn't taken a position, the reason that
24 they didn't do it is really not of any concern to anybody

[WITNESS PANEL: Pinello~Levesque]

1 here.

2 CHAIRMAN IGNATIUS: All right. Thank
3 you, Mr. Roth. If you want to inquire into whether the
4 Planning Board has debated this issue in public session, I
5 think that's a fair question. If you're asking about why
6 these two individual members have or have not thought
7 about advocating things, I don't understand the relevance
8 of that either. And, so, I'm not quite sure where you're
9 going with the question. To the extent it's getting into
10 sort of personal viewpoints, the objection is sustained.
11 And, if it's as to some public proceeding and a discussion
12 by the Board on whether or not to take a position, I think
13 that's fair.

14 BY MS. GOLDWASSER:

15 Q. Has the Board deliberated since the -- since the
16 beginning of the Board's involvement in these
17 proceedings, whether it should take a position?

18 A. (Levesque) The only deliberation it has had in public
19 sessions is included I think in the answer to one of
20 the data requests, and that was a motion that was
21 passed at a meeting. I don't remember the date of it,
22 but it's in our answers to one of the data requests.
23 That's the only meeting that we had any discussion of
24 that nature.

[WITNESS PANEL: Pinello~Levesque]

1 Q. Okay. Thank you. I'm going to go back to the Open
2 Space Plan for a second. Is there any citation to the
3 Open Space Plan in the Planning Board regulations at
4 all?

5 A. (Levesque) I don't know. Martha, I don't know if
6 you --

7 A. (Pinello) I don't know.

8 Q. Okay. And, are you aware if there's any citations to
9 the Open Space Plan in the zoning ordinance?

10 A. (Levesque) I don't recall.

11 A. (Pinello) I don't recall. You're welcome to Google it.

12 Q. That's not necessary. As part of discovery, the
13 Planning Board has asked questions of the Applicant
14 related to various elements of this Project, including
15 the size and scope. And, I'm sorry. I'm going to
16 strike that and start over. The Planning Board had the
17 opportunity to ask questions regarding various elements
18 of this Project, including the size and scope of the
19 Project, civil engineering for the Project, and
20 adherence to the Master Plan, is that correct?

21 A. (Levesque) I mean, I think we had opportunities to ask
22 a whole range of questions in discovery. Yes.

23 Q. Okay. Thanks. Now, Mr. Levesque, I'm going to refer
24 you to Pages 20 to 21 of your testimony. And, this has

[WITNESS PANEL: Pinello~Levesque]

1 been discussed a little bit before, but you indicate
2 that public utilities are permitted in the Rural
3 Conservation District, is that correct?

4 A. (Levesque) That's what the zoning ordinance says.

5 Q. And, then, on Page 22, Lines 6 through 9, you indicate
6 that a variance would be required to build an
7 industrial scale wind farm in Antrim, is that correct?

8 A. (Levesque) That's what the testimony says, yes.

9 Q. Is a variance required when a use is permitted under an
10 ordinance?

11 A. (Levesque) No, it is not. At least not for a use
12 variance. There could be other variances required,
13 depending on the project. Could be a height variance,
14 you know, that kind of thing. Might be permitted as a
15 use, but there's more to it than that.

16 Q. So, if a project meets the setback and height
17 requirements and other requirements in the ordinance, a
18 variance would not be required? And, those would be --

19 A. (Levesque) More than likely, yes.

20 Q. Okay. I'm going to show you what's been marked -- this
21 is "Attachment JK-1" to Jack Kenworthy's supplemental
22 prefiled testimony. So, that's I believe "Exhibit 9"
23 for the Committee.

24 MR. IACOPINO: Okay. Give us a minute.

[WITNESS PANEL: Pinello~Levesque]

1 BY MS. GOLDWASSER:

2 Q. Do you recognize that document?

3 A. (Levesque) Yes.

4 Q. Have you seen this document before?

5 A. (Levesque) Yes.

6 Q. So, is this a decision of the New Hampshire Superior
7 Court in the case "*Antrim Wind Energy v. Town of*
8 *Antrim*", and other cases that are -- there's three case
9 numbers listed there?

10 MR. ROTH: I'm going to object to this
11 for a couple of reasons. One, the decision of the New
12 Hampshire Superior Court, whether a variance is allowable
13 or not, seems to me to be really, I think, if I'm
14 understanding this very process correctly, irrelevant,
15 because this process has, I believe, made the zoning
16 location process not really that important.

17 Secondly, the witnesses of the Planning
18 Board has said it's not taking a position on the Project.
19 So, if they're trying to show, like, inconsistent
20 statements or that they're wrong about whether a zoning
21 variance is necessary or not, is simply irrelevant,
22 because that's not their position, and they're just saying
23 they don't know. So, the fact that a superior court has
24 made a contrary ruling seems to me to be of limited

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 interest to what you need to decide here.

2 CHAIRMAN IGNATIUS: Ms. Goldwasser, a
3 response?

4 MS. GOLDWASSER: If Mr. Roth is true,
5 then the Planning Board should strike the vast majority of
6 its testimony. Because it's provided this Committee with
7 a long list of standards that should, you know, that would
8 be applied if the ordinance applied, and Mr. Levesque has
9 opined that "a variance would be required", meaning that
10 this Project would not be permitted under the zoning
11 ordinance in the Town of Antrim, if this Project were
12 submitted to local regulations. Because this Committee is
13 obligated to take local regulations into account when it
14 makes its decision, I think you've got to have all of the
15 information on the record necessary to determine whether
16 -- what standards would apply.

17 CHAIRMAN IGNATIUS: I think it's
18 directly responsive to the testimony that "a variance
19 would be required". So, you can continue. The objection
20 is overruled.

21 BY MS. GOLDWASSER:

22 Q. Isn't it true that this court order states that wind
23 turbines -- a wind project would be a public utility
24 under the Antrim zoning ordinance?

[WITNESS PANEL: Pinello~Levesque]

1 A. (Levesque) You know, I'm not an attorney. And, I have
2 read this a couple of times, and I'm not really sure I
3 know how to answer that question. So, I don't think I
4 have an answer for you.

5 Q. Okay. I'm just going to ask you to read one sentence
6 into the record from this. I'm going to ask you to
7 turn to Page 6, the last sentence of the first
8 paragraph on Page 6.

9 A. (Levesque) Can you start the sentence, so I know which
10 one you're talking about?

11 Q. Absolutely. "Pursuant".

12 A. (Levesque) "Pursuant to the goals of this section, it
13 is reasonable to conclude that the Town in enacting the
14 ordinance contemplated SWES as "public utilities"
15 therefore explicitly allowed for them within most
16 zoning districts."

17 Q. I'm sorry, I asked you to read the wrong sentence. Can
18 you read the next sentence as well?

19 A. (Levesque) "Accordingly, the court finds the ZBA
20 unlawfully determined that the met tower was not a
21 "public utility", and reverses the decision."

22 MR. ROTH: And, I guess I'm going to
23 renew my objection, because now we're talking about a "met
24 tower", not about a wind turbine project. And, I'd move

[WITNESS PANEL: Pinello~Levesque]

1 to strict that question and the testimony.

2 CHAIRMAN IGNATIUS: Ms. Goldwasser.

3 MS. GOLDWASSER: The court ruling
4 determined, and I can put this -- we can put this into the
5 brief --

6 CHAIRMAN IGNATIUS: Yes. I think it --
7 I mean, we have the order in the file.

8 MS. GOLDWASSER: Okay, we'll move on.

9 CHAIRMAN IGNATIUS: It's a legal issue,
10 I think, ultimately. I think, if you're focus is on Mr.
11 Levesque's testimony and his conclusions about a variance
12 being required, I think it's fair to ask him if that court
13 order makes any change in his view about the variance.
14 But, beyond that, I'm not sure he can speak to a whole lot
15 more.

16 BY MS. GOLDWASSER:

17 Q. If the order determined that wind turbines were a
18 "public utilities" under the Antrim ordinance --

19 MR. ROTH: Objection. That is not what
20 the order says.

21 MS. GOLDWASSER: I said --

22 MR. ROTH: The order refers to a "met
23 tower", not to a "wind turbine".

24 CHAIRMAN IGNATIUS: Let her ask the

[WITNESS PANEL: Pinello~Levesque]

1 question please.

2 MS. GOLDWASSER: The order indicates
3 that the met tower as a necessary pre -- as a necessary
4 precedent to a wind facility, and that's why it is a
5 public utility. I'm merely -- I'm not asking him to agree
6 with my conclusion about that, I'm saying, if that is
7 true, "if that is true, would a variance be necessary for
8 the use of the site?"

9 CHAIRMAN IGNATIUS: It seems a fair
10 question to me. Mr. Roth, you have a problem with that?

11 MR. ROTH: It's simply a hypothetical.
12 So, if you want to venture into the hypothetical, the
13 witness can venture into a hypothetical. But that's Ms.
14 Goldwasser's interpretation, and that's all it is.

15 BY MS. GOLDWASSER:

16 Q. To the extent the decision -- to the extent the
17 decision determines that a met tower, as a necessary
18 antecedent to a public -- to a wind project, and that a
19 wind project is a public utility and, therefore,
20 approved in the Rural Conservation District, would a
21 use variance be necessary in accordance with the
22 ordinance?

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

24 Q. I'm going to ask you to turn to Page 23 of your

[WITNESS PANEL: Pinello~Levesque]

1 prefiled testimony. You state that voters in Antrim
2 chose not to approve the proposed large-scale wind
3 ordinance proposals, and that they quote "chose to keep
4 the existing zoning which prohibits large-scale wind
5 development in Antrim -- oh, I'm sorry. Scratch that.

6 With respect to your claim that voters
7 rejected wind development in Antrim, on the bottom of
8 Page 22, there were two drafts -- two votes on drafts
9 of the ordinance that were put forth by the Planning
10 Board, is that correct?

11 A. (Levesque) That's correct.

12 CHAIRMAN IGNATIUS: I'm sorry, the
13 bottom of Page 22?

14 MS. GOLDWASSER: Lines 20 -- I'm sorry.
15 The bottom of Page 23, Lines 21 through 26.

16 CHAIRMAN IGNATIUS: Thank you.

17 BY MS. GOLDWASSER:

18 Q. The Planning Board took the position that the ordinance
19 supported the development of large-scale wind
20 facilities, is that the case?

21 A. (Levesque) That's correct.

22 Q. Now, in the November vote, approximately 50 percent of
23 the town came out to vote, is that correct?

24 MR. ROTH: I want to object to this line

[WITNESS PANEL: Pinello~Levesque]

1 of questioning. And, I'm sorry if I sound sort of, you
2 know, obstreperous about it. But, it seems to me, we
3 have, you know, the very reason we're having this
4 proceeding is because the Town didn't get into place with
5 a wind ordinance. And, the reasons that that didn't
6 happen, it seems to me, are not really relevant to what
7 we're doing today. It seems to me, you know, the views of
8 the municipal organizations are in the record in their
9 testimony. The reasons that may have gone into whatever
10 thinking and voting behavior went into whether the -- the
11 reasons for not putting in place an ordinance over, you
12 know, a year ago, and before this Application was filed,
13 seems to me to be really stretching relevancy. And, it's
14 getting late in the day and long in the week. So, I think
15 we should move to something that's really, you know,
16 useful here.

17 CHAIRMAN IGNATIUS: Well, we haven't
18 heard much of the question yet. It seems to me the
19 witnesses have put forth -- Mr. Levesque put forth the
20 issue about voting for this ordinance in his testimony.
21 And, some degree of questioning on it is fair. I don't
22 know where we're going, and how much, and motivations and
23 all that that require speculation would not be
24 appropriate. But I think allowing some questioning on

[WITNESS PANEL: Pinello~Levesque]

1 this is fair. So, let's hear the question first.

2 BY MS. GOLDWASSER:

3 Q. In November, in the November vote, approximately
4 50 percent of the town came out to consider the
5 proposed ordinance, is that correct?

6 A. (Levesque) Of the registered voters, I've seen it
7 written somewhere to that effect, yes.

8 Q. And, 72 percent of the voters that day rejected an
9 ordinance amendment which would outlaw wind energy in
10 the Rural Conservation District, is that correct?

11 A. (Levesque) No, it's not.

12 Q. Okay. I'm going to ask you to turn to --

13 A. (Levesque) No, it's not, because you said that the
14 ordinance would "outlaw wind energy", and that's not
15 what it would have done.

16 Q. I'm sorry, I think there were several votes in
17 November. One of them was on the ordinance and one of
18 them was on the outright rejection of wind energy in
19 the Rural Conservation District, am I incorrect --

20 MR. ROTH: See, now with have Attorney
21 Goldwasser testifying again.

22 MS. GOLDWASSER: I was going to finish
23 the question, Mr. Roth, which was "am I incorrect about
24 that?"

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 CHAIRMAN IGNATIUS: And, can we just
2 have some ground rules? Let's let one of you finish
3 before the next jumps in, and it goes on all sides,
4 including myself. So, I will try not to cut out anyone.
5 And, please, each of you, I know one everyone's tired,
6 we're all getting testy. And, the court reporter suffers
7 more than any of us for it. So, --

8 MS. GOLDWASSER: How about this? How
9 about this?

10 BY MS. GOLDWASSER:

11 Q. Mr. Levesque, --

12 MS. GOLDWASSER: I apologize.

13 BY MS. GOLDWASSER:

14 Q. Mr. Levesque, can you turn to APB 2? Which is Antrim
15 Wind Energy's responses to the Antrim Planning Board in
16 discovery. Does the bottom of that response
17 indicate --

18 A. (Levesque) Which page are you on?

19 Q. I'm sorry. APB 1.1 -- so, it's APB Exhibit 2, and the
20 data response is 1-1. Do you disagree that there was a
21 vote regarding a proposed zoning amendment which would
22 have prohibited utility scale wind in the Rural
23 Conservation District?

24 A. (Levesque) Again, the proposal that the Planning Board

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 put forth would not have prohibited wind energy in the
2 District.

3 Q. I'm not asking about the proposal that the Planning
4 Board put forth. I'm asking you if there was a
5 proposal to reject wind energy in the Rural
6 Conservation District?

7 MR. ROTH: And, I would like to make an
8 objection on this basis. The witness has testified that
9 whatever this vote is she's asking about was not something
10 that was put forward by the Planning Board. If she wanted
11 to, you know, have testimony about this a year ago, she
12 could have done so. And, yet, now she's trying to get the
13 Planning Board members to testify about a vote that they
14 -- on a proposal that they did not put forward. And, so,
15 if she -- you know, she should have had the selectmen put
16 testimony in to this effect, and people could have
17 cross-examined them about it. But to now try to wedge
18 this in, shoehorn it in through the Planning Board I think
19 is inappropriate.

20 CHAIRMAN IGNATIUS: Ms. Goldwasser.

21 MS. GOLDWASSER: I don't control the
22 Selectboard and what testimony they decide to put in or
23 don't decide to put in, is not of the Applicant's ability
24 to control. I think this goes to the question of the town

[WITNESS PANEL: Pinello~Levesque]

1 support for wind energy and the town's authority -- the
2 Planning Board's statements regarding whether the votes in
3 down supported wind energy or rejected wind energy.

4 MR. ROTH: If I may. You know, yeah,
5 she doesn't control the Selectboard. But, you know, Mr.
6 Kenworthy or any of the other witnesses for the Project
7 could have made that kind of testimony, and they chose not
8 to.

9 CHAIRMAN IGNATIUS: Thank you, Mr. Roth.
10 Next time, don't always assume that you have to say
11 something no matter what anybody else says. This isn't
12 "who gets the last word". I want comments from each of
13 you, it's not necessarily rebuttal every time Ms.
14 Goldwasser says something. One second.

15 (Chairman Ignatius and Mr. Iacopino
16 conferring.)

17 CHAIRMAN IGNATIUS: I have two things on
18 this. One is that the exhibit you're referring to, APB 2,
19 is already in the record. So, if you're asking someone to
20 confirm what it says there, I don't believe that's
21 necessary to do.

22 The other issue is that, in
23 Mr. Levesque's testimony, there's reference to multiple
24 votes being taken, I believe. "As a result of the" -- I'm

[WITNESS PANEL: Pinello~Levesque]

1 looking at Line 21 -- "of the 2011 and 2012 votes", and I
2 don't know if that's how many votes and what the votes are
3 on. So, if there's limited questioning on what those
4 various votes refer to, I think it's fair. If it's -- I
5 also think, I mean, it seems to me, if I'm understanding
6 right, what you have is a situation where there's both
7 ordinances being voted on and almost like a referendum
8 being voted on, on the issue of wind facilities.

9 And, to make the record clearer, I think
10 it's fair to identify those individual votes and what
11 occurred at them. Speculating on why people voted the way
12 they did, if there's inconsistent results, why is that, I
13 don't think any of them can get into that. But, to
14 identify the various votes that were taken and the
15 results, I will allow.

16 MS. GOLDWASSER: Okay. And, you know
17 what, I mean, I think we can -- the purpose of -- big
18 picture purpose of this testimony is to delve into the
19 statements in Mr. Levesque's testimony about the meaning
20 of those votes. Because he states, on behalf of the
21 Planning Board, that the meaning of those votes was that
22 the town was against this wind project.

23 CHAIRMAN IGNATIUS: Well, I wouldn't go
24 there. I'm not sure I'm agreeing with your

[WITNESS PANEL: Pinello~Levesque]

1 characterization.

2 MS. GOLDWASSER: I'm sorry. That's not
3 a fair statement. Can I restate that --

4 CHAIRMAN IGNATIUS: Well, let's just --
5 why not focus on questioning Mr. Levesque about his
6 testimony --

7 MS. GOLDWASSER: Okay.

8 CHAIRMAN IGNATIUS: -- and what you're
9 exploring.

10 BY MS. GOLDWASSER:

11 Q. Mr. Levesque, you indicated that the voters chose to
12 keep the existing zoning ordinance which prohibits
13 large-scale wind development in Antrim unless a
14 variance is granted, is that correct?

15 A. (Levesque) Could you tell me where --

16 Q. In your testimony.

17 A. (Levesque) -- where you're referring to?

18 Q. Page 23, Lines 24 through 26.

19 A. (Levesque) Right. Yes.

20 Q. Now. If you turn to AWE 22, and that's in that gray
21 binder that you have as well, if you want to do that,
22 if that's easier. Is this an article from the
23 Monadnock Ledger Transcript titled "A vote in favor of
24 wind energy"?

[WITNESS PANEL: Pinello~Levesque]

1 A. (Levesque) It's here and it says that. I don't know.
2 But, yes, I guess so.

3 Q. And, on the second page, at the bottom, does it
4 indicate that the article originally appeared in the
5 November 10th edition?

6 MR. ROTH: I'm going to object at this
7 point. We went from Mr. Levesque talking about his
8 testimony, to now asking Mr. Levesque to testify about a
9 newspaper article. I think we're still too far off track
10 here.

11 CHAIRMAN IGNATIUS: I'd agree with you.
12 I'm not sure how we just shifted gears. If you're asking
13 Mr. Levesque about votes taken, and his understanding, and
14 he's been given a lot of leeway to talk about other things
15 related to planning and development in the community. It
16 seems fair to ask him about that. I just -- do you need
17 to go to another document?

18 MS. GOLDWASSER: The article indicates
19 that the votes that rejected the ordinance, which has been
20 identified as the Planning Board in its testimony as "in
21 favor of wind energy", as -- the vote that rejected that
22 ordinance as a vote "in favor of wind energy". So, that
23 their proposing -- provides an opposing position regarding
24 the meaning of the vote. And, I'd like to ask him about

[WITNESS PANEL: Pinello~Levesque]

1 that.

2 MR. ROTH: I --

3 CHAIRMAN IGNATIUS: No.

4 MR. ROTH: I'm sorry.

5 CHAIRMAN IGNATIUS: I confess, I don't
6 even know what votes we're talking about. I think you
7 guys all know what you're talking about, and you're
8 arguing about something that's totally passing me by. So,
9 if you want the Committee to get any value out of this,
10 let's back up. I've told you it's fair to ask about the
11 multiple votes taken, in what they were and what the
12 results were. As to who characterized what as what, I
13 don't know. But, just sort of the basic facts, I've said
14 is fair, because it relates to what Mr. Levesque's
15 testimony was on Page 23.

16 So, how about this? Let's take a break.
17 The court reporter needs one, I need one. And, at 4:30,
18 we'll resume and see where we go with this. Thank you.

19 MR. ROTH: Thank you.

20 (Recess taken at 4:23 p.m. and the
21 hearing resumed at 4:40 p.m.)

22 CHAIRMAN IGNATIUS: All right. We're
23 back on the record. Let's resume. Ms. Goldwasser, you
24 were questioning Mr. Levesque.

[WITNESS PANEL: Pinello~Levesque]

1 BY MS. GOLDWASSER:

2 Q. Mr. Levesque, there were two ballots before the Town of
3 Antrim in November 2011, is that correct?

4 A. (Levesque) That's correct.

5 Q. And, one of the --

6 A. (Levesque) Two ballot questions.

7 Q. Two ballot questions.

8 A. (Levesque) Right.

9 Q. One of the ballot questions concerns the large-scale
10 wind ordinance, is that correct?

11 A. (Levesque) Correct.

12 Q. And, that large-scale wind ordinance was proposed by
13 the Planning Board, is that correct?

14 A. (Levesque) Correct.

15 Q. The other -- the other ballot question was a ballot
16 question regarding forbidding large-scale wind in the
17 Rural Conservation District, is that correct?

18 A. (Levesque) I'm going to read that second article, so
19 that the Committee actually knows what it says, because
20 -- to save time. The second article that you're
21 referring to said "To amend Article I", and Article I
22 was the article that was proposing the large-scale wind
23 ordinance, so it said "To amend Article Number I, if it
24 passes, so that Section 5.0, Applicability, will read

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 "wind energy facilities and meteorological towers, as
2 defined below, are allowed to be constructed or
3 operated in any district in the Town of Antrim, except
4 for the Rural Conservation District, where the
5 construction and operation of large-scale wind
6 facilities shall be prohibited after the effective date
7 of this ordinance, subject to all applicable federal,
8 state, and local ordinances and regulations." Is that
9 the one you're talking about?

10 Q. Yes. The second -- the second ballot question would
11 have prohibited large-scale wind in the Rural
12 Conservation District, should the Large-Scale Wind
13 Ordinance have passed, if both had passed?

14 A. (Levesque) Correct.

15 Q. Thank you for the clarification. Neither one of those
16 ballot questions passed, is that correct?

17 A. (Levesque) That's correct.

18 Q. The Large-Scale Wind Ordinance was rejected by
19 61 percent of the voters at the town meeting, is that
20 correct?

21 A. (Levesque) I don't know the exact number, but it didn't
22 pass.

23 Q. Do you know whether the second amendment that we just
24 discussed was rejected by 72 percent of the voters?

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 A. (Levesque) Again, I don't know the exact number, but it
2 didn't pass.

3 MS. GOLDWASSER: I have no further
4 questions.

5 CHAIRMAN IGNATIUS: Thank you.
6 Questions from Committee members? Do you have anything?
7 Ms. Bailey.

8 MS. BAILEY: I apologize for my late
9 appearance. I was working on my other job for ten
10 minutes. I think I'll start, Ms. Pinello, with your
11 testimony.

12 BY MS. BAILEY:

13 Q. It looks to me like most of your testimony is excerpts
14 from the zoning ordinance and the subdivision and site
15 plan regulations.

16 A. (Pinello) Correct.

17 Q. Why did you think it was necessary to give us that, if
18 you think that you have jurisdiction over those two
19 issues?

20 A. (Pinello) A couple of reasons. One, we weren't sure,
21 just procedurally, where that was going to come. So,
22 when I'm preparing my testimony, and trying to work
23 during field season, I needed to kind of sit down and
24 do something. So, I did that. With the anticipation

[WITNESS PANEL: Pinello~Levesque]

1 that, with the whole subdivision question, I wasn't
2 sure where we were going to land in the schedule or the
3 testimony or that. So, that's one just mechanic
4 reason.

5 The other is, I chose that route because
6 I think it's important for the Committee to get a
7 flavor of the fact that Antrim, for a very long time,
8 considering the State of New Hampshire and how towns
9 have adopted planning and zoning, for a very long time
10 the Town of Antrim has had very nuanced site plan and
11 subdivision regulations since 1968. And, when you
12 think about 1968 in New Hampshire, it was -- site plan
13 and subdivision regulations weren't something that were
14 in a lot of towns. So, I wanted you to see that.

15 And, I wanted you to see the nuanced
16 layers that we have to our land use regulations and how
17 we go about that. It isn't -- it isn't simple, it's
18 complex. Some of us find it intriguing. But it's a
19 complex regulatory, but also individual, you have to
20 come in, you have to apply, you have to fill out the
21 applications, and then you begin to make nuanced
22 decisions based on the ordinance and the regulation.
23 But, also, there's a give-and-take with the developer,
24 with the Committee, with the abutters. So that it's a

[WITNESS PANEL: Pinello~Levesque]

1 very complexed, and, in the Town of Antrim, it's a very
2 seasoned process. And, I wanted you to see that. I
3 wanted you to understand that we're not kind of newbies
4 at this or, you know, that we weren't really clear how
5 we were doing this. We've been working at this a long
6 time. And, in many ways, I think we're pretty good.
7 And, I was quite proud to see that the Lakes Region was
8 using, as recent as 2007, was using our steep slope
9 overlay as a model, as a case study for other
10 communities. I was kind of proud of that, too.

11 Q. In case we end up with jurisdiction on the subdivision,
12 can you tell me what the "Steep Slope Ordinance" means?

13 A. (Pinello) I can tell you generally. What it is is an
14 overlay. And, --

15 Q. An overlay of what?

16 A. (Pinello) Of the entire town. So, zoning can be, in
17 the Highway Business District, is 1,000 feet off of
18 Route 9 and Route 202. That's one way you can say
19 zoning. Another way is, and this is kind of a more
20 up-to-date way of doing -- I shouldn't say
21 "up-to-date", a more current way of doing zoning is to
22 have an overlay. And, you would say, for the entire
23 town, where there is 10 degrees of slope, there are X
24 conditions. Where there is 15 degrees of slope, there

[WITNESS PANEL: Pinello~Levesque]

1 is another condition. In the Town of Antrim, we say,
2 where there is 25 degrees of slope, you don't build.

3 Q. Is there 25 degrees of slope on the ridge that we're
4 talking about?

5 A. (Pinello) I would give you my gut response, not an
6 accurate response. I was trying to get the overlay on
7 that. There are places.

8 Q. So, it's possible then that, if we decided that they
9 should site there, you could say "they can't"?

10 A. (Pinello) True. But you could say "they can't", but
11 you might be able to find some kind of compromise or
12 someplace else. I'm not -- I'm saying, in general, for
13 any kind of plan, that's how the Steep Slopes Ordinance
14 works. And, you would have to have it surveyed, you
15 would have to have the -- you know, you would have to
16 know where you're looking at and what the grades are.
17 But the idea is, it's an overlay. And, certainly, the
18 floodplain doesn't have a high degree of slope to it,
19 unless Irene went through.

20 Q. Okay. Mr. Levesque, as a member of the Planning Board,
21 or both of you, actually, as a member of the Planning
22 Board, do you use the Master Plan?

23 A. (Pinello) Yes. The Master Plan and the General Court's
24 laws regarding the Planning Board and land-use

[WITNESS PANEL: Pinello~Levesque]

1 planning, and the Master Plan are our two guiding
2 units. That's what gives us the way that we use our
3 zoning ordinances.

4 Q. Okay. I think I know the answer to this, but I just
5 want to make sure. On Page 9 of Mr. Levesque's
6 testimony, I think there's an excerpt from the Master
7 Plan. So, is this part of your Master Plan, these
8 quotes on Page 9?

9 A. (Levesque) Yes.

10 Q. Okay. And, the first bullet there says -- well, the
11 paragraph, the last sentence in the paragraph, says
12 "Other steps the town can take include: Offer
13 incentives in the form of property tax exemptions for
14 residents or businesses who install renewable energy
15 systems such as wind turbines."

16 A. (Levesque) Yes, that's what it says. Yeah.

17 Q. So, what does that mean? Would that give you any
18 guidance, if you had to approve some kind of
19 application from Antrim Wind about their Project?

20 A. (Levesque) Well, again, it has to do with property
21 taxes. And, the Planning Board really has no
22 jurisdiction over property taxes.

23 Q. Oh. So, there's parts of the Master Plan that you
24 would look at to inform you, and there's parts that

[WITNESS PANEL: Pinello~Levesque]

1 don't apply?

2 A. (Levesque) Remember, the Master Plan is only a plan,
3 and it's a guidance document. Nothing in the Master
4 Plan is required at the town level. Okay? The towns
5 go through very involved planning processes to develop
6 these documents. In the end, they're really intended
7 to inform the parts of sort of town government that do
8 have teeth. Which, for the planning area, is the
9 zoning ordinance, and then the site plan and
10 subdivision review regulations that we have in place.
11 So, everything there is supposed to be informed by the
12 Master Plan. And, so, those parts of town government
13 are really the jurisdiction of the Planning Board, and
14 that's what we look at. So, to the extent that those
15 things, the zoning ordinance, site plan review, and
16 subdivision regulations are informed by the Master
17 Plan, then, yes, we do, in fact, take into account
18 what's in the Master Plan.

19 Q. So, does this sentence from the Master Plan inform you
20 about the town's position on wind turbines?

21 A. (Levesque) The Planning Board?

22 Q. Yes.

23 A. (Levesque) Again, the property tax issues are beyond
24 the purview of the Planning Board. So, the Master Plan

[WITNESS PANEL: Pinello~Levesque]

1 doesn't only inform the Planning Board, I guess that's
2 what I'm trying to say.

3 Q. Okay.

4 A. (Levesque) It, obviously, informs the Planning Board,
5 but other parts of town government as well.

6 Q. So, why did you put that part of the Master Plan in
7 your testimony?

8 A. (Levesque) Because it had to do with energy. Backing
9 up a little bit, what the Planning Board wanted Martha
10 and I to do in our work here, was to make sure that the
11 Committee understood the Master Plan, site plan
12 regulations, subdivision regulations, and the zoning
13 ordinance. That's what the Planning Board really
14 wanted us to do. That's why our testimony is focused
15 on that. So that you could be informed about what the
16 Town has decided, over many years, and what is, in
17 fact, law at the local level. So, that's why that's in
18 here, --

19 Q. Okay.

20 A. (Levesque) -- because it was a relevant section of the
21 Master Plan. We did include the entire Master Plan in
22 what we filed. We didn't think you'd read it all.

23 Q. You did --

24 A. (Levesque) At least I didn't. So, --

[WITNESS PANEL: Pinello~Levesque]

1 Q. You did include the entire plan?

2 A. (Levesque) Oh, yes. It was filed with this. But --

3 Q. Okay.

4 A. (Levesque) So, the excerpts were intended to help you
5 identify the relevant sections in these documents.

6 Q. So, it's relevant that the Master Plan includes this
7 provision that says, to me, that "the town supports
8 wind turbines"?

9 A. (Pinello) You have to understand that the Town of
10 Antrim passed a Small Wind Energy Ordinance, at the
11 recommendation of the State Office of Planning and
12 Energy. It was a model ordinance, it was sent out to
13 communities, and we adopted that. Because we're a town
14 that kind of has it together, in terms of our planning
15 and Master Plan and all that, we passed that. And,
16 then, we were in the draft stages of our Master Plan.
17 So, we included -- you can't adopt a new ordinance and
18 not -- you need to speak to it, it needs to be an
19 integrated system. So, that was a new ordinance. So,
20 when we spoke of that, it relates to the Small Energy
21 Wind Ordinance, which is under, make sure I get it
22 right, under 100 --

23 A. (Levesque) 100 kilowatts.

24 A. (Pinello) Yes, kilowatts. We -- the Master Plan

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 included that, in that we were, according to the State
2 Office of Planning and Energy, according to all the
3 kind of guiding agencies, we were being current and
4 up-to-date with our ordinances and with our Master
5 Plan.

6 A. (Levesque) To further remind you about the Master Plan
7 adoption process, in case it's not something you've
8 looked at in a while. So, the Master Plan itself is
9 adopted by the Planning Board, not by town meeting.
10 Planning Board has to hold a public hearing, usually
11 holds many public hearings, and, to adopt this one, in
12 fact, the Planning Board did.

13 Q. To adopt what, that bullet or some ordinance?

14 A. (Levesque) The entire document, the entire Master Plan,
15 of which this is an excerpt.

16 Q. Okay.

17 A. (Levesque) That's adopted by the Planning Board, not by
18 town meeting, and not by any other body in town.
19 Again, the Planning Board is required to have public
20 hearings, and this -- there were many hearings that
21 took place in public meetings and visioning sessions.

22 Q. To adopt this Master Plan from which these excerpts
23 came?

24 A. (Levesque) Of which these came. But, again, the

[WITNESS PANEL: Pinello~Levesque]

1 Planning Board adopted them, not town meeting, or not a
2 town vote. Just to remind you of how that works.

3 Q. Okay. I want to go over the map that is in the
4 testimony. I think, is it in your testimony, Mr.
5 Levesque? There's a map that shows a little yellow
6 strip --

7 A. (Levesque) Yes.

8 Q. -- where the Project area is? Could you help me find
9 that.

10 A. (Levesque) I think I -- I used it twice, I think. So,
11 I mean, one of them is on Page 17.

12 Q. Yes. That's not the one I was thinking of.

13 A. (Levesque) The other one is on Page 11.

14 Q. Yes, that's the one.

15 A. (Levesque) Yes.

16 Q. Thank you. All right. And, it's kind of small. And,
17 when I blow it up, it's blurry. So, that's what I want
18 to ask you some questions about.

19 A. (Levesque) Yes.

20 Q. So, the khaki or the tan color in the map, what does
21 that mean?

22 A. (Levesque) Kind of the -- in the area that the proposed
23 wind farm, --

24 Q. Yes.

[WITNESS PANEL: Pinello~Levesque]

1 A. (Levesque) -- my rudimentary drawing of that is
2 located?

3 Q. Yes.

4 A. (Levesque) That is identifying the Rural Conservation
5 Zone.

6 Q. And, what -- and, what restrictions are in the Rural
7 Conservation Zone?

8 A. (Levesque) Well, again, I've alluded to that in the
9 testimony, so that you didn't have to read that whole
10 part of the zoning ordinance. If we can -- I don't
11 know where it is exactly myself, but it's in here.
12 It's, I believe, later on.

13 Q. Is it "What are the permitted uses in the Rural
14 Conservation District?" That question?

15 A. (Levesque) Yes. So, Page 20.

16 Q. Line 12.

17 A. (Levesque) That's where it starts.

18 Q. Yes.

19 A. (Levesque) And, in this case, this is a list of the
20 permitted uses within the zone.

21 Q. And, that's the conversation that we had where public
22 utilities are allowed, but we're not sure whether this
23 is a public utility?

24 A. (Levesque) Correct.

[WITNESS PANEL: Pinello~Levesque]

1 Q. Okay. So, if it is a public utility, it's allowed. If
2 it's not a public -- well, if it is a public utility,
3 it is allowed?

4 A. (Levesque) That's what this says, correct.

5 Q. A permitted use, okay. All right. So, let's go back
6 to that map, because there are some other colors I want
7 to talk from. So, what's the red color?

8 A. (Levesque) In the Master Plan, there was identification
9 of areas that were preferred for development in town.
10 And, so, the red areas are really identified as such.
11 And, then, sort of around town center as well. So,
12 there are kind of three major areas that the Master
13 Plan identifies as "preferred development zones".

14 Q. And, development of what? Commercial use?

15 A. (Levesque) Yeah. Yes. Not exclusively, but, yes.
16 Commercial use, residential use, industrial use.

17 Q. That's the red?

18 A. (Levesque) That's the circled areas within those zones.
19 The red area, I'm sorry, the red area itself, those are
20 the two sections of the Highway Business District in
21 our zoning ordinance.

22 Q. Okay. All right.

23 A. (Levesque) Along Route 202, between Antrim and
24 Hillsborough on the right, and, then, on Route 9, --

[WITNESS PANEL: Pinello~Levesque]

1 Q. Okay.

2 A. (Levesque) -- which is the one on the top.

3 Q. All right. I almost think I understand that. Ms.

4 Pinello, in your testimony, on Page 7, I think there's
5 an excerpt that shows what a "major subdivision" and a
6 "minor subdivision" is.

7 A. (Pinello) Yes. Wait a minute, let me get to it.

8 Q. Maybe it's not on Page 7. Page 11, sorry.

9 A. (Pinello) Okay. Continue.

10 Q. So, you've sat through all of these hearings, and
11 you've looked at the plans of the Applicant. Can you
12 tell me whether, if they had to do their subdivision,
13 whether it would, under your regulations, if it was up
14 to you, would it be a minor or a major?

15 MR. ROTH: I'm sorry. I think this is a
16 place where I should interject at least a gentle
17 objection. Because the Planning Board could very well be
18 in a position to make an adjudication on that very issue,
19 when a proper application comes before it. And, I don't
20 think it would be sort of judicially appropriate for them
21 to render an opinion about that issue beforehand.

22 MS. BAILEY: Can I have -- can I say my
23 side?

24 (Laughter.)

[WITNESS PANEL: Pinello~Levesque]

1 WITNESS PINELLO: There was something
2 about "last word".

3 MS. BAILEY: I may not be a lawyer, but
4 I act like one.

5 MR. ROTH: Very good.

6 MS. BAILEY: So, I'll just say it and
7 then you can --

8 CHAIRMAN IGNATIUS: I think it's fair to
9 say where you -- what you're seeking to get information
10 on, and we'll see if it's appropriate or not.

11 MS. BAILEY: Okay.

12 CHAIRMAN IGNATIUS: And, I think we
13 don't want to put the Planning Boards members in a legal
14 bind.

15 MS. BAILEY: Agree. Agree. But here's
16 my -- here's why I asked the question. Because there's a
17 possibility that we could decide, and I have not made my
18 mind up on this, that this is our -- that it's under the
19 Site Evaluation Committee's jurisdiction to do the -- to
20 decide whether the subdivision is appropriate. And, in
21 that case, we're supposed to take advice from the Town.
22 And, so, in taking advice from the Town, I would probably
23 look at the Town regs to see what they were thinking about
24 subdivisions. And, we're not going to get a chance to

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 talk to these guys again. This is their -- and, she put
2 it in her testimony. So, that's why I wanted to know what
3 she thought, what they thought, whether it was a "minor
4 subdivision" or a "major subdivision", because the rules
5 are different.

6 CHAIRMAN IGNATIUS: Is there a way that
7 the Planning Board witnesses could give any examples of
8 other things that had been major or minor subdivisions
9 that might give some guidance, and without speaking to
10 this and without --

11 (Witnesses conferring.)

12 WITNESS PINELLO: Okay. All right.
13 Trying to think of a recent one. Ironically, they had a
14 major subdivision, and it wasn't developed. So, it didn't
15 give you a clue at the time. Off of Route 202, in the
16 Highway Business District, and I'm going to use some
17 colloquialisms, Matt Attridge's -- Milt Attridge's home
18 and land were bought and subdivided. Brick farmhouse --
19 brick-ender farmhouse, a barn, they -- the whole property,
20 up to the top of the ridge, was bought by a developer.
21 They put in a road, and they were going to put in 21
22 housing units.

23 BY MS. BAILEY:

24 Q. So, that's obvious. Because I think your rules say

[WITNESS PANEL: Pinello~Levesque]

1 it's "major" if it's more than two lots?

2 A. (Pinello) Right. So, I'm trying to give you an example
3 of the flavor of our "major" setting.

4 Q. I get that. That's easy.

5 A. (Pinello) Okay. All right. I'm just trying to make --

6 Q. I'm trying to understand --

7 A. (Pinello) I'm also trying to give you our local
8 examples. And, you know, the lay of the land as to who
9 we are.

10 Q. Right. I understand that. And, I appreciate the
11 position that you're in. But you put it in your
12 testimony, and the testimony says, if creates more than
13 two lots --

14 A. (Pinello) Uh-huh.

15 Q. How about if you give me an example of a minor
16 subdivision, that has two lots?

17 A. (Pinello) The Lauber's property, off of Pierce Lake
18 Road.

19 MR. IACOPINO: How do you spell that?

20 WITNESS PINELLO: Lauber, L-a-u-b-e-r.

21 **BY THE WITNESS:**

22 A. (Pinello) Okay. So, the Lauber's. This is an example
23 perhaps of where there's repeated minor subdivision,
24 not necessarily a good policy. They own -- an older

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Pinello~Levesque]

1 couple owns a piece of land. And, they came in maybe
2 ten years ago with the idea that they needed, by
3 subdivision, they would be able to still stay in their
4 home, but have -- divide off some of the pasture land
5 that they had been using for their sheep farm. They
6 had the place surveyed. They had the lots subdivided.
7 I believe one of them sold and one of them didn't.
8 That would be a minor subdivision.

9 BY MS. BAILEY:

10 Q. And, that didn't involve construction of a road?

11 A. (Pinello) No, it did not. It was off the town road,
12 one of those subdivisions was off of a town road. I
13 don't have -- I'm trying to think of a minor
14 subdivision off of a town road that required a road to
15 be built. Twenty-four years ago, when -- no, 28 years
16 ago, when we bought our property, the person retained
17 the -- it was subdivided into two lots. The person
18 next to us subdivided for their daughter, put in a
19 700-foot driveway. And, that was a minor -- well, no,
20 it wouldn't -- no, it wasn't, because they did
21 something else. So, that wasn't a minor subdivision.
22 I'm trying to think of a road and a minor subdivision.

23 Q. Well, what was it that they did that made it major?

24 A. (Pinello) Space, and how far back it was from the road.

[WITNESS PANEL: Pinello~Levesque]

1 And, the amount, and they did more than two lots. I
2 was recalling incorrectly.

3 MS. BAILEY: Okay. All right. Thank
4 you very much.

5 WITNESS PINELLO: I'm sorry. I tried.

6 MS. BAILEY: I'm all set.

7 CHAIRMAN IGNATIUS: Oh. All right. Any
8 other questions from the Committee?

9 (No verbal response)

10 CHAIRMAN IGNATIUS: All right.

11 Mr. Iacopino, do you want to ask any redirect issues?

12 MR. IACOPINO: I have actually just one
13 question.

14 CHAIRMAN IGNATIUS: Oh, I'm sorry.
15 Questions yourself?

16 MR. IACOPINO: Yes. And, it's just one
17 question.

18 BY MR. IACOPINO:

19 Q. Thank you for providing us with the various ordinances.
20 And, as you know, the Committee is required to consider
21 the views of local/municipal planning and governing
22 bodies. But I just want to -- just want to understand
23 your understanding about what we are going to do.
24 Because you have provided us with your zoning code, and

[WITNESS PANEL: Pinello~Levesque]

1 there is, obviously, let me, in this record at least,
2 there is some ambiguity about whether or not wind
3 turbines are public utilities that are permitted uses
4 within the Rural Conservation District. Is it your
5 understanding that, in determining what to make of your
6 various policies and ordinances, in considering the
7 views of municipal planning agencies, that, ultimately,
8 this Committee is probably going to have to wrestle
9 with and make a determination on that issue. Is that
10 your understanding?

11 A. (Levesque) Yes.

12 Q. Okay.

13 A. (Pinello) Pending, the only other one would be the
14 issue in terms of the subdivision.

15 Q. Correct.

16 A. (Pinello) And, if I could address the Committee about
17 this process just a little bit, if that's okay, in
18 terms of responding to your question.

19 Q. Whose process? Ours or -- because my question is
20 really about your process.

21 A. (Pinello) Yes, it's about your process.

22 Q. Okay. So, do you have a question about our process or
23 you wanted to make a statement?

24 A. (Pinello) I have a comment that may end up being a

1 question, I think.

2 Q. Okay.

3 A. Okay? It's just -- so, the way this is set up, and
4 because this case is unique, in terms of having an
5 active planning department, with zoning and site plan
6 regulations and that, by choosing to do subdivision,
7 I'll make the argument that there is a division between
8 land use and subdivision, the Antrim Planning Board
9 also then made a choice, had to make a choice, in terms
10 of the regional planning and what we could say about
11 this facility, because the issues of it is a -- could
12 potentially be a pending case.

13 So, just in terms of reflecting in the
14 future, when you have -- it's one thing when you have a
15 town that doesn't have a planning department or a
16 zoning board or that, it's one path. But, when there
17 is, there may be different paths, in terms of how town
18 boards choose to respond, but also how the Committee
19 responds. Is that clear?

20 Q. Suppose the Committee could take a different path or
21 could have taken a different path.

22 A. (Pinello) Yes. Exactly.

23 Q. But we're here on the path we're on right now. But I
24 didn't have any other questions. I just wanted to make

[WITNESS PANEL: Pinello~Levesque]

1 sure that that was your understanding?

2 A. (Witness Pinello nodding in the affirmative).

3 MR. IACOPINO: Is there anything that
4 you want to say in redirect to the questions that you've
5 been asked here today?

6 WITNESS LEVESQUE: No.

7 WITNESS PINELLO: No.

8 CHAIRMAN IGNATIUS: Then, thank you.

9 WITNESS LEVESQUE: Thank you.

10 CHAIRMAN IGNATIUS: You're excused.

11 What we have next up is the panel of Mr. Edwards and Ms.
12 Allen, who are here. And, that would certainly be our
13 intention to take you now, depending on how long that
14 goes, that may be it for the day. But why don't you come
15 forward please.

16 (Whereupon **Mary E. Allen** and
17 **Robert L. Edwards** were duly sworn by the
18 Court Reporter.)

19 WITNESS EDWARDS: I just wanted to see
20 if it was July. Is that? Yes.

21 CHAIRMAN IGNATIUS: I thought you meant
22 the month.

23 WITNESS EDWARDS: Well, it has been a
24 long hearing.

[WITNESS PANEL: Allen~Edwards]

1 MR. IACOPINO: Are you ready?

2 MARY E. ALLEN, SWORN

3 ROBERT L. EDWARDS, SWORN

4 DIRECT EXAMINATION

5 BY MR. IACOPINO:

6 Q. Mr. Edwards and Ms. Allen, would you please, let's
7 start with Mr. Edwards on the left, would you please
8 identify yourself for the Committee, telling them your
9 name and your address.

10 A. (Edwards) My name is Robert L. Edwards. And, my
11 address is 101 Turner Hill Road, in Antrim.

12 Q. Okay. Ms. Allen, would you give us the same
13 information please.

14 A. (Allen) Mary Allen, 21 Summer Street, in Antrim.

15 Q. Okay. Again, I'll start with Mr. Allen. Mr. Allen,
16 before you is a document --

17 A. (Allen) Edwards.

18 Q. Mr. Edwards, I'm sorry, --

19 A. (Allen) That's okay.

20 Q. -- before you is a document marked "EA-1". Do you see
21 that document?

22 A. (Edwards) I do.

23 Q. And, is that your prefiled testimony in this case?

24 A. (Edwards) It is.

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

1 Q. And, if you were asked the same questions that are in
2 that document today, would you give the same answers
3 today?

4 A. (Edwards) I would.

5 Q. Okay. And, is it -- the document contain correct
6 information to the best of your knowledge and belief?

7 A. (Edwards) It does.

8 Q. Okay. Ms. Allen, you have before you a document marked
9 "EA-2", is that correct?

10 A. (Allen) Yes, I do.

11 Q. And, is that your prefiled testimony?

12 A. (Allen) Yes, it is.

13 Q. And, if you were asked the questions that are in that
14 document today, would you give the same answers today?

15 A. (Allen) I would like to amend something.

16 Q. Okay. Well, just identify where you want to amend
17 it --

18 A. (Allen) Exactly.

19 Q. -- and then so folks can you look at?

20 A. (Allen) Okay. On Page 17, Line 16, I stated that the
21 towns of neither Groton nor Lempster were in a
22 cooperative school district. And, as counsel pointed
23 out to me, I need to do a little bit more homework.
24 Yes, Lempster is in a cooperative school district.

[WITNESS PANEL: Allen~Edwards]

1 And, I appreciate you pointing that out to me. So, I
2 would like to amend it. That only, of the ones that
3 you permitted, only Groton at this point is in a --
4 Lempster is in a cooperative school district. That's
5 the best way to put it.

6 Q. Lempster is, Groton is not?

7 A. (Allen) That's right.

8 Q. Okay. Is there anything else that you wanted to amend
9 or change contained in your prefiled testimony?

10 A. (Allen) No. And, I would just like to point out one
11 thing. When I filed my exhibits in, you know, in the
12 fall, after this, there was one additional exhibit, and
13 I just want to make sure. It is EA -- it is EA-3, and
14 it is on the website. So, I just want to make sure
15 that we have that as an exhibit. It would be the last
16 one. Right there. Yes.

17 CHAIRMAN IGNATIUS: Is that the "Net
18 Revenue Loss" chart?

19 WITNESS ALLEN: Yes, it is.

20 MR. IACOPINO: Actually, we have that,
21 and a copy of it in here.

22 WITNESS ALLEN: Perfect.

23 CHAIRMAN IGNATIUS: So, it's been made
24 available.

[WITNESS PANEL: Allen~Edwards]

1 WITNESS ALLEN: Thank you very much.

2 BY MR. IACOPINO:

3 Q. After you filed your prefiled direct testimony, other
4 parties filed supplemental testimony, is there anything
5 that you wanted to testify about in rebuttal to the
6 supplemental testimony of any other party?

7 A. (Edwards) No.

8 A. (Allen) No.

9 MR. IACOPINO: They're available for
10 cross-examination.

11 CHAIRMAN IGNATIUS: Thank you. Mr.
12 Roth, questions?

13 MR. ROTH: Yes, I have a couple.

14 **CROSS-EXAMINATION**

15 BY MR. ROTH:

16 Q. Ms. Allen, as I can -- as I understand one of your
17 concerns from your testimony, is that the PILOT doesn't
18 provide that, and I'm trying to make sure I understand
19 this right, and I probably don't, so, the PILOT, if
20 it's the PILOT that's been signed, leaves the Town
21 exposed to the school district for a difference between
22 what they get from the PILOT and what they owe to the
23 school district. Is that essentially it or am I
24 misunderstanding something?

[WITNESS PANEL: Allen~Edwards]

1 A. (Allen) It's close. The amount -- the PILOT payment,
2 which you have as, you know, as part of the exhibit,
3 the PILOT payment begins at \$337,500. We are
4 calculating that, according to DRA and to their
5 judgment on this, what they're holding to, the
6 equalized value, which is used for the basis of taxes
7 for both the county and the cooperative school district
8 that Antrim is in, they have to use 100 percent
9 equalized value. So, the value is higher. We're
10 calculating that, you know, essentially in the first
11 year of the -- of the time we would get the PILOT
12 payment, we would be getting \$337,000, but our
13 obligation would be over \$500,000, closer to 550, to
14 both the county -- the difference to the county and to
15 the school district.

16 Q. Okay. Now, as I understand it, there's a declaratory
17 judgment action pending to get an understanding of
18 this, correct?

19 A. (Allen) That's my understanding as well.

20 Q. All right. Are you a party to that?

21 A. (Allen) No.

22 Q. All right. Have you sought to intervene in that?

23 A. (Allen) No.

24 Q. Okay. And, if I -- what is the basis of your knowledge

[WITNESS PANEL: Allen~Edwards]

1 about the declaratory judgment action?

2 A. (Allen) I believe that it was filed by the Applicant on
3 July 6th. And, that it is -- we haven't -- I
4 understand that there is no court date set. It's been
5 filed in Merrimack County Superior Court.

6 Q. And, who are the parties to it?

7 A. (Allen) I would actually ask the Applicant to answer
8 that. I mean, I have a copy of it, but I'm not a
9 lawyer, I don't want to get the wrong thing.

10 Q. So, you've read at least the petition?

11 A. (Allen) Yes, I have.

12 Q. Is there an answer?

13 A. (Allen) I don't believe so. But I leave it to counsel.

14 Q. Okay. Now, if the declaratory -- so, the declaratory
15 judgment action, as you understand it, is supposed to
16 declare that the DRA is wrong, is that basically it, in
17 equalization?

18 A. (Allen) Again, I'm not an attorney, but, as I read it,
19 that's what it seems to -- they're asking that DRA
20 change their mind, essentially, or change their ruling.
21 In my exhibits I have, which we received on data
22 requests, a stream -- a number of documents that went
23 back and forth between the Town attorneys and DRA, and
24 also the Applicant. And, I think it makes it clearer

1 than maybe I could.

2 Q. So, if the declaratory judgment, as you understand it,
3 is granted the way the Applicant wants it to be, won't
4 that solve the problem?

5 A. (Allen) My reading of the Alternative PILOT, which
6 would come into play, if it is the way the Applicant
7 wishes it to be, then, yes, the PILOT would be in
8 effect.

9 Q. Okay.

10 A. (Allen) If it goes against the Applicant's position, if
11 it upholds DRA's, then I think the plan was to go to
12 the Alternative PILOT. But I believe that there's a
13 legal flaw in the document that's been signed for the
14 Alternative PILOT, and that it is not going to go in
15 effect until, as I read it, it is a final, and if
16 people want to go along with me, is the Alternative
17 PILOT I believe is Exhibit -- I'll just read it. It
18 says "In the event of a final and binding court order
19 upholding the DRA's interpretation of the statutes",
20 Section 5 of the Alternative PILOT, --

21 Q. Okay.

22 A. (Allen) -- this would not be, in my understanding, a
23 final and binding decision.

24 Q. So, if the declaratory judgment goes the way -- goes

[WITNESS PANEL: Allen~Edwards]

1 against the Applicant, --

2 A. (Allen) Right.

3 Q. -- then is that what's supposed to invoke the
4 Alternative PILOT?

5 A. (Allen) As I understand it.

6 Q. Okay. So, if -- so, there's an order from the superior
7 court against the Applicant's position, the Alternative
8 PILOT would kick in, if that order became a final and
9 binding order, correct?

10 A. (Allen) Right. But I also would go to the last
11 sentence of Section 3 of that. It says that "AWE
12 expects to contest, with the concurrence of the Town,
13 DRA's interpretation...in a declaratory judgment...and,
14 if necessary," and I'm paraphrasing a little bit here,
15 "and, if necessary, in the New Hampshire Supreme
16 Court." So, this -- it would seem that this -- they
17 are indicating that, if it goes against them, there
18 would be -- that would not end it at Merrimack County
19 Superior Court, in Superior Court, it would then go all
20 the way up. And, I think those cases tend to take a
21 very, very long time.

22 MR. IACOPINO: Just for the Committee
23 members and for anybody who reads the record, the
24 Alternative PILOT Agreement of which she speaks is

1 actually marked as "AWE 13".

2 BY MR. ROTH:

3 Q. So, if the declaratory judgment action goes against the
4 Applicant, isn't the Applicant, during this period of
5 time, paying the PILOT at least, right?

6 A. (Allen) Yes, they would be paying the PILOT.

7 Q. And, is the Town required to pay something more than
8 that during this period while this is in litigation?

9 A. (Allen) As far as I understand it, they would be.

10 Q. Okay.

11 A. (Allen) From the first year of, you know, that they
12 would be receiving the equalized value from DRA.

13 Q. Okay. So, you're running -- so, at this point, while
14 this process is going on, is it your concern that the
15 Town is now running sort of in the hole on this, on the
16 PILOT?

17 A. (Allen) Exactly.

18 Q. Okay. And, the PILOT doesn't require anybody to sort
19 of true up the amount, so that the Town isn't left, you
20 know, paying up -- making up the difference?

21 A. (Allen) I can find nothing that gives me comfort in
22 terms of that. I see no documents that are signed or
23 anything that has been proffered that -- that speaks to
24 that. I also, if I can elaborate a little bit more, I

[WITNESS PANEL: Allen~Edwards]

1 see nothing in these documents that requires them, the
2 Applicant or the Town or anybody, to take this further
3 into court. And, as long as there's not a final and
4 binding court order, my worry is that it will have to
5 be the taxpayers that continue to try to get this -- to
6 get to the point that the Alternative PILOT will kick
7 in.

8 Q. I'm going to ask you a question that you may not like,
9 and --

10 A. (Allen) That's okay.

11 Q. Because, if I don't ask it, somebody else will. And,
12 here's, if the DJ, the declaratory judgment action goes
13 against the Applicant, and the Applicant decides not to
14 appeal it, --

15 A. (Allen) Right.

16 Q. -- then the Alternative PILOT kicks in, correct?

17 A. (Allen) Is it then a final and binding?

18 Q. Well, I guess that's what I'm suggesting to you. If
19 the order isn't appealed, doesn't it become final and
20 binding?

21 A. (Allen) Again, I'm not a lawyer. I guess so.

22 Q. Okay. And, so, then the Alternative PILOT kicks in,
23 regardless of whether anybody bothers with the Supreme
24 Court.

[WITNESS PANEL: Allen~Edwards]

1 A. (Allen) Okay.

2 Q. Is there something wrong with the Alternative PILOT?

3 A. (Allen) It's not as good as I would have liked to have
4 seen it be. It would at least hold the Town whole, and
5 we'd get a portion of the money. But I really think
6 these are contracts. And, if I -- again, just sort of
7 moving backwards, we don't know what the future of this
8 will be or what is being proffered to investors who
9 want to invest in this Project to give them the
10 construction capital. This, with other parties coming
11 in, unknown parties coming in, we don't know what
12 they're going to uphold. And, there's nothing that is
13 firm enough in these documents to say that any of that
14 will happen. That nothing here absolutely says that we
15 will either have the Alternative PILOT come in or
16 continue on, you know, a court case. Nothing kicks it
17 in except this sort of vague determination of a "final
18 and binding court order".

19 Q. Do you have concerns about the way the PILOT and the
20 Alternative PILOT were entered into by the Town?

21 A. (Allen) Yes.

22 Q. Okay. And, what are those?

23 A. (Allen) We were not a party. We -- meetings between
24 the Applicant and DRA and the Selectmen were not

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Allen~Edwards]

1 posted, and we were not able to attend those meetings,
2 to really, not as a party, but just as observers.
3 There has been a lot of information that has not been
4 forthcoming to the town -- to the townspeople, to the
5 taxpayers.

6 Q. Is there a lawsuit about that?

7 A. (Allen) Yes, there is.

8 Q. Okay. And, where is that?

9 A. (Allen) That is in -- that has been filed, and that is
10 in Hillsborough County Superior Court.

11 Q. Okay. And, do you know what the status of that is?

12 A. (Allen) I believe we have a court date or the beginning
13 of it in April.

14 Q. Wow. Okay. And, what's that lawsuit seeking? Is it
15 seeking to reverse the decision of the Town to enter
16 into the PILOT?

17 A. (Allen) Mainly, it's a Right-to-Know situation. We
18 want to -- we want a right -- we want to know, you
19 know, what was said. And, yes, we would like to have
20 it reversed. But, you know, essentially, this is a
21 Right-to-Know situation.

22 Q. Okay. One last question for you. Well, I guess, in
23 trying to get back to that question, while you say it's
24 a "Right-to-Know", are you seeking -- are you a party

1 to that lawsuit?

2 A. (Allen) Yes.

3 Q. Okay. Are you seeking relief that would require the
4 Town to redo the PILOT process and do it in an open
5 way?

6 A. (Allen) That is -- that's one of the -- that's one of
7 the components of it, yes.

8 Q. Okay. Going back to the declaratory judgment action,
9 and sorry to jump around here, --

10 A. (Allen) That's okay.

11 Q. -- if the Applicant decides that it doesn't want to
12 appeal to the Supreme Court, after losing the
13 declaratory judgment action to the DRA, couldn't the
14 Town do that?

15 A. (Allen) Certainly. But the Town -- the taxpayers would
16 have to pay for it.

17 Q. Okay. Would the cost of litigating be part of the
18 Applicant's obligation to make the Town whole?

19 A. (Allen) I don't see any evidence of that in documents
20 filed.

21 Q. Okay. And, all right, that's -- thank you. And, Mr.
22 Edwards, your testimony is refreshingly brief. And,
23 the question I have for you is about decommissioning.
24 And, we had some discussion here, I think you were here

[WITNESS PANEL: Allen~Edwards]

1 during the time when Mr. Kenworthy testified. Do you
2 remember that?

3 A. (Edwards) Yes, I do.

4 Q. And, it's my understanding that you're employed as a
5 bank executive?

6 A. (Edwards) Well, I'm the vice president of a bank.

7 Q. Okay. And, how long have you been doing that?

8 A. (Edwards) Forty-two years.

9 Q. And, what bank do you work for?

10 A. (Edwards) I currently work for Connecticut River Bank,
11 and previously with People's United.

12 Q. And, do you make decisions to grant commercial loans?

13 A. (Edwards) Yes.

14 Q. Business loans?

15 A. (Edwards) Yes.

16 Q. Secured loans?

17 A. (Edwards) Yes.

18 Q. Okay. Now, if a borrower were to come to you and
19 attempt to borrow a significant sum of money from you,
20 and offer you a second lien on his collateral, what
21 would that do to your decision about making the loan?

22 A. (Edwards) Obviously, a second position is junior. It
23 is not as desirable as being in a first position. And,
24 in spite of that, we would make sure that the

1 combination between the first lien and the second lien
2 does not exceed a certain loan-to-value ratio. So, we
3 may still feel protected, but, certainly, in the less
4 preferential position.

5 Q. So, if I understand that correctly, you would want to
6 make sure that the value of the collateral was enough
7 to cover both of the liens, correct?

8 A. (Edwards) Yes.

9 Q. And, would you look for some additional cushion?

10 A. (Edwards) It wouldn't be 100 percent, it wouldn't be
11 one-to-one. We would want to make sure that the
12 combined would maybe 75 percent of the collateral
13 value.

14 Q. So that there would be sort of a 25 percent equity
15 cushion on top of it --

16 A. (Edwards) Yes.

17 Q. -- or behind that?

18 A. (Edwards) Yes.

19 Q. Okay. Now, in the decommissioning plan that's being
20 proposed here, as I understand it, the Town is being
21 offered essentially some money and the scrap value of
22 the turbines. Is that your understanding as well?

23 A. (Edwards) Yes.

24 Q. And, would you expect that, if the Applicant made --

[WITNESS PANEL: Allen~Edwards]

1 borrowed money, either from a bank, to build the
2 Project, or to borrow money, essentially, do a purchase
3 money loan to purchase the turbines, would either the
4 manufacturer of the turbines or the bank making the
5 loan into the Project take a first position security
6 interest in the turbines?

7 A. (Edwards) It would be my expectation, yes.

8 Q. And, if there was a payment default, what would the
9 bank or the purchase money vendor of the turbines do?

10 A. (Edwards) They would try to realize on their
11 collateral.

12 Q. And, what does that mean in lay terms?

13 A. (Edwards) It means that they would liquidate it or use
14 whatever rights and remedies that are allowed to
15 dispose of the collateral according to the statute.

16 Q. I just love bankers. Do you mean Repo Man comes in to
17 take down the turbines?

18 A. (Edwards) Yes. They'd realize -- they'd realize on
19 their collateral, they'd liquidate the collateral, and
20 they would take the resulting proceeds and apply it
21 against their debt.

22 Q. Okay. And, if they took the turbines for their
23 liquidation of their collateral, would there be any
24 scrap value left for the Town?

[WITNESS PANEL: Allen~Edwards]

1 A. (Edwards) I'm assuming they'd take it in its entirety
2 and there would not be.

3 Q. Okay. Under the decommissioning plan, is there more to
4 the requirement than simply taking down the turbines?

5 A. (Edwards) Yes, I think they have to, my understanding
6 was they would remove the turbines -- turbines, they'd
7 also remove any other personal property, so called,
8 buildings, other physical improvements, and return the
9 site to its original unimproved land position.

10 Q. Okay. And, do you -- do you think that a bank or a
11 lender coming in to realize and liquidate on its
12 collateral would do all that stuff after hauling away
13 the turbines?

14 A. (Edwards) Would you repeat that again, I'm sorry.

15 Q. Do you think that a secured party, who came in to
16 liquidate on its collateral, that is taking away the
17 turbines, would do all the other things required under
18 the decommissioning plan after taking down the
19 turbines?

20 A. (Edwards) I would assume they would.

21 Q. That they would?

22 A. (Edwards) They would.

23 Q. So, they would comply with the decommissioning plan?

24 A. (Edwards) Oh, you mean to step into the shoes of the

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Allen~Edwards]

1 developer?

2 Q. That's correct.

3 A. (Edwards) Yeah. No, I -- not unless there was a
4 written obligation to do so.

5 Q. Okay.

6 A. (Edwards) I'm sorry. Yes.

7 Q. And, maybe this is going out a little bit on a limb
8 here, but I'm going to do it. If you were making a
9 loan, and, in addition to, as a banker, in addition to
10 taking a security interest, you learned that it
11 required you to do additional obligations -- perform
12 additional obligations with respect to the property
13 where your security interest -- where your secured
14 collateral was, what would that do to your decision to
15 make a loan?

16 A. (Edwards) We'd have to look at that extremely carefully
17 to see what that exposure would be. In most cases, I
18 have not seen it where we would be willing to accept
19 that additional responsibility beyond liquidating the
20 collateral.

21 MR. ROTH: Okay. Thank you. That's all
22 the questions I have for you.

23 CHAIRMAN IGNATIUS: Thank you.

24 Mr. Froling?

[WITNESS PANEL: Allen~Edwards]

1 (No verbal response)

2 CHAIRMAN IGNATIUS: Mr. Beblowski?

3 (No verbal response)

4 CHAIRMAN IGNATIUS: Mr. Jones?

5 (No verbal response)

6 CHAIRMAN IGNATIUS: Ms. Sullivan?

7 (No verbal response)

8 CHAIRMAN IGNATIUS: Ms. Longgood?

9 MS. LONGGOOD: Hi. I have a couple of
10 questions for Mary Allen.

11 BY MS. LONGGOOD:

12 Q. I'm looking at your exhibit, the one that has the tax
13 payments here. And, as I read it, I believe, let me
14 see if I can reference it directly. EA-3.

15 A. (Allen) Right.

16 Q. And, as I read this, it appears as though, with the
17 ConVal increase and the county, the Town of Antrim will
18 not realize any tax benefit, any net gain, until the
19 year 2029, is that correct?

20 A. (Allen) Yes. The chart, any time you're looking at
21 taxes in the future, you've got to make some
22 assumptions. This may not have everything in there.
23 But, yes, general trends, given the assumptions at the
24 bottom, that's correct. We're not seeing it going to

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

1 the positive until 2029.

2 Q. And, as I look at your -- the other exhibit, which is
3 -- I think it's the one that has the vote, what was
4 portrayed to the Town of Antrim, prior to the
5 referenced November 8 vote, do you think that the
6 information is consistent with what is understood by
7 the Town of Antrim, in terms of the fact that this
8 flyer states that, if you vote "no" on the Large-Scale
9 Wind Ordinance, that the Town of Antrim will get
10 \$337,500 per year? Is that misleading, do you believe,
11 based upon your knowledge of it?

12 A. (Allen) I go into this a little bit in my testimony. I
13 think that the assumption was, as I was hearing it, in
14 general, in the discussion running up to that vote, the
15 assumption was that that was a payment, everyone
16 understood that this was part of a PILOT payment, and
17 they understood that that payment was being made to the
18 Town, and that that was the Town's portion of what we
19 would be getting as revenue. And, that other revenue
20 would go to any tax obligation. So, in general, I
21 think people in Antrim thought this is going to be an
22 economic benefit to the Town, and we're going to be
23 realizing money that we can either utilize for
24 infrastructure or to apply against the tax rate.

[WITNESS PANEL: Allen~Edwards]

1 So, yes. I think the perception has
2 been out there that Antrim is very much going to be
3 having a gain of roughly that amount of money. That
4 was the first year of the payments, and, yes, the
5 payments were going to continue up. And, over the
6 20-year cycle, the Applicant has said that they will be
7 making roughly \$8 million worth of payments. But I
8 think what has not been fully disclosed to the public
9 has been the offside, the net of this. And, that's
10 both the increase to the county portion and definitely
11 the increase to our school situation, where part of --
12 we have 367 students that we send to the ConVal
13 District. We are the second largest taxpayer in the
14 ConVal District. We are going to have to assume, you
15 know, a hit of an increase of \$60 million to our
16 assessed value. That's what's going to tip this over.
17 And, it is going to take all of that payment to
18 basically meet that tax obligation with a negative
19 effect.

20 Q. Thank you. It seems to me that all of the fliers that
21 went out prior to this vote, which the Applicant is
22 saying is in their favor, seem to lead to all of the
23 benefits, without taking into account the entire
24 financial picture, is that -- am I understanding you

[WITNESS PANEL: Allen~Edwards]

1 correctly?

2 A. (Allen) Yes. I would think that's a good summary.

3 MS. LONGGOOD: Okay. Thank you very
4 much.

5 CHAIRMAN IGNATIUS: Thank you. Mr.
6 Stearns?

7 MR. STEARNS: Thank you. A couple
8 questions.

9 BY MR. STEARNS:

10 Q. In follow-up, I'm not sure I really heard your answer.
11 If the court determines that the DRA is incorrect and
12 the judge is in favor of the petition of the Applicant,
13 is the PILOT Agreement an acceptable document?

14 A. (Allen) Depends on what you mean by "acceptable". As I
15 stated before, also in pre-testimony and also in this,
16 I believe the only way to go is *ad valorem* taxes. I
17 think there are too many unknowns. I think that the
18 PILOT does not work well in a community that is part of
19 a cooperative school district, particularly of this
20 size. And, I've spoken to selectmen in Lempster, and
21 they also were rather surprised by what happened to
22 their school taxes in that cooperative school district.

23 So, is it okay? Yes. But my question
24 is, given how long these things tend to have to go to

[WITNESS PANEL: Allen~Edwards]

1 continue in court, the first -- if the construction of
2 this Project is completed in 2014, as has been
3 proffered here, our first payments will likely be
4 before we have a determination from -- from the court.
5 It could be 2015 before we get a determination or it
6 could be longer. And, again, there could be other
7 parties that are going to be coming in on the
8 investment side of this that may be very, very happy
9 with the signed documents that we have and say "that's
10 what's going to have to stand."

11 Q. Well, let me ask you this. When the DRA sets the
12 equalization rate, that lags by a year, does it not?

13 A. (Allen) I believe it does.

14 Q. So, the first year of the payment in the -- either the
15 PILOT or the Alternate is based on a year's delay, or
16 the school portion and the county portion, a year delay
17 in the equalization rate, correct?

18 A. (Allen) Well, it's by May 1st. And, I think, by May
19 1st of 2014, this, you know, I think the Applicant said
20 this will be up. So, I think it will be hitting in
21 2014. That's what was offered --

22 Q. But the equalization rate does not hit until the
23 following year.

24 A. (Allen) Well, we may be off by a year, but I'm not

[WITNESS PANEL: Allen~Edwards]

1 positive that we are. I think it is going to hit
2 within 2014. That's the best information I've been
3 able to get.

4 Q. Mr. Edwards, I guess, have you ever participated in a
5 loan of this magnitude?

6 A. (Edwards) No, I have not.

7 Q. You've stated that a bank would not honor a
8 decommissioning plan if they were foreclosed on a
9 project. Why would they not be held to that?

10 A. (Edwards) It isn't, in my opinion, it isn't an
11 automatic assumption that a bank will step into the
12 shoes of the developer, unless it's specifically
13 described in that fashion. When you step into the
14 shoes of the developer and are obligated to perform the
15 same terms and conditions that they have agreed to,
16 that could be a major event. I'm not suggesting that,
17 in some cases, they haven't. But I said it would be
18 unusual in my situation.

19 Q. So, that would be verbiage in the loan document or the
20 document that we have that says -- that says there any
21 other party is bound by the decommissioning plan?

22 A. (Edwards) In my opinion, if it were me doing the
23 lending, that would have to be specifically stated in
24 the document for me to consider it enforceable.

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

1 Q. If a developer defaults on its payments to the Town,
2 and the Town proceeds for a tax deeding, would a bank
3 step in and take over that?

4 A. (Edwards) I don't -- in this instance, I'm not sure
5 what you're tax deeding. And, my understanding is that
6 the property is leased.

7 Q. Okay. Let me rephrase that then. According to the
8 documents that the Selectmen have signed, if payments
9 are -- the PILOT payments are defaulted on, they go to
10 *ad valorem* taxation. If that goes into a lien and then
11 deeding process, the Town would be taking the property,
12 which includes the --

13 A. (Edwards) Yes. But bear in mind, Mr. Stearns, that my
14 opinion is that the ownership of the property is other
15 than the Applicant. So, if you're realizing and
16 enforcing *ad valorem* taxes on the property, then you're
17 moving against someone that is not part of Antrim Wind
18 Energy, only tied by a lease. And, I think the
19 property owner thinks that they're held harmless,
20 because the lease requires them, being Antrim Wind, to
21 pay whatever the taxes are on the wind turbines.

22 Q. But, in that case, the loan would be -- or, the
23 collateral for the loan would be being taken by the
24 Town, correct?

[WITNESS PANEL: Allen~Edwards]

1 A. (Edwards) Unless you have a protected security interest
2 in it, no. My guess is, we go back to the original
3 lender, that the lender, the first lender would have a
4 priority position on the collateral. You might be a
5 junior position, unless you agree with the lender to
6 step ahead of them on the collateral.

7 MR. STEARNS: No further questions.

8 CHAIRMAN IGNATIUS: Thank you. Ms.
9 Pinello?

10 MS. PINELLO: No questions, ma'am.

11 CHAIRMAN IGNATIUS: Oh, Ms. Manzelli is
12 gone. Anyone from Audubon have any questions?

13 (No verbal response)

14 CHAIRMAN IGNATIUS: All right.

15 Mr. Block?

16 MR. BLOCK: Yes, just a few. Thank you.

17 BY MR. BLOCK:

18 Q. Looking at your Exhibit A [EA 2A?] I guess that's,
19 Mary, is that postcard that was sent out. And, I can't
20 tell on my copy or it looks like you have highlighted
21 that first line on the second page, "Antrim Wind Energy
22 Project". Yes, it is highlighted. Did you highlight
23 that or was that -- did it come that way? Was it
24 mailed like that, do you know? Where it says "Antrim

[WITNESS PANEL: Allen~Edwards]

1 Wind" --

2 A. (Allen) I actually don't know. I actually don't know.

3 Q. Okay. But it says "will bring in over \$337,500 per
4 year in tax revenue for Antrim". And, I guess you're
5 saying this was -- you feel this was misleading,
6 correct?

7 A. (Allen) I think it was.

8 Q. Okay. Do you --

9 A. (Allen) That's my opinion.

10 Q. I'm sorry, did you have more?

11 A. (Allen) No. Go ahead.

12 Q. Okay. Do you think that this mailing campaign had any
13 impact on the outcome of that November 8th ballot
14 election on the proposed Large-Scale Wind Ordinance?

15 A. (Allen) I think it was one of the factors that --

16 MR. PATCH: I'd object to that. I think
17 that's extremely speculative. She's one voter. But, for
18 her to speculate about what other voters thought when they
19 went into the voting booth to vote on that, seems to me
20 extremely speculative.

21 CHAIRMAN IGNATIUS: Mr. Block, I think
22 that's a fair objection. Do you -- can you ask Ms. Allen
23 her interpretation personally, as opposed to others?

24 MR. BLOCK: Okay.

1 BY MR. BLOCK:

2 Q. Is it your interpretation, and is that why your concern
3 -- and your concern about this, your feelings of being
4 misleading, is it your interpretation this might have
5 affected the outcome of the election?

6 A. (Allen) I don't want to characterize this mailer as
7 being "misleading", as much as it just wasn't as full
8 an explanation as it should be. I think the impression
9 is left by this mailer, and by other -- other
10 information that has been distributed in Antrim, is
11 that this would definitely give a tax payment to the
12 Town that could be used by the Town portion, the
13 municipal part of our taxation anywhere, and I heard
14 various and sundry figures, from \$150,000, \$200,000 a
15 year, you know, all the way up. This figure seemed to
16 coalesce. It is the first payment of the PILOT. But,
17 as discussed, and I'm not going to go back over it
18 again, we're in jeopardy of going the other way. We're
19 not going to be held whole. So, I think people -- my
20 personal opinion is people will be disappointed when
21 they find that this is not going to be of a financial
22 benefit to the Town. And, my concern is the orderly
23 economic development of the region, we will be, as far
24 as I can tell the first town that's hosting a wind

[WITNESS PANEL: Allen~Edwards]

1 facility that might get absolutely no tax benefit, and
2 may actually have to pay for a for-profit concern.

3 Q. With that in mind, so you're saying you're worried
4 that, in some instances, or maybe a worst-case
5 scenario, the revenues paid might not cover the
6 increase in its tax responsibilities for the Town for
7 both school district and county, is that correct?

8 A. (Allen) That's correct.

9 MR. PATCH: I think that's already been
10 asked and answered.

11 MR. BLOCK: That was just an
12 introduction. Okay.

13 MR. PATCH: Well, it was a question, and
14 I object to it.

15 MR. BLOCK: I just asked "am I correct
16 in saying that?"

17 CHAIRMAN IGNATIUS: And, she's already
18 said "yes".

19 MR. BLOCK: Okay.

20 CHAIRMAN IGNATIUS: Let's try and be as
21 succinct as you can on things that we haven't yet
22 explored.

23 MR. BLOCK: Okay.

24 CHAIRMAN IGNATIUS: Thank you.

1 BY MR. BLOCK:

2 Q. I'm not a bookkeeper, and I haven't -- and I've looked
3 at yours, and I don't see this figure, I'm just
4 concerned, as an Antrim taxpayer, have either of you
5 made any estimates of what I, as an individual
6 taxpayer, might see as an increase in -- in such a case
7 as a worst-case scenario, as an individual taxpayer?

8 A. (Allen) Mr. Block, as you know, every --

9 MR. PATCH: I object to that question,
10 too, because that involves so much information about
11 particular, --

12 WITNESS ALLEN: Yes.

13 MR. PATCH: -- you know, "what's the
14 value of your house?" There's just so much information
15 that would be required to answer that question.

16 CHAIRMAN IGNATIUS: I think, let the
17 witness answer it. It seems like it's a fair question.
18 It may not be answerable, but --

19 **BY THE WITNESS:**

20 A. (Allen) Actually, Mr. Patch, I would agree with you on
21 this. I really can't answer you, Mr. Block.
22 Everyone's tax bill is based on their own individual
23 evaluation of their house. It would be all over the
24 place, depending on what your value is.

[WITNESS PANEL: Allen~Edwards]

1 BY MR. BLOCK:

2 Q. Okay.

3 WITNESS ALLEN: How's that, I agreed
4 with you.

5 MR. PATCH: Thank you.

6 BY MR. BLOCK:

7 Q. Going back to that vote for a minute there, that
8 referendum -- or, not the referendum, the November 8th
9 vote, I personally found mailings like this
10 confusing.

11 CHAIRMAN IGNATIUS: Mr. Block?

12 MR. BLOCK: Yes.

13 CHAIRMAN IGNATIUS: Already I know this
14 one isn't going to go well. First of all, I'm not sure
15 what the relevance, no one's objected, but I'm not sure
16 what the relevance of that other vote is to these
17 witnesses' testimony and your --

18 MR. BLOCK: It's just that it was
19 mentioned in the testimony.

20 CHAIRMAN IGNATIUS: I understand.

21 MR. BLOCK: That's why.

22 CHAIRMAN IGNATIUS: There's been a
23 number of questions on it already. Your interpretation --
24 how you reacted to it is --

[WITNESS PANEL: Allen~Edwards]

1 MR. BLOCK: Okay.

2 CHAIRMAN IGNATIUS: -- taking it yet
3 another step beyond. So, if you can show me why it's
4 relevant to keep going there, I'm willing to listen.

5 MR. BLOCK: All right. I'll move.

6 CHAIRMAN IGNATIUS: Thank you.

7 BY MR. BLOCK:

8 Q. Now, it's my understanding that the PILOT, the
9 Alternate PILOT, and the Operating Agreement have
10 already been signed by both Selectmen and Applicants,
11 is that your understanding also?

12 A. (Allen) We have, we have seen signed copies of them.

13 Q. Do you know if the decision on whether or not,
14 particularly the Selectmen, were to sign any of these
15 documents was ever put before the Town of Antrim for
16 public comment or opinions?

17 A. (Allen) There were several public meetings.

18 Q. Do you -- what was your opinion of what the residents'
19 feelings seem to be about whether or not these
20 documents should have been signed? Do you have any
21 sense of that?

22 A. (Allen) I think it was split. I think some people
23 thought they should be signed. And, there was a rather
24 -- there was a vocal minority that felt that we should

[WITNESS PANEL: Allen~Edwards]

1 hold off. And, other towns had held off until the SEC
2 had had a chance to review and issue their decision and
3 also a permit for certification. It's unusual, and I
4 have stated this in public meetings, it's unusual that
5 these documents have been signed at this time, before
6 these proceedings.

7 Q. All right. Also, Ms. Allen, specifically referring to
8 your prefiled testimony, I believe it's on Page 20,
9 Line 7, you talk about the agreement, this agreement
10 between the Town and the Selectmen we just said. The
11 first thing you bring up is a concern about the
12 definition of "occupied building"?

13 A. (Allen) Yes.

14 Q. And, that's, in that agreement, it's number 1.8. Could
15 you explain in a little more detail that concern and
16 maybe what remedy you might suggest?

17 A. (Allen) I was surprised to see in the agreement, under
18 1.8 that, under "Definitions", which are, as we know
19 from planning documents, are the controlling parts, you
20 know, for the rest of the document. That "occupied
21 buildings" were full year-round residence. And, this
22 concerned me, because I don't see any definition of
23 what "year-round" is. And, as we know, there's quite a
24 number of seasonal homes that are both on Franklin

[WITNESS PANEL: Allen~Edwards]

1 Pierce Lake, within the Town of Antrim, and also on
2 Gregg Lake. In a data request, I did ask the Applicant
3 why the word "seasonal" had been not used in this
4 context? It had been used in the Groton agreement,
5 which the Antrim agreement is almost verbatimly taken
6 from. And, I was surprised that "seasonal" was
7 dropped. The answer I got back from the Applicant is
8 that they had not determined that there were any either
9 year-round or seasonal buildings that fall within the
10 setbacks or in areas where the sound was anticipated to
11 be heard. So, they did not feel it was necessary to
12 include the word "seasonal".

13 I question this. I question it now, and
14 I question it in many -- I question it when it comes to
15 how we would determine whether or not an occupied
16 building would be -- that might have a problem with
17 sound could have any rights, for example, for the Girl
18 Scout camp, are those occupied buildings or are they
19 not? Are they part of a business? And, what happens
20 if a homeowner in that area either sells land and
21 someone decides to build a seasonal residence, or
22 someone who is now full-time, for example, and decides
23 to sell their house, and would be selling it to someone
24 who's occupation of it or habitation of it would be

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Allen~Edwards]

1 seasonal. Would they lose any rights then to go back
2 to the Company or go back to the Town and say "I'm
3 having a trouble with sound", or possibly
4 shadow-flicker that was not anticipated.

5 I think a way to cure this is to insist
6 that the word "seasonal", or some other representation
7 is put in there. We have a lot of seasonal residents.

8 Q. So, this might include somebody who lives year-round
9 now, and, as they get older, maybe decides to go to
10 Florida for the winter? Is that what you're thinking
11 of?

12 A. (Allen) And, that's seeming very appealing right now.

13 (Laughter.)

14 MR. IACOPINO: It's not that cold yet.

15 WITNESS ALLEN: Oh, yeah, it is.

16 **BY THE WITNESS:**

17 A. (Allen) You raise a good point, because it's just not
18 summer. You could be gone, if you're a snow bird and
19 you're gone for a month, does that make your house
20 "year-round"? I think this needs to be cleared up.

21 BY MR. BLOCK:

22 Q. All right. Thank you on it. Mary, you mentioned you
23 served on the Master Plan Committees. Were you on the
24 Committee when the concept of the Rural Conservation

[WITNESS PANEL: Allen~Edwards]

1 District was first brought up and proposed?

2 MR. PATCH: I don't believe this is in
3 her prefiled testimony. So, I'd object to it.

4 MR. BLOCK: No, it's just -- all it says
5 that I read in there was that she was on the Committee.
6 If I missed something, I apologize.

7 CHAIRMAN IGNATIUS: And, I think it's
8 really a question whether, she may have noted that that
9 was one of the many things she's done within the
10 community, but she wasn't putting in testimony regarding
11 the Master Plan development. So, --

12 MR. BLOCK: Well, the second part of
13 this question, I'll just say is "does she know what the
14 intent of that Committee was in creating the Rural
15 Conservation District?" And, I think that's relevant.

16 CHAIRMAN IGNATIUS: Mr. Patch.

17 MR. PATCH: Well, I would object,
18 because I don't think that was the subject of her prefiled
19 testimony.

20 CHAIRMAN IGNATIUS: I'm inclined to
21 agree with him. I don't know whether, I mean, normally,
22 if she had put in testimony about the Master Plan
23 Committee and her point of view, and there could have been
24 an opportunity for delving into whether her view matches

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Allen~Edwards]

1 the views of others, since that isn't what she testified
2 about, we, in the normal course, would not allow it.
3 So, --

4 MR. BLOCK: I question simply because I
5 believe that Mary is the only person involved in these
6 proceedings who may have been involved in this back then.
7 And, that's why I reserved this question for her.

8 CHAIRMAN IGNATIUS: Yes, I think it's
9 not appropriate. So, --

10 MR. BLOCK: All right. No further
11 questions.

12 CHAIRMAN IGNATIUS: -- I'll sustain the
13 objection. All right. Dr. Kimball is not here. Ms.
14 Linowes is not here. The next questioner would be the
15 Applicant. Do you have a rough sense of time you will
16 need?

17 MR. PATCH: I'm thinking maybe a half an
18 hour or 40 minutes, somewhere in that range.

19 CHAIRMAN IGNATIUS: I think we should
20 take a break for the court reporter, it's been about an
21 hour and a half at this point, and it's late in the day.
22 Before we do that, though, I do want to ask one question,
23 since I'm not a tax person, and it will be helpful in the
24 questioning that Mr. Patch does. Could one of you define

[WITNESS PANEL: Allen~Edwards]

1 what "*ad valorem* taxes" means, in a way that us non-tax
2 people will understand it?

3 WITNESS ALLEN: I'll try. It's just,
4 you know, full taxation. It's full market taxation. It's
5 like, when you get a tax bill, you're being taxed on the
6 value of your home.

7 CHAIRMAN IGNATIUS: As opposed to what?

8 WITNESS ALLEN: As opposed to something
9 like a PILOT, which is a Payment in Lieu of Taxes.

10 CHAIRMAN IGNATIUS: All right. So, --

11 WITNESS EDWARDS: And, if I may say
12 simply so, if your home is valued at \$200,000, and your
13 being assessed at \$24.70 a thousand, that's your tax bill
14 *ad valorem*.

15 CHAIRMAN IGNATIUS: All right. Thank
16 you.

17 WITNESS EDWARDS: You're welcome.

18 CHAIRMAN IGNATIUS: All right. Then,
19 why don't we take a ten minute break, and begin at five
20 minutes after 6:00. I know that everyone is beat, and
21 you've been unbelievably focused here in a long, hard
22 week. But, if we can begin at five after 6:00. We want
23 to complete this panel tonight, and that will be the end
24 of evidence for the night. Thank you.

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Allen~Edwards]

1 (Recess taken at 5:57 p.m. and the
2 hearing resumed at 6:06 p.m.)

3 CHAIRMAN IGNATIUS: All right. Let's go
4 back on the record. We are coming down the home stretch
5 on this afternoon's proceedings with cross-examination
6 from the Applicant to this panel. Mr. Patch, are you
7 questioning?

8 MR. PATCH: Yes. Thank you.

9 CHAIRMAN IGNATIUS: Please go ahead.

10 BY MR. PATCH:

11 Q. Mr. Edwards, I'm going to start with you. Have you
12 read the letter from the Antrim Selectmen to the Chair
13 of this Subcommittee that's been marked as "Exhibit AWE
14 36"?

15 A. (Edwards) I have not.

16 MS. GEIGER: It's on the table. It's in
17 the gray binder.

18 WITNESS EDWARDS: I'm sorry.

19 WITNESS ALLEN: What was the number
20 again?

21 MS. GEIGER: Thirty-six.

22 MR. PATCH: Thirty-six.

23 WITNESS EDWARDS: I have.

24 BY MR. PATCH:

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Allen~Edwards]

1 Q. Okay. That letter indicates that the Selectmen are
2 reaffirming their support for the Project, citing the
3 benefits the Project will bring, and indicating their
4 belief that the vast majority of residents in Antrim
5 support the Project, correct?

6 A. (Edwards) That's what he said.

7 Q. I assume you're not among that "vast majority of
8 residents in Antrim that support the Project", is that
9 fair or not?

10 MR. ROTH: I want to object here, I'm
11 sorry. I don't think Mr. Edwards's testimony talked about
12 whether he supports the Project or he is against the
13 Project or he was one of the voters for it or one of them
14 against it. I think his testimony was fairly narrowly
15 pointed towards a couple of discrete financial issues with
16 it. And, I could be mistaken about his testimony, but
17 that's my memory of it.

18 MR. PATCH: Well, I think it goes to
19 bias or no bias. So, I think it's an important question
20 to establish.

21 CHAIRMAN IGNATIUS: I think it's fair to
22 ask at least initially. I don't know how far to go with
23 that, but it's fair to --

24 MR. PATCH: That's the only question

[WITNESS PANEL: Allen~Edwards]

1 related to that.

2 WITNESS EDWARDS: Would you repeat the
3 question, so I'm clear.

4 BY MR. PATCH:

5 Q. Is it fair to he assume that you are not among the
6 group of people cited by the Selectmen who support the
7 Project?

8 A. (Edwards) No. That's not true at all.

9 Q. Okay. Do you want to explain that?

10 A. (Edwards) Well, I think there's a tendency for people
11 to think that, if we have concerns on behalf of the
12 taxpayers, and we speak about our concerns, that we're
13 automatically negative to the Project. And, I think
14 that's a misconception. I served on the Ad Hoc
15 Committee that looked into this. I've been Chairman of
16 the Planning Board twice. And, we keep an open mind.
17 However, if we see something that we feel is a
18 weakness, we'll speak about it.

19 Q. So, then, are you neutral on the Project?

20 A. (Edwards) I'm neutral on it.

21 Q. Okay.

22 A. (Edwards) And, I've made that statement before.

23 Q. Okay. Thank you. It appears, from your July 31st
24 prefiled testimony, excuse me, that you have some

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Allen~Edwards]

1 issues with the various agreements that the Town has
2 entered into with AWE. Is that fair to say?

3 A. (Edwards) Well, I think that the primary disagreement I
4 had on it -- well, first of all, what we tried to do
5 with the agreement, and if I may extend that to the
6 PILOT and the Alternative PILOT, was to take some time
7 and perhaps restructure some of the language in that to
8 benefit the Town of Antrim and the taxpayers. My issue
9 was with the letter of credit initially, and that I
10 think that could have been worded better and in the
11 interest of the town.

12 Q. So, it's fair or it's not fair to say that you have
13 some issues with the agreements, and by that I mean the
14 PILOT, the Alternative PILOT, and the overall agreement
15 that's been marked as "AWE 4" in this docket, that you
16 do or you don't have issues with those?

17 A. I did have issues with them, as to the structure of
18 them, how we could better structure them in the
19 interest of the taxpayer. I had some concerns with the
20 financial aspect of it. All of which those concerns
21 were expressed at the public meetings in the Town.

22 Q. Okay. And, you said that in the past tense, you "did
23 have issues". Does that mean you don't have them
24 anymore?

[WITNESS PANEL: Allen~Edwards]

1 A. (Edwards) No. No. The issues that I have with the
2 PILOT and the Alternative PILOT continue today.

3 Q. Okay. But not with the other agreement?

4 A. (Edwards) Well, the other agreement, I'm still
5 concerned with the letter of credit language, so that
6 still exists.

7 Q. And, you have put forth in your testimony then your own
8 personal views of what you think should have been in
9 those agreements and what you think the Town should
10 have done in those agreements, is that fair to say?

11 A. (Edwards) I did make that on my personal basis, yes.

12 Q. Although, as your testimony points out, and I'm looking
13 particularly at Page 3, there were multiple public
14 meetings, and I assume they were properly noticed, is
15 that correct?

16 A. (Edwards) I can't represent that. The assumption is
17 that they were. But I can't represent that.

18 Q. But there were multiple public meetings that were held
19 by the Selectboard to allow input from the public on
20 the agreement and the PILOT agreements, is that
21 correct?

22 A. (Edwards) That's correct. Yes.

23 Q. And, it sounds like you had a full and fair opportunity
24 to raise many of these issues that you have expressed

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Allen~Edwards]

1 in your testimony with Town officials in those public
2 meetings, is that fair to say?

3 A. (Edwards) That is fair to say.

4 Q. But, apparently, the elected Town officials chose, for
5 whatever reason, not to do what you are now asking the
6 SEC to do, is that correct?

7 A. (Edwards) That's true.

8 Q. And, you've expressed some concern about the
9 decommissioning provisions in particular that are
10 contained in the agreement that's been marked as "AWE
11 4". Would it surprise you to learn that those
12 particular provisions in that agreement are very
13 similar to the ones that have been contained in similar
14 agreements in the prior three wind power projects in
15 New Hampshire that have been approved by this
16 Committee?

17 A. (Edwards) I can't represent that. I don't know. I
18 haven't read them. But I'm not questioning that.

19 Q. You, I think, in response to a question or two about,
20 on cross-examination, I think it was questions from Mr.
21 Roth, had some input that you gave from your
22 perspective as a bank vice president, about sort of
23 what you would do under certain circumstances. Do you
24 remember those questions earlier this evening?

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

1 A. (Edwards) Yes.

2 Q. Have you ever been involved in a wind power project
3 financing or the financing of an electric generation
4 project?

5 A. (Edwards) No, I have not.

6 Q. Anything of the magnitude that's involved here?

7 A. (Edwards) No.

8 Q. And, would it surprise you to learn that sometimes,
9 under circumstances like the ones that sort of the
10 worst-case scenario that Mr. Roth was giving you, that
11 there are times when a bank will actually step in and
12 hire an operator to keep a project running?

13 A. (Edwards) Oh, that doesn't surprise me. But the
14 question was "are they obligated to?"

15 Q. One of the things that you said in your testimony was
16 -- it was a suggestion that the signers of the
17 agreement on behalf of AWE did not have proper
18 authority to sign?

19 A. (Edwards) No, I didn't say they "didn't". I said, did
20 we, as a community, as a municipality, get the
21 necessary corporate resolutions to ensure that those
22 that did sign were properly authorized to sign, and the
23 answer was "no".

24 Q. Well, have you read Mr. Kenworthy's supplemental

1 testimony?

2 A. (Edwards) I have not.

3 Q. And, I quote from that, "all necessary authorizations
4 were in place and the AWE officers who signed the
5 agreement were fully authorized to do so."

6 A. (Edwards) Well, I have not read that. But, at the
7 public meeting and public hearings in the Town of
8 Antrim, Antrim's Town Counsel said they had not asked
9 for those. And, made the point that it was premature
10 for me to say that, because the Antrim PILOT and the
11 Alternate PILOT had not been signed. But, immediately
12 after the meeting, they signed them.

13 Q. Do you have any reason to doubt that they are now
14 properly signed?

15 A. (Edwards) I have no reason to doubt it, and I would
16 hope they would be.

17 Q. Ms. Allen, I have a few questions for you.

18 (Off the record due to spilled water.)

19 WITNESS ALLEN: Sorry, Mr. Patch.

20 MR. PATCH: That's okay. Gave me a
21 minute to collect my thoughts.

22 BY MR. PATCH:

23 Q. Actually, Mr. Edwards, I have one or two more questions
24 for you. And, this pertains to Section 14.3.2 of the

[WITNESS PANEL: Allen~Edwards]

1 agreement that's at AWE 4. And, I don't know if you've
2 got that there in front of you. Page 13 of that
3 agreement.

4 A. (Edwards) Perhaps Ms. Allen can help me with that.

5 Q. Okay.

6 A. (Allen) What was the number again, 13, 14.3?

7 Q. 14.3.2.

8 A. (Allen) We have the reference.

9 Q. Okay. Thank you. And, you had --

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

11 Q. Yes.

12 A. (Edwards) Go ahead.

13 Q. And, I'm going to read that section into the record,
14 and just ask you if I've read that correctly. It says:
15 "The owner shall ensure that any successors or assigns
16 of the Wind Farm shall agree to be bound by this
17 agreement and shall provide the Town with a written
18 confirmation from any successors or assigns stating
19 that they agree to be bound to this agreement." Did I
20 read that correctly?

21 A. (Edwards) Yes, you did.

22 Q. Does that satisfy any of your concerns?

23 A. (Edwards) It doesn't automatically mean that the lender
24 is going to step into that. The lender would look at

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Allen~Edwards]

1 that language and make a determination whether or not
2 they wish to take ownership of that project and be
3 responsible under that. It doesn't mean they're
4 obligated to, unless they become an owner of the wind
5 farm.

6 Q. But it's the obligation of the owner, and the owner, as
7 defined in this agreement, I believe is actually the
8 developer.

9 A. (Edwards) Right.

10 Q. So, it's that owner's obligation to ensure that
11 successors or assigns of the Wind Farm agree to be
12 bound by the Agreement?

13 A. (Edwards) So, having read that, it would be my
14 assumption that the owner or the developer, in
15 arranging financing, would make sure that the lender
16 agrees to that. And, that's a premature decision, I
17 think, assumption that you're making here.

18 Q. Well, that's part of --

19 A. (Edwards) And, honestly, I think the intent of that is
20 that, should Antrim Wind Energy, LLC, sell to another
21 party, an arms-length transaction, and they, in turn,
22 sell and they, in turn, sell, that they would adhere to
23 that. I don't think it's the intent of that to bring
24 the lender into it, as opposed to the owners and future

[WITNESS PANEL: Allen~Edwards]

1 owners.

2 Q. Okay. Ms. Allen, I have a few questions for you.

3 Thank you.

4 A. (Allen) I don't have any water left to spill.

5 Q. Okay. I've got some here you can spill.

6 MR. ROTH: You want some water?

7 WITNESS ALLEN: No, I'm good.

8 BY MR. PATCH:

9 Q. I take it you've read the petition for declaratory
10 judgment that Mr. Roth asked you about?

11 A. (Allen) Yes.

12 Q. And, it's actually been marked as an exhibit in this
13 case as "AWE 11" for the Committee's sake and all the
14 parties.

15 A. (Allen) Yes, I have read it.

16 Q. And, the date on that is "July 6th, 2012", is it not?

17 A. (Allen) It is.

18 Q. And, the date of your prefiled testimony is July 31st
19 of 2012, approximately three weeks later, somewhere in
20 that range?

21 A. (Allen) Right. That's true.

22 Q. And, when did you first become aware that that petition
23 had been filed?

24 A. (Allen) It was during the tech session here. It was

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Allen~Edwards]

1 your associate, Ms. Goldwasser, who told me about it,
2 and gave us also a copy of it.

3 Q. So, that's sometime in August?

4 A. (Allen) No. Yes -- well, end of July. No.

5 Q. Sometime after --

6 A. (Allen) I'm sorry. It was sometime this summer, and I
7 don't remember the date.

8 Q. Okay. But sometime after your prefiled testimony was
9 prepared and submitted then?

10 A. (Allen) I thought it was actually prior to the
11 prefiled.

12 Q. Well, then, I guess what I'm trying to understand is,
13 why you express concerns about whether the Applicant,
14 whether AWE would actually follow through and file
15 something with the court, which you seem to express in
16 your testimony, when, in fact, it was done more than
17 three weeks before your testimony was filed?

18 A. (Allen) It's not as much whether or not it would be
19 filed, and I'm glad it has been filed. But what
20 happens now, after it has been filed, particularly if a
21 certificate or a permit is given to this Applicant,
22 there's nothing that I see that compels this court case
23 to continue. I see no documentation that says that
24 either the Applicant or the Town or anyone else has to

1 continue with this court action.

2 Q. In your testimony, though, you said there was nothing
3 in the language of either the PILOT or the Alternative
4 PILOT, and this is on Page 9, Lines 12 and 13, "to
5 compel AWE to seek a court decision". But that, in
6 fact, had already been sought, had it not?

7 A. (Allen) Okay, I could be confused on the dates. I know
8 that, and we can go back to the record and see whenever
9 the tech session was, and I do remember that that's the
10 first I knew of it, and it was handed to me by your
11 associate. I'm not sure if it's before or after I
12 filed the testimony.

13 Q. And, then, similarly, in your prefiled testimony, you
14 had expressed some concern whether the Town would
15 pursue a court decision to reverse the DRA ruling.
16 But, again, I guess you may be confused about the
17 timing?

18 A. (Allen) I may be confused about the timing. But it's
19 sort of the point, at this point, is that that has been
20 launched, but it has not been concluded. And, the next
21 steps have not been compelled or insured.

22 Q. I think you said, in response to a question from Mr.
23 Roth, that you're "not a lawyer"?

24 A. (Allen) That's true.

[WITNESS PANEL: Allen~Edwards]

1 Q. And, yet, you went on to talk about the "legal flaw"
2 that you found in that agreement, and you talked about
3 the -- how long you thought it would take for the court
4 to issue a decision. On what do you base that, if
5 you're not a lawyer?

6 A. (Allen) On the length of the court case, it has just
7 been the fact that I've been a New Hampshire resident
8 for 37 years, and I have watched and I know how
9 unbelievably undermanned the courts are. I mean, this
10 is not a murder case or anything else. These things
11 tend to linger quite a bit of time. I also think that,
12 at the point of the declaratory judgment, given the
13 fact that this has to do with -- has to do with
14 taxation and equalization, I think this is going -- I
15 think we're in for a long haul in terms of this. I do
16 believe that, as indicated here, it is going to have to
17 go to the Supreme Court. And, my question as a
18 taxpayer is, what happens to the Town of Antrim and the
19 other -- and all the taxpayers while this gets churned
20 out in court. And, I see no comfort.

21 Q. Okay. Before we get there, though, you didn't address
22 the portion of my question that related to the fact
23 that you're not a lawyer, but you still were able to
24 find a "legal flaw" in the agreement?

[WITNESS PANEL: Allen~Edwards]

1 A. (Allen) I found a flaw, let's call it not a "legal
2 flaw" then.

3 Q. Okay. Are you familiar with the supplemental prefiled
4 testimony that Mr. Kenworthy made on October 11th in
5 this docket, and it's been marked as part of AWE 9, and
6 Page 11 of that testimony, where he says that "AWE has
7 agreed to pay 100 percent", "100 percent of the
8 increase in the Town's obligations to ConVal and
9 Hillsborough County attributable to the Project, plus a
10 series of scheduled fixed payments." Are you familiar
11 with that?

12 A. (Allen) Is this the Alternative PILOT?

13 Q. I'm talking about Mr. Kenworthy's testimony, dated
14 October 11th. And, I'm talking about Page 11 of his
15 testimony. It's part of AWE 9.

16 A. (Allen) No. I don't have a copy of that, and I don't
17 remember that.

18 Q. I would just ask you to take a look at the sentence
19 that begins on Line 5, "if the Town and AWE do not
20 prevail, AWE has agreed to pay", and by "prevail", it's
21 referring actually to the same dispute that we're
22 talking about that's the subject of the petition for
23 declaratory ruling in the Superior Court. "If the Town
24 and AWE do not prevail" --

[WITNESS PANEL: Allen~Edwards]

1 MR. ROTH: Excuse me, Doug. You're not
2 on the microphone.

3 MR. PATCH: Okay. Sorry.

4 MR. ROTH: It's hard for me to follow
5 you.

6 MR. PATCH: Okay.

7 BY MR. PATCH:

8 Q. AWE -- "if the Town" -- sorry.

9 A. (Allen) I'm sorry.

10 Q. Okay. "If the Town and AWE do not prevail, AWE has
11 agreed to pay 100 percent of the increase in the Town's
12 obligations to ConVal and Hillsborough County
13 attributable to the Project, plus a series of scheduled
14 fixed payments", and then it goes on to say "a clear
15 net benefit to the Town". Did I read that correctly?

16 A. (Allen) I think you did.

17 Q. Thank you.

18 A. (Allen) I believe also the next paragraph down from
19 that talks about "Schedule B", and I believe that this
20 is referring to the Alternative PILOT. I believe that
21 is what is being -- the numbers line up with that, and
22 I believe he's referring to the Alternative PILOT.
23 And, I would like to direct your attention to the
24 beginning -- the beginning part of Section 4 and

[WITNESS PANEL: Allen~Edwards]

1 Section 5 of the Alternative PILOT, which says that
2 none of this happens until there is a final --

3 Q. Can we just stop for a minute --

4 A. (Allen) Sure.

5 Q. -- and direct the Committee's attention to where the
6 Alternative PILOT appears, which I believe is AWE 13 in
7 the record.

8 A. (Allen) And, it's also in our exhibits, too. I think
9 it's 6 [EA-2D?] for us. Okay. And, in the Alternative
10 PILOT, it says that "AWE expects to contest, with the
11 concurrence of the Town" --

12 MR. ROTH: Excuse me, Ms. Allen. What
13 paragraph are you at?

14 WITNESS ALLEN: I'm at the bottom of the
15 last paragraph -- the last sentence of number 3. "AWE
16 expects to contest, with the concurrence of the Town,
17 NHDRA's interpretation of RSA 21-J:3, XIII in a
18 declaratory judgment action in Superior Court, and, if
19 necessary, in the New Hampshire Supreme Court." And,
20 then, the next two sections start with "In the event of a
21 final and binding court order upholding the interpretation
22 of RSA", da, da, da. And, the same thing on 5. The PILOT
23 is put into effect by one, the Alternative PILOT by the
24 second. It is very clear to me also, from Attorney

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Allen~Edwards]

1 Upton's letter, and I will make reference to that, and I
2 just lost it again, that this is exactly why the Town was
3 seeking this. Is they do believe that, under one
4 interpretation, the Town is not going to have enough money
5 to do this. Let me find it.

6 Okay. So, this is -- you guys have it
7 as "Exhibit A", it's the Upton & Hatfield letter of
8 January 11th, 2012. It was one of my exhibits, it's also
9 one of your exhibits. And, on Page -- does everybody have
10 that or do you need that?

11 MR. IACOPINO: Let's try to get a more
12 accurate description of the exhibit in the record, okay?

13 WITNESS ALLEN: Okay.

14 MR. IACOPINO: Let's just hold on a
15 moment.

16 WITNESS ALLEN: It would be under --

17 MR. IACOPINO: It's EA what?

18 WITNESS ALLEN: It would be EA-2, and
19 it's the second letter in that package of letters. It is
20 also --

21 MR. IACOPINO: Is it A or B? EA-2A?
22 EA-2B?

23 MR. PATCH: I think it's Exhibit A to
24 your testimony, is it not?

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Allen~Edwards]

1 WITNESS ALLEN: Exhibit A -- no, that's
2 your mark.

3 MR. ROTH: No, it's an "Exhibit A" to
4 your testimony, Ms. Allen.

5 MR. PATCH: Yes. It's the January 11th
6 letter?

7 WITNESS ALLEN: January 11th letter,
8 that's fine.

9 MR. PATCH: I have it as "Exhibit A" to
10 your testimony.

11 WITNESS ALLEN: Okay.

12 **BY THE WITNESS:**

13 A. Under that, second page, it explains why the -- why the
14 attorney for the Town was seeking relief from DRA.
15 And, if you read down, almost the last three lines
16 there, under (b), and it would say that, "rather than
17 alternative payments that will be made under RSA...To
18 decide the issue as suggested under alternative (b)
19 above would mean" --

20 Q. I'm sorry, I can't see where you are.

21 A. (Allen) Okay.

22 Q. You said "under (b)", and I don't see (b).

23 A. I'm sorry. Okay. The last three -- the last four
24 lines, sentences, on that page.

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Allen~Edwards]

1 MR. ROTH: Which page?

2 WITNESS ALLEN: Page 2, of that letter.

3 MR. PATCH: Page 2 of the letter.

4 MR. ROTH: Okay.

5 MR. IACOPINO: And, actually, I've got a
6 little bit of a different reference to this. So, if
7 you're on it electronically, it's EA-2B. It's not an
8 attachment to the actual testimony. I think that's the
9 way it may appear in the record as well, because I believe
10 that's the way it was marked. Sorry to interrupt, I just
11 want to make sure everybody was clear.

12 MR. PATCH: Okay.

13 CHAIRMAN IGNATIUS: And, this is a
14 letter dated "March 13th, 2012".

15 WITNESS ALLEN: No. Actually, it's
16 January 11th, 2012, from Upfield & Hatman [Upton &
17 Hatfield?] to the DRA.

18 CHAIRMAN IGNATIUS: All right. Then,
19 we --

20 MR. IACOPINO: Then, forget what I just
21 said.

22 WITNESS ALLEN: That's okay.

23 MR. IACOPINO: Scroll down. Oh, you
24 have to scroll down.

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Allen~Edwards]

1 WITNESS ALLEN: Scroll down. Oh, that's
2 right.

3 MR. BLOCK: Page 4 of that document.

4 CHAIRMAN IGNATIUS: All right.

5 MR. IACOPINO: Okay. Thank you.

6 CHAIRMAN IGNATIUS: Thank you.

7 MR. IACOPINO: Sorry.

8 WITNESS ALLEN: I'm actually on Page 5
9 of the document. Are we all good?

10 CHAIRMAN IGNATIUS: So, this is a
11 January 11, 2012 letter to two members of the New
12 Hampshire DRA?

13 WITNESS ALLEN: Right.

14 CHAIRMAN IGNATIUS: Thank you.

15 **BY THE WITNESS:**

16 A. (Allen) And, what Attorney Upton said is that, "To
17 decide this issue as suggested by alternative (b) above
18 would mean that other Antrim taxpayers would pay more
19 in taxes under RSA 72, relative to the renewable
20 generation facility in order to make up for an increase
21 to the Town's equalized value attributable to", next
22 page, "the full market value of the Project." So, in
23 other words, I mean, this isn't something that I'm
24 proffering, this is the concern that the Town attorney

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Allen~Edwards]

1 has, and this is why they're going before DRA. This is
2 not just a layman's interpretation. This is a question
3 that is being -- that has been taken to DRA, there has
4 been a final decision. Your applicant has taken this
5 court. And, now, it will, in my opinion, linger in
6 court until we have -- until we have a final judgment
7 on this. And, my question is, and my worry, my
8 concern, is what happens to the taxpayers of the Town
9 of Antrim while this occurs? And, who pays for taking
10 this further forward?

11 BY MR. PATCH:

12 Q. Okay. And, you said the Applicant filed this. It's
13 actually a joint filing between the Town and the
14 Applicant with the court, was it not?

15 A. Yes, I believe it was.

16 Q. And, the Town entered into the PILOT and the
17 Alternative PILOT Agreement willingly, they were a
18 willing participant in both of those agreements, were
19 they not?

20 A. (Allen) They were a willing participant, right.

21 Q. I mean, you may disagree with that, but the elected
22 Town officials made that choice?

23 A. (Allen) The elected Town officials made that choice.

24 And, at the public hearing, right before this was

[WITNESS PANEL: Allen~Edwards]

1 signed, what was offered -- what I heard offered at
2 that meeting was that, no matter what, we were going to
3 go under the Alternative PILOT while this was sorted
4 out. I don't see that language in the Alternative
5 PILOT. The instrument itself does not say that it
6 becomes effective immediately. That it is the
7 alternative until this gets sorted out. And, that
8 there are further memorandums in here also from your
9 law firm that suggest, in the beginning of this
10 payment, there would be a -- there would be a lag, and
11 they would be under the regular PILOT, not the
12 alternative payments.

13 Q. But we don't know there's going to be a lag at this
14 point. We're not sure when the Project might be
15 constructed, we're not sure when the tax obligation
16 will kick in, we're not sure when the court may decide
17 the issue. So, there's a lot of uncertainty there, is
18 there not?

19 A. (Allen) There's a lot of uncertainty. And, what I'm
20 hoping is that a condition can be placed, if the
21 Committee decides to grant a certificate and a permit,
22 I'm hoping that a condition can be placed on this that
23 the Town taxpayers are held whole. That we do not have
24 to pay for this --

[WITNESS PANEL: Allen~Edwards]

1 Q. Well, isn't it --

2 A. (Allen) -- while this gets sorted out.

3 Q. Didn't I just read to you a statement from
4 Mr. Kenworthy's testimony, to the effect that "AWE had
5 agreed to pay 100 percent of the increase in the Town's
6 obligations"? Didn't I read that to you?

7 A. (Allen) You did read that to me. And, if there was a
8 document that was signed and legally binding to that, I
9 would be -- I would be very satisfied.

10 Q. You say in your prefiled testimony, and I'm looking at
11 Page 8, Lines 3 and 4, the position that the Town and
12 AWE are taking before the Superior Court is consistent
13 with how DRA treats "voluntary PILOT agreements made by
14 charitable organizations that are exempt from property
15 taxes", in that "the abated value of the facility as
16 calculated from the PILOT payment would be used for its
17 equalized value." Is that correct? Did I read that
18 correctly?

19 A. (Allen) I think you did.

20 Q. Do you agree with this statement, on Page 6, Paragraph
21 16, about the DRA's interpretation of the tax statutes?

22 MR. ROTH: Excuse me, Page 6 and
23 Paragraph 16 of what?

24 MR. PATCH: I was afraid you were going

[WITNESS PANEL: Allen~Edwards]

1 to ask that. I didn't have that in my notes.

2 (Laughter.)

3 MR. BLOCK: It's a trick question.

4 MR. PATCH: Well, I'm going to read you
5 this statement, then I'll see if I can find it.

6 BY MR. PATCH:

7 Q. But I wanted to ask if you would agree with this
8 statement, about the DRA's interpretation of the tax
9 statutes. "It would result in a local school district
10 tax rate for Antrim taxpayers" -- "ratepayers", and I
11 believe this is actually from Exhibit 11, which is the
12 filing that was made with the Superior Court. "It
13 would result in a local school district tax rate for
14 Antrim ratepayers that is not "equitable and just"
15 vis-a-vis taxpayers in the eight other ConVal
16 Cooperative School District towns."

17 MR. ROTH: I'm going to object --

18 BY MR. PATCH:

19 Q. Would you agree with that statement?

20 MR. ROTH: I have to object to that. It
21 was interesting that Attorney Patch pointed out not long
22 ago that Ms. Allen is "not an attorney". And, now, he's
23 asking her to opine about an allegation in a complaint
24 made and filed by Howard Moffett, who is apparently a very

[WITNESS PANEL: Allen~Edwards]

1 senior attorney in his law firm, and asking her to agree
2 with that as a matter of law. And, this is a disputed
3 matter between the State of New Hampshire and the Town and
4 the Project. So, for -- I think that's enough.

5 CHAIRMAN IGNATIUS: Mr. Patch.

6 MR. PATCH: She's already opined about a
7 lot of legal issues. And, so, asking her to opine about
8 one more statement, which I think she seems to be
9 knowledgeable about how the whole school district tax rate
10 works. So, I think it's an appropriate question.

11 CHAIRMAN IGNATIUS: What -- state your
12 question again, and as narrowly as you can please.

13 MR. PATCH: Okay.

14 CHAIRMAN IGNATIUS: And, let me think
15 about it before you answer it.

16 MR. PATCH: I'm asking if she agrees
17 with the following statement, about the DRA's
18 interpretation of the tax statutes.

19 CHAIRMAN IGNATIUS: Wait. So, you're
20 asking if she agrees with the court's description -- or,
21 the complaint's description of what DRA's interpretation
22 is?

23 MR. ROTH: I think he's asking her to
24 agree with an allegation made in the complaint by Orr &

[WITNESS PANEL: Allen~Edwards]

1 Reno against the State of New Hampshire.

2 MR. PATCH: Yes, I think that's fair. I
3 think that's true. Whether she would agree with the
4 statement that was made in that filing with the Superior
5 Court.

6 CHAIRMAN IGNATIUS: All right. Why
7 don't you state the allegation and then ask Ms. Allen's
8 view of it. I forgot your name there for a minute. We're
9 all getting pretty tired.

10 BY MR. PATCH:

11 Q. "It would result in a local school district tax rate
12 for Antrim ratepayers that is not equitable and just
13 vis-a-vis taxpayers in the eight other ConVal
14 Cooperative School District towns." Would you agree
15 with that?

16 A. (Allen) Actually, it is part of a legal document that I
17 have not looked at very carefully. And, I am not going
18 to give you an opinion on it.

19 Q. Okay. In your prefiled testimony, Page 16 and 17, you
20 expressed a concern that the Project will negatively
21 affect Antrim's adequacy grant for education, --

22 A. (Allen) Yes.

23 Q. -- because "the formula used to determine the...grant
24 includes a factor of equalized valuation per pupil."

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

1 Correct?

2 A. (Allen) That's true. Yes, that is.

3 Q. But, then you went onto say that, in 2011, the
4 Legislature changed the formula to eliminate equalized
5 valuation per pupil as a factor. Is that fair to say?

6 A. (Allen) That's fair to say.

7 Q. But you still seem to have a concern that maybe the
8 Legislature is going to change it back again?

9 A. (Allen) And every two years they have.

10 Q. But there's nothing we can do about that at this point
11 in time, is there?

12 A. (Allen) Absolutely. And, I -- I added that to this
13 testimony to basically, I guess, put a little
14 illumination on how murky all this is, and how you have
15 to be so -- how the taxpayers of Antrim have to be so
16 careful that we don't go sliding backwards. There are
17 many factors at play. And, a tax rate is made up of
18 many factors. But, going backwards, going into a
19 negative position, is just something I think is
20 intolerable.

21 Q. But these are all views you expressed to the Town at
22 one point or another in the course of the public
23 hearings, is that fair to say?

24 A. (Allen) I expressed it in the public hearings, and

[WITNESS PANEL: Allen~Edwards]

1 individually to the Selectmen, and anybody else I can
2 get an audience with.

3 Q. Okay. And, the Town made, again, its choice as to what
4 it would enter into, what it would not, what legal
5 remedies it would pursue, did it not?

6 A. (Allen) Yes, it did.

7 Q. And, the Town was represented and continues to be
8 represented by able counsel, is that correct?

9 A. (Allen) The Town is continued to be represented by
10 counsel. I'm not going to opine about whether it's
11 able or not.

12 MR. PATCH: I have no further questions.
13 Thank you.

14 CHAIRMAN IGNATIUS: Thank you. Are
15 their questions from the Committee?

16 (No verbal response)

17 CHAIRMAN IGNATIUS: Mr. Iacopino has
18 some questions.

19 BY MR. IACOPINO:

20 Q. Ms. Allen, you did a lot of work in your spreadsheet to
21 show the way you think the numbers come out, in the
22 event that the declaratory judgment is not successful.
23 Did you do a similar spreadsheet for what the payments
24 would be under the Alternative PILOT?

[WITNESS PANEL: Allen~Edwards]

1 A. (Allen) Actually, that's in the Alternative PILOT.
2 And, what happens with the Alternative PILOT is the
3 Applicant, the developer, would cover any of the
4 increases to the Town, and then there is a schedule
5 there of what the additional payments would be --

6 Q. Okay.

7 A. (Allen) -- to the Town portion.

8 Q. But your --

9 A. (Allen) So, I did not do that.

10 Q. Okay. Your EA-3 spreadsheet is not the Alternative
11 PILOT, that's --

12 A. (Allen) That's the PILOT.

13 Q. Okay. And, that's the PILOT, if you don't win the
14 declaratory judgment? In other words, if you lose the
15 suit -- or, well, not you, but, if the Applicant loses
16 the suit against the DRA, correct?

17 A. (Allen) It's not quite that. The spreadsheet is to
18 show what happens if we're operating under the PILOT
19 and DRA continues to assess full valuation for the
20 county and school district portion. My assumption is
21 that, during the spreadsheet, something is happening at
22 the court level or something is not happening at the
23 court level. My lack of comfort is the fact that I see
24 nothing that says that court cases will continue. I'll

1 stop.

2 Q. I'm not talking about the delay, about the timing or
3 any of that. I'm just trying to get to the
4 spreadsheet.

5 A. (Allen) Okay.

6 Q. Okay? So, this spreadsheet demonstrates what happens
7 under the PILOT, --

8 A. (Allen) Yes.

9 Q. -- everything else remaining the same? In other words,
10 nobody wins in court, there is no Alternative PILOT.
11 This is what happens?

12 A. (Allen) Yes.

13 Q. Okay. And, I take it, what you're telling me with
14 respect to the Alternative PILOT -- so, I look at your
15 numbers here, and I come up with a net negative after,
16 I don't know, after 20 something years of a
17 \$1,323,000 --

18 A. (Allen) Yes.

19 Q. -- \$1,323,000, plus change?

20 A. (Allen) Yes.

21 Q. Okay. In order to determine what happens under the
22 Alternative PILOT, should I just add up the figures in
23 Attachment B to the Alternative PILOT Agreement? Would
24 that be fair to say?

[WITNESS PANEL: Allen~Edwards]

1 A. (Allen) I think so.

2 Q. Okay.

3 A. (Allen) But, I got to tell you right now, I don't know.

4 Q. Well, if I --

5 A. (Allen) My understanding is we would be completely --
6 that any additional tax obligation from the county or
7 from the school district would be paid by the
8 Applicant. And, then, the schedule in B becomes the
9 amount of what the payment then is made to the Town.

10 Q. And, that's the net payment that actually goes to the
11 Town?

12 A. (Allen) Yes.

13 Q. Okay. If the Applicant wins the declaratory
14 judgment, --

15 A. (Allen) Right.

16 Q. Now, if they win the declaratory judgment, have you
17 calculated what the payments to the Town would be?

18 A. (Allen) The Applicant has done that, and I think it
19 would hold. They're looking then at basically having
20 this impact the Town's tax base at about 14.5 million,
21 I believe. And, there is -- that is their -- as they
22 have proffered, that is their PILOT payment. And, yes,
23 it does, it starts at they would be paying the Town
24 \$337,500 for the first year. It does increase 2.5

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

1 percent through the 20 years of the contract. So, we
2 are definitely in the black under that.

3 Q. Okay. And, is it fair to say that's the best economic
4 outcome for the Town, would be to win the lawsuit
5 against the -- win the declaratory judgment lawsuit and
6 go with the original PILOT? Out of these --

7 A. (Allen) If you're asking for my -- for my illegal
8 judgment, no.

9 Q. Okay.

10 A. (Allen) The best situation for the Town would be *ad*
11 *valorem* taxes.

12 Q. Okay. All right. I understand that. As between the
13 Alternative PILOT and the original PILOT, with a win
14 against the DRA, is it your position that winning
15 against the DRA is the better outcome?

16 A. (Allen) I'm actually not -- I'm actually not sure.

17 Q. Okay. All right. Mr. Edwards, you were asked about
18 this in cross by Mr. Patch a little bit, but have you
19 ever taken the time to try to look at a financing
20 package, a project financing package for a commercial
21 -- for a, I don't want to call it a "commercial loan",
22 but for the financing of a facility like this, not
23 necessarily a wind farm, but a very large
24 commercial/industrial type of facility?

[WITNESS PANEL: Allen~Edwards]

1 A. (Edwards) The answer is "no", not in a public utility
2 sense or industrial operation of that magnitude. I'd
3 offer that probably the largest deal I've done is in
4 the service industry, and it's about \$8 million.

5 Q. So, you haven't done any shopping malls or anything
6 like that?

7 A. (Edwards) Oh, we've done shopping malls. But I don't
8 consider that something in the large industrial.

9 Q. I'm talking more like Mall of New Hampshire type of
10 malls?

11 A. (Edwards) Yes. Oh, absolutely. I have, yes.

12 Q. You have?

13 A. (Edwards) Yes.

14 Q. Okay.

15 A. I don't know if it's Mall of New Hampshire size, but
16 strip malls, multi-families, 300 units, residential.
17 You know, it's larger projects.

18 Q. In those types of projects, isn't it normal for the
19 financing entity -- isn't it normal for them to come in
20 and operate it until they can find a buyer, rather than
21 abandoning it?

22 A. (Edwards) Well, first of all, we'd utilize the remedies
23 available to us under the statute. And, typically, a
24 foreclosure would bring about a buyer for it. It

[WITNESS PANEL: Allen~Edwards]

1 doesn't always happen. And, the bank then must make
2 the decision to, whether put a management company into
3 that facility and run it, so that it's a going business
4 and it sells, it is more marketable in that case. I
5 don't think they're obligated to do it, but it might
6 make good sense. But it's something that they would
7 make that decision on, if it was in default.

8 Q. Well, if your loan was a really bad loan, on a large
9 facility, such as a mall, you might have to actually
10 buy the property yourself at the foreclosure auction?

11 A. (Edwards) That is possible, yes.

12 Q. And, what would the bank do in those circumstances?

13 A. (Edwards) Well, the bank would try to market it.
14 They'd hire a marketing group to try to sell the
15 property. We're not in the business of operating
16 facilities such as that. However, it might be prudent,
17 because, obviously, we want to collect the rents, and
18 we want to make sure that it's not damaged and it
19 continues in good shape and so forth. So, you'd
20 probably hire a marketing group and a management group
21 to run it.

22 Q. And, you probably pay the taxes on it as well?

23 A. (Edwards) And, you pay the taxes on it. And, the taxes
24 would take a priority over the mortgage. So, we'd want

1 to make sure they're paid.

2 Q. Okay. I'm just wondering, if you think that it's
3 likely that, if there were a default, that a financing
4 entity would ever actually come in and dismantle a
5 facility like this to sell it for scrap, assuming it
6 was otherwise operable?

7 A. (Edwards) I think I have to back up to the point was
8 "why are we in default?" And, if we're in default
9 because of an industry trend, the revenues are not
10 there, there's no agreement to purchase power, for
11 instance. And, someone that's in the business, that
12 has the expertise, is not able to make that a viable
13 business, then, the chances are the banks aren't going
14 to either. And, if they can't find a buyer, probably
15 at a deep discount, then they would probably liquidate
16 it and try to salvage some of the collateral value.

17 If it was mismanagement, and the company
18 was profitable, but there were other reasons for
19 default, they may well go in and hire someone. Banks
20 are certainly not knowledgeable enough to go in and run
21 them, nor I'm not sure whether we're allowed to either.

22 Q. In your involvement in this case, have you had occasion
23 to look at the Site Evaluation Committee's website?

24 A. (Edwards) I have looked at it, yes.

[WITNESS PANEL: Allen~Edwards]

1 Q. Did you, by any chance, take a look at one of the past
2 projects called "AES Londonderry/ABN AMRO Bank, NV (as
3 agent)"?

4 A. (Edwards) I did not.

5 MR. IACOPINO: Okay. Okay, I have no
6 further questions.

7 CHAIRMAN IGNATIUS: All right. Anything
8 else from the Committee?

9 (No verbal response)

10 CHAIRMAN IGNATIUS: All right, seeing
11 nothing, you're --

12 MR. ROTH: Could I have like one and a
13 half minutes with these two witnesses to suggest perhaps
14 they consider a redirect?

15 CHAIRMAN IGNATIUS: Not sure I followed
16 that, but any opposition to doing so?

17 MS. GEIGER: I guess I would. Mr. Roth
18 is statutorily required to represent members of the
19 public, and I would object to him providing legal advice
20 or any other advice to these witnesses. I just don't
21 think that's within the scope of his statutory authority
22 in this docket. So, I would object.

23 MR. ROTH: Well, I believe, if I'm not
24 mistaken, they are members of the public.

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Allen~Edwards]

1 MS. GEIGER: I guess I just want for the
2 record then if Mr. Roth to clarify whether he has an
3 attorney/client privilege with these folks?

4 MR. ROTH: I'm not going to answer that
5 question.

6 MS. GEIGER: Well, then, -- and he
7 didn't do the direct. So, I don't know how he gets to do
8 redirect.

9 CHAIRMAN IGNATIUS: I don't think it's a
10 question --

11 MR. ROTH: I wasn't proposing --

12 CHAIRMAN IGNATIUS: As I understand it,
13 it's not a question of Mr. Roth trying to question the
14 witnesses, it was trying to talk with them about things
15 that they may want to raise on their own as redirect. You
16 know, they're not represented, so it's a little bit
17 unusual a situation.

18 MR. ROTH: Maybe I should ask them
19 first. I'm volunteering, and maybe I'm a buttinsky here.

20 CHAIRMAN IGNATIUS: One second.

21 (Chairman Ignatius and Atty. Iacopino
22 conferring.)

23 CHAIRMAN IGNATIUS: I know that there
24 have been other cases where we have asked Public Counsel

[WITNESS PANEL: Allen~Edwards]

1 to help talk with non -- people who are represented by
2 themselves, may not have been part of this process, may
3 not have been in these kinds of cases before. And, so, I
4 think we'll allow a very brief consultation, if you -- if
5 there's some thoughts you want to share with these two
6 witnesses. But, very brief, and then give them the
7 opportunity, if there's anything further they want to say.
8 So, really, like a minute.

9 MR. ROTH: Thank you. Can I take them
10 out in the hall?

11 CHAIRMAN IGNATIUS: Yes.

12 (Brief recess for consultation between
13 Atty. Roth and Witness Allen and Witness
14 Edwards.)

15 CHAIRMAN IGNATIUS: All right, we are
16 back. And, is there anything that the two of you would
17 like to raise on redirect?

18 WITNESS ALLEN: Yes. Surprise. In my
19 answer about which form of compensation, you know, or
20 taxation would be the best, I wasn't comfortable saying
21 whether I felt that we ought to go with DRA's position or
22 with -- or with the Applicant's position. And, really,
23 but I think, almost more important than that, is what is
24 the consequence to the rest of the regions that we belong

{SEC 2012-01} [Day 9/AFTERNOON SESSION ONLY] {11-30-12}

[WITNESS PANEL: Allen~Edwards]

1 to, the ConVal School District and the County,
2 Hillsborough County? And, in this case, *ad valorem* taxes
3 would be very -- would be very good. But just coming down
4 on one side or the other deprives these entities that we
5 have of not having the full taxation value of having a
6 \$61 million wind facility in their town, I mean, in their
7 district. And, I think it's fair.

8 I mean, for a long time, we've heard
9 complaints from the biggest town in the school district
10 saying, you know, "we're carrying you", every time they
11 get a retail outlet, a Shaw's, a CVS comes in there.
12 Well, this is now Antrim's chance, if we're going to have
13 \$61 million project, to also bear part of that burden.

14 And, I think that that's the way we've
15 always done proportional taxes in the State of New
16 Hampshire, and that's the way I think it makes the most
17 sense. So, regional -- there is a regional effect here.
18 And, why should our town get, you know, less of a value
19 just because it's renewable energy.

20 CHAIRMAN IGNATIUS: All right. Thank
21 you. You're excused. And, we --

22 MR. EDWARDS: Do you want me to say
23 anything or am I excused, too?

24 CHAIRMAN IGNATIUS: Oh, I'm sorry, sir.

[WITNESS PANEL: Allen~Edwards]

1 I didn't realize.

2 WITNESS ALLEN: Just call him

3 "Mr. Allen".

4 CHAIRMAN IGNATIUS: I apologize.

5 WITNESS EDWARDS: On the advice of
6 counsel, Ms. Allen, --

7 (Laughter.)

8 WITNESS EDWARDS: -- I just wanted to
9 make sure, maybe I'm reiterating it, but I think I tried
10 to make clear that, in my banking role, we try to avoid
11 any obligation of stepping into the developer's shoes. We
12 may choose to do that, but we don't want to be compelled
13 to do that. And, I just want to reiterate, in my
14 experience, I've never seen a loan agreement that we've
15 been a party to where we have directly agreed to step into
16 the obligations of the developer. And, I just wanted to
17 make sure I was clear on that.

18 CHAIRMAN IGNATIUS: All right. Thank
19 you. I appreciate that. Now, I believe your excused.
20 Let's go off the record for one moment about details
21 coming up.

22 (Brief off-the-record discussion
23 ensued.)

24 CHAIRMAN IGNATIUS: So, we are back on

1 the record, just with final scheduling for the
2 continuation of the hearing. We will resume Monday, at
3 8:30, to take up testimony of Ms. Morse, Ms. Linowes, Mr.
4 Beblowski, and Ms. Sullivan. And, assuming we finish
5 those, we then will adjourn for that day, and reconvene
6 Thursday, at 10:00, to take up the Blocks' testimony, and
7 any final procedural matters that are left to address.
8 Thank you. We're adjourned for the day.

9 MS. GEIGER: Thank you.

10 (Whereupon at 7:13 p.m. the hearing was
11 adjourned, and the hearing to reconvene
12 on Monday, December 3, 2012, commencing
13 at 8:30 a.m.)
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