

**In The Matter Of:**  
*McLEAN COUNTY ZONING BOARD OF APPEALS*

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*WIND FARM*  
*January 23, 2018*

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1 McLEAN COUNTY ZONING BOARD OF APPEALS  
 2 MEETING  
 3  
 4 Wednesday, January 23, 2018  
 5 6:00 p.m.  
 6 at  
 7 McLean County Government Center  
 8 115 East Washington Street  
 9 Bloomington, Illinois  
 10 Case Number SU-17-11  
 11  
 12 BOARD MEMBERS PRESENT:  
 13 Brian Bangert  
 14 Chris Carlton - 1st Alternate  
 15 Rick Dean  
 16 James Finnigan - Chairman  
 17 Michael Kuritz  
 18 Mary Beth Taylor - 2nd Alternate  
 19 Julia Turner  
 20 Drake Zimmerman  
 21  
 22 ALSO PRESENT:  
 23 Philip Dick, Director of Building and Zoning  
 24 Samantha Walley, Assistant State's Attorney  
 Jerry Stokes, County Engineer  
 June Haeme: CSR #084-003038  
 Area Wide Reporting and Video Conferencing  
 301 West White Street  
 Champaign, IL 61820  
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1 (Commencing at 6:01 p.m.)  
 2 **CHAIRMAN FINNIGAN:** We're going to call  
 3 the zoning board to order. Will the secretary call  
 4 the roll?  
 5 (Roll call was taken with Board Members  
 6 Brian Bangert, Michael Kuritz, Rick Dean, Julia  
 7 Turner, Drake Zimmerman, Jim Finnigan, Chris Carlton  
 8 and Mary Beth Taylor present.)  
 9 **CHAIRMAN FINNIGAN:** We have a quorum.  
 10 This is a continuation of case SU-17-11 and I'm  
 11 going to have our counsel tell us where we're at.  
 12 **MS. WALLEY:** Good evening, ladies and  
 13 gentlemen. For those of you looking at me for the  
 14 first time, my name is Samantha Walley. I'm an  
 15 Assistant State's Attorney with the civil division  
 16 of the McLean County State's Attorney's office. As  
 17 Chairman Finnigan indicated, we have reconvened the  
 18 special use hearing. I believe this is our fifth or  
 19 sixth hearing. They're all kind of starting to  
 20 jumble together a little bit.  
 21 We are currently in the public -- not  
 22 public comment, but the applicant has rested their  
 23 case for the moment and so members of the community  
 24 are now speaking. You have the opportunity to speak

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1 if you are in favor of, against or neutral with  
 2 regard to a special use application. There is a  
 3 sign-up sheet over there. We've just been going  
 4 through the list. We started with sign-ups January  
 5 2nd and we've been working our way forward.  
 6 To kind of let you know how things are  
 7 going to go, once we get to the end of the list, and  
 8 that includes people signing up today, we're going  
 9 to cycle back through one more time for anyone that  
 10 we might have missed in case they were gone when we  
 11 called them on a particular date, but they're here  
 12 today, tomorrow, whatever the case may be.  
 13 If you are -- with regard to testimony,  
 14 experts, and you have to be qualified as an expert,  
 15 are entitled to 30 minutes, and you'll see that  
 16 handy-dandy marker behind me. Everyone else gets 10  
 17 minutes. When the 10 minutes is up, the 10 minutes  
 18 is up. It doesn't matter who you are, you just got  
 19 to wrap it up. The same for the expert, 30 minutes  
 20 is 30 minutes. Any questions?  
 21 Okay. Can you call the next individual  
 22 that signed up?  
 23 **MR. LUETKEHANS:** Mr. Chairman, just for  
 24 the -- I'd like to just put my appearance in for the

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1 record.

2 **MS. WALLEY:** You'll have to turn on that

3 microphone right there.

4 **MR. LUETKEHANS:** Thank you. If I can

5 figure out how.

6 **MS. WALLEY:** There you go.

7 **MR. LUETKEHANS:** Sorry. Mr. Chairman,

8 Phillip Luetkehans. June has my spelling. For the

9 record, I'd like to put my appearance in on behalf

10 of certain objectors. I've handed out SLG Exhibit

11 1. I think Ms. Walley has handed it out to

12 everybody or will shortly.

13 **MS. WALLEY:** I will once you begin to

14 present any evidence.

15 **MR. LUETKEHANS:** Okay. It's -- I have 52

16 clients. As far as evidence, I would like to make a

17 couple of preliminary motions at this point. First

18 of all, I would ask for leave to cross-examine Mr.

19 Parzyck and Mr. Hankard. I'm assuming Mr. Griffin

20 is going to object. If he's not, I'll have another

21 conversation with him, but I'd like to at least

22 raise that at this point and figure out early on

23 whether we're going to be given that opportunity.

24 **MS. WALLEY:** I think that this is

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1 something that we can take up once you begin to make

2 evidence. I think that that's something that

3 Chairman Finnigan can mull over as the other

4 individuals who have signed up, as they testify.

5 **MR. LUETKEHANS:** Okay, I guess it's

6 important to know though for us. I don't know if my

7 -- if you're going to get to us this evening or not,

8 but I think the sooner we understand that and Mr.

9 Griffin understands the answer to that, that if you

10 do agree that Mr. Hankard and Mr. Parzyck should be

11 brought back, that he has enough lead time to do

12 that.

13 So I know he doesn't have Mr. Hankard here

14 tonight, he and I talked today, he was not going to

15 bring Mr. Hankard and that's fine, I didn't ask him

16 to tonight, but there are certain preliminary

17 matters that I would like to get to at least this

18 evening so that if we are given the right to

19 cross-examine Mr. Parzyck and Mr. Hankard, we're

20 sure of it in the future. So I don't know where I

21 am on the list, but I wanted to at least raise that

22 now.

23 **CHAIRMAN FINNIGAN:** Thank you. I'm sure

24 Phil has a list, it's his discretion to call through

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1 the list, we're going to go through the list of

2 names that we have and we're going to go back to

3 people that weren't here for other meetings and give

4 them a chance to come forward, and then I think

5 there was some signing up tonight, so that's where

6 we're at.

7 **MR. DICK:** Kimberly Brucker.

8 **CHAIRMAN FINNIGAN:** Would you like to be

9 sworn in?

10 **MS. BRUCKER:** Yes, please.

11 (Ms. Kimberly Brucker was duly sworn.)

12 **MS. WALLEY:** Mr. Luetkehans -- well, let

13 me ask Ms. Brucker. Ms. Brucker, does Mr.

14 Luetkehans represent you?

15 **MS. BRUCKER:** Yes, I believe my name is on

16 the list.

17 **MS. WALLEY:** It is. So do you intend on

18 having these witnesses testify or are you going to

19 participate in their testimony?

20 **MR. LUETKEHANS:** No.

21 **MS. WALLEY:** Okay. Are you solely going

22 to participate in terms of the cross-examination?

23 Is that it?

24 **MR. LUETKEHANS:** I will participate in

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1 testimony of third-parties, but my clients have the

2 right under the rules to testify for themselves and

3 they're taking that right.

4 **MS. WALLEY:** They do, and what I'm trying

5 to avoid is two bites at the apple.

6 **MR. LUETKEHANS:** I -- I am pretty sure

7 that the specifics of my testimony will not be what

8 people like Ms. Brucker are testifying about.

9 **MS. WALLEY:** Okay, okay, I just wanted to

10 make sure.

11 **CHAIRMAN FINNIGAN:** Would you state your

12 name and address and spell your last name.

13 **MS. BRUCKER:** Kimberly Brucker,

14 B-R-U-C-K-E-R, 20662 North 2900 East Road,

15 Lexington, 61753.

16 **MR. DICK:** Could you repeat the address

17 again please?

18 **MS. BRUCKER:** 20662 North 2900 East Road,

19 Lexington.

20 **CHAIRMAN FINNIGAN:** Thank you. Go ahead.

21 **MS. BRUCKER:** Okay. First of all, thank

22 you for giving us all the opportunity to speak. I

23 did not anticipate speaking, but I was told that

24 that was the only way that I would be able to get my

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1 point across to the ZBA. Fortunately for you guys  
 2 I've had two weeks to prepare my lengthy letter.  
 3 So I know my opinion is not necessarily  
 4 going to change how you vote, but because I am going  
 5 to be living there, just I wanted to at least make  
 6 you aware of how I feel about it. I missed the  
 7 first two informational meetings at Heartland  
 8 because I was sick, but I've sat through the last  
 9 two here. Very informative as well as very  
 10 emotional testimony.  
 11 I live very close to Mr. Pitzer and Mr.  
 12 Hill and I heard them speak and discuss about the  
 13 wildlife. I couldn't help but choke back tears  
 14 listening to Ms. Metz speak about raising her family  
 15 on her homestead and now being ready to pass it on  
 16 to another family to build their own memories, yet  
 17 concerned that selling it is going to be a struggle  
 18 for her if the wind turbines are approved.  
 19 Anyone that knows me knows that I tell my  
 20 children when it's time to bury me, bury me behind  
 21 the barn, I never want to have to leave my home. It  
 22 means too much to me. The thought of being driven  
 23 away is beyond upsetting. I listened to Ms.  
 24 Emberton and feel so similar to her. I did

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1 appreciate her bringing up the fact that  
 2 Bloomington-Normal residents are not even allowed to  
 3 have backyard chickens as it will disrupt their  
 4 neighbors. Somewhere I read that the argument for  
 5 that was that it would be a potential nuisance and  
 6 an infringement on the property rights of their  
 7 neighbors. Clearly I would have to agree with that  
 8 on the windmills for us.  
 9 Today I'm here with the heaviest of  
 10 hearts. I've struggled with what this means to  
 11 myself and my family since hearing of the windmill  
 12 news just a few weeks ago. Blindsided by the news  
 13 would be a better description in all honesty. We  
 14 were not included in any mailings, I heard about all  
 15 of this secondhand, all while our neighbors who are  
 16 under contract have known about it for months and  
 17 signed their papers to move forward with allowing  
 18 windmills to be placed on their land for their  
 19 financial gain, their land yet so near our home that  
 20 will no doubt be affected.  
 21 When my husband and I bought our land 13  
 22 years ago in hopes of raising our family in a  
 23 beautiful, safe, rural setting, never in my wildest  
 24 dreams did I believe we would feel like all of that

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1 would be compromised for someone else's financial  
 2 advancement. I, of course, have my concerns, many  
 3 of which I've been told that Invenergy will dispute,  
 4 but I'd like to be able to at least share them with  
 5 you.  
 6 The somewhat obvious ones would be the  
 7 noise and visible disturbances. Will we be able to  
 8 hear them or be disturbed by their shadows and  
 9 flickering? Unfortunately we will not know until  
 10 they are up and it's too late.  
 11 Will there be damage to our roads, the  
 12 roads that our taxes are used to pay for? Maybe,  
 13 maybe not. I have spoken to road commissioners and  
 14 they've given me a bit of insight. Our roads will  
 15 be torn up for no less than three years and they  
 16 will never be the same sturdy roads in my lifetime.  
 17 Roads will be gravel and some will be closed from  
 18 time to time.  
 19 Will this cause a decrease in my property  
 20 value? I've been assured it won't, but I don't  
 21 believe that's a fair or true assurance. I would be  
 22 curious to know if we took a survey of how many  
 23 people would actually choose to move near windmills  
 24 or how many people would not. The number that would

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1 not would be the majority.  
 2 McLean County is supposed to have some of  
 3 the best soil in the world. I don't understand why  
 4 land is being taken out of production. We're  
 5 supposed to be feeding the world with food not  
 6 electricity. How can this logically make any sense?  
 7 For 13 years now living along the Mackinaw  
 8 River we've been able to see some of the most  
 9 amazing wildlife. I find it incredibly disturbing  
 10 that that wildlife could be affected. Just this  
 11 last Saturday my son saw a bald eagle fly over the  
 12 top of our green forest. I know that might not  
 13 matter to some people, but it's not something that  
 14 people see every day and some people won't even see  
 15 it in their lifetime.  
 16 I'm 46 years old and just this summer he  
 17 and I were out walking. As we walked back up our  
 18 drive, we noticed two birds flying overhead doing  
 19 some sort of dance. He said, mom, stand still,  
 20 those are two bald eagles. I had no idea. Again,  
 21 I'm 46 years old and have never seen bald eagles  
 22 that I know of. This was a moment I'll never  
 23 forget. The opportunity for my son to point out  
 24 something to me and tell me what he knew about them

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1 was somewhat priceless.  
 2 I also heard Mr. Scott Schertz speak on  
 3 January 10th. You see, my property and my home butt  
 4 up to his aerial service. I am literally just north  
 5 of him. My home is in the direct path when he lands  
 6 on his strip. I assumed this would affect his  
 7 business. However, when he brought up two specific  
 8 wind turbines that would cause his landing to be a  
 9 safety issue, I was alarmed. Again, given the fact  
 10 that he flies directly over my home to land his  
 11 plane and now having two obstacles in his way is a  
 12 serious concern for me.  
 13 That being said, my biggest issue, because  
 14 I'm a mother and I'm always most concerned about my  
 15 family's well-being, is the potential health and  
 16 safety risks. I know there are conflicting opinions  
 17 about this, but it troubles me that my neighbors are  
 18 willing to take the risk and possibly put my family  
 19 at risk. Again, we won't know what the  
 20 repercussions will be until they're up and it's too  
 21 late. I lay awake at night worrying about the  
 22 future. It's causing me anxiety when I think about  
 23 the project and the outcome. To people in the  
 24 business of making money, I imagine they cannot

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1 understand where I'm coming from. I was grateful to  
 2 hear at the last ZBA meeting that no decisions are  
 3 based on money because at this point money is the  
 4 absolute only positive argument that I've heard in  
 5 favor of the windmills.  
 6 What I'm -- what I'm asking is that when  
 7 you consider how you'll vote on this project, please  
 8 consider the aspects of just people's financial  
 9 gain. Is it right for one person's financial gain  
 10 to possibly cause another person financial loss? Is  
 11 it right for people to cause others such stress and  
 12 anxiety and potential long-term health issues all in  
 13 the name of them financially benefitting? I do  
 14 understand a person should be allowed to do what  
 15 they see fit on their land, but at what point do  
 16 they consider how that affects their neighbors?  
 17 My children started their own business of  
 18 raising beef cattle when they were in grade school  
 19 and junior high. My husband and I thought this  
 20 would be a wonderful opportunity for them. They are  
 21 now 19 and 16 years old and still going strong with  
 22 it. A couple of Christmases ago, they kept a  
 23 quarter of a beef and shared it with a few neighbors  
 24 that they felt might be inconvenienced because of

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1 the smell their cattle produced and the noise the  
 2 calves make when they are weaning them bawling  
 3 around the clock. The beef was beef that they could  
 4 have sold to pay down their debt, but what seemed  
 5 more important was to consider the people that live  
 6 near us and be grateful they tolerated some of the  
 7 nuisances that do come with living in the country.  
 8 Life is short and you can't take your money with  
 9 you, so they say. I was proud of my kids for  
 10 grasping that being neighborly and treating people  
 11 respectfully was more important than the extra money  
 12 for them.  
 13 I would have to say one thing I don't  
 14 understand is the people that have contracts on  
 15 these windmills on their land, why are they not here  
 16 presenting their case? It seems that we're the  
 17 people that are not so interested in it, but I  
 18 haven't heard from any of them yet.  
 19 All of that being said, it makes me wonder  
 20 what message we're sending to our children. In a  
 21 world where we often wonder why our children are not  
 22 becoming the considerate adults that we hope for,  
 23 what example are we setting for them? From where I  
 24 stand, we're teaching them to put ourselves first.

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1 Financial gain for ourselves is much more important  
 2 than considering our neighbors' well-being and best  
 3 interest. These are not lessons that I'm hoping to  
 4 instill in my children.  
 5 I appreciate very much your time and  
 6 consideration of what I had to say.  
 7 **CHAIRMAN FINNIGAN:** Questions from the  
 8 board? Questions from staff?  
 9 **MR. DICK:** No.  
 10 **CHAIRMAN FINNIGAN:** Would anyone in the  
 11 audience have questions for this witness? Okay,  
 12 thank you for coming.  
 13 **MR. DICK:** Theodore Hartke.  
 14 **MR. HARTKE:** We may have a problem here  
 15 with this gentleman. Maybe you should skip me while  
 16 this gentleman loads up my presentation. He had it  
 17 two meetings ago, but -- oh, they have a new  
 18 computer.  
 19 **MS. WALLEY:** That's fine.  
 20 **MR. HARTKE:** Skip me for a minute.  
 21 **MS. WALLEY:** Sure.  
 22 **MR. DICK:** Julie Hall-Cotter.  
 23 **MS. COTTER:** I have already given my  
 24 testimony. I could defer to Mr. Luetkehans if

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1 there's anything he wants to say.  
 2 **MR. DICK:** No, if you've given testimony,  
 3 it's my mistake. Rene Taylor. Bevin Choban at 1204  
 4 South Linden Street, Normal. Elizabeth Cave at 17  
 5 Clinton Place, Normal. Joe Bertsche?  
 6 **MR. BERTSCHE:** I'll pass at this time.  
 7 **MR. DICK:** This might be your only chance.  
 8 **MR. BERTSCHE:** Okay, I'll come up.  
 9 **CHAIRMAN FINNIGAN:** Did we swear you in  
 10 the other night?  
 11 **MR. BERTSCHE:** No.  
 12 **CHAIRMAN FINNIGAN:** Would you like to be  
 13 sworn in?  
 14 **MR. BERTSCHE:** Yes.  
 15 (Mr. Joe Bertsche was duly sworn.)  
 16 **CHAIRMAN FINNIGAN:** Pull that a little  
 17 closer to you. And could you please state your name  
 18 and address and spell your last name.  
 19 **MR. BERTSCHE:** Joe Bertsche,  
 20 B-E-R-T-S-C-H-E, 27651 East 2700 North Road, Chenoa.  
 21 The farm I'm on will have one turbine. It will be  
 22 1500 feet from the -- 1540 feet from the house. I  
 23 will also -- the farm will also host the substation  
 24 and the switch yard to the south end of the 80.

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1 So I've lived there since 1971 and farmed  
 2 it since that time, and I've dealt with the past ten  
 3 years three different wind companies. One was --  
 4 used to be Horizon; EDPR now. We signed with  
 5 Invenergy about two years ago. We've been well  
 6 treated, never had any big hassles with them or  
 7 anything, and I don't anticipate really any major  
 8 problems with them. The switch, the switch yard  
 9 will be lit up at night year-round like any other  
 10 substation is in the area. I don't really  
 11 anticipate any problems with the windmills. I've  
 12 lived with all kinds of things in my life.  
 13 I'd like to bring up one thing. I think  
 14 we're a little spoiled here in the United States.  
 15 Back in '68 and 9 I served in the Army and I had to  
 16 go out on bivouac and I had to pull guard duty the  
 17 first morning. And no sooner than the sun came up,  
 18 it was a cold crisp October day, and this mama-san  
 19 comes out of her little hooch, and she starts  
 20 beating or doing her wash beating it on a rock by a  
 21 stream. In the afternoon, her and her husband came  
 22 out and they started making brick. How fortunate we  
 23 are here in the United States that we have -- we can  
 24 flip a switch.

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1 Also in the Army, the United States was  
 2 known amongst the GIs as the land of the all-night  
 3 generator because our lights would go out in the  
 4 middle of the night and you had to put on all your  
 5 gear and you had to go out on the post where you  
 6 were designated to be in case of an invasion because  
 7 electricity was on and off. It wasn't reliable like  
 8 it is here in the United States.  
 9 And I think the people just don't realize  
 10 we have so much, and now we have a company coming in  
 11 here that's going to spend \$300 million to produce  
 12 electricity. I see on these farm programs every  
 13 morning, like they'll be out there shooting a scene  
 14 at a field or something, and in the background I see  
 15 one, two, three windmills. We are a nation now, the  
 16 farmers in this area, in central Illinois and all  
 17 over the midwest, we're going to be producing corn,  
 18 beans and electricity. It's an option open to us.  
 19 It's one of the things we're going to have to get  
 20 used to.  
 21 I just feel like we just don't realize  
 22 what we have and I'm grateful for it. We have  
 23 plenty of food, we have plenty of electricity, we  
 24 have just about everything. And sometimes I wonder

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1 if we're really grateful for it. And that's all I  
 2 have to say, thank you. Thank you very much for my  
 3 comments to you.  
 4 **CHAIRMAN FINNIGAN:** Thank you. Does the  
 5 board have questions? So this is going to be on  
 6 your farm that you own?  
 7 **MR. BERTSCHE:** Yes. I've been there 41  
 8 years. The farm's been in the family for 131 years.  
 9 I've farmed it the longest of anybody since 1853.  
 10 **CHAIRMAN FINNIGAN:** And you live on the  
 11 farm.  
 12 **MR. BERTSCHE:** I live on the farm. I'll  
 13 be 1540 feet from the turbine. And I appreciate  
 14 Invenergy coming in and giving us a helping hand  
 15 because it will make a difference. It will be a  
 16 game changer for some of us landlords or the hosts  
 17 of turbines. It will be a game changer. It will be  
 18 important to the county.  
 19 **CHAIRMAN FINNIGAN:** Is anyone in your  
 20 family going to continue farming on the farm after  
 21 you're retired?  
 22 **MR. BERTSCHE:** No, but they will hold it  
 23 dearly.  
 24 **CHAIRMAN FINNIGAN:** Okay, thank you.

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1       **MR. ZIMMERMAN:** Sir, you mentioned it's  
 2 going to be a game changer. How is it going to be a  
 3 game changer? How would you describe that?  
 4       **MR. BERTSCHE:** Well, with the price of  
 5 crops right now, we're almost at the break-even  
 6 point, and if you have this income extra, it's going  
 7 to mean whether -- to some farmers it's going to  
 8 mean whether they stay in business or not or --  
 9       **MR. ZIMMERMAN:** Okay.  
 10       **CHAIRMAN FINNIGAN:** Would staff have  
 11 questions?  
 12       **MR. DICK:** How do you see a wind turbine  
 13 as compatible with your farming operations?  
 14       **MR. BERTSCHE:** One, I farm around three  
 15 ComEd towers right now and I have over my whole  
 16 farming career. They're a lot harder to get around  
 17 than this. This will provide an access road. I can  
 18 take corn and beans off the field much easier. I  
 19 really see no -- for the amount of time or amount of  
 20 effort, I see it as being convenient for me to take,  
 21 have that access road in there. Plus I'm going to  
 22 have the switch station you might say or the -- it's  
 23 not really going to bother me to farm around it.  
 24       I mean farming around those ComEd towers

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1 when they're sitting there cattywampus on the square  
 2 80 is not the easiest thing to farm around and I've  
 3 farmed around -- I've never gotten paid for farming  
 4 around them. At least I'll get paid to farm around  
 5 the wind. It will be a big enough area it's not  
 6 going to really bother me.  
 7       **MR. DICK:** Do you think it takes up a lot  
 8 of good farm ground?  
 9       **MR. BERTSCHE:** With the surpluses we have,  
 10 we need to get rid of some good farmland. Well, I  
 11 shouldn't say that. We, we have over a billion  
 12 bushel in excess. And the good farmland, it's going  
 13 to take out about -- the turbine is going to take  
 14 out about an acre maybe.  
 15       **MR. DICK:** Thank you.  
 16       **CHAIRMAN FINNIGAN:** Would anyone in the  
 17 audience have questions of this witness? Come  
 18 forward.  
 19       **MR. ADAMS:** I would just like to know --  
 20       **CHAIRMAN FINNIGAN:** You've got to come  
 21 forward. You're going to have to take a chair and  
 22 sit down in the chair and give us your name and  
 23 address.  
 24       **MR. ADAMS:** Yes, my name is John Adams.

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1       **CHAIRMAN FINNIGAN:** Push that button. The  
 2 other side. That's it.  
 3       **MR. ADAMS:** My name is John Adams from  
 4 Lexington, Illinois. We're on road 2225 East Road  
 5 not too far from Clarksville. At any rate, I was  
 6 just wondering what the financial obligations are as  
 7 far as you getting paid for your wind turbine and  
 8 your substation?  
 9       **MR. BERTSCHE:** Well, that's confidential  
 10 at this time.  
 11       **MR. ADAMS:** So you have signed a  
 12 disclosure act saying you will not disclose any  
 13 monetary gains?  
 14       **MR. BERTSCHE:** Yes.  
 15       **MR. ADAMS:** Okay, that's my primary  
 16 question. Just wondering if anyone else might know  
 17 about the value of a turbine to a farmer.  
 18       **CHAIRMAN FINNIGAN:** I can't answer that  
 19 question, so why don't -- if that's all you had.  
 20       **MR. ADAMS:** That's all I had, just  
 21 wondering about the disclosure agreements.  
 22       **CHAIRMAN FINNIGAN:** Okay, thank you.  
 23 Anyone else? Come forward. Same routine, name and  
 24 address.

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1       **MR. DUZAN:** David Duzan, 24322 North 2250  
 2 East Road, Lexington. Joe --  
 3       **MR. GRIFFIN:** I believe this gentleman is  
 4 represented by Mr. Luetkehans.  
 5       **MR. DUZAN:** -- you mean to tell me you've  
 6 been farming for 41 years and the only way that you  
 7 can make it on family ground that's more than likely  
 8 owned is to have a substation and a wind turbine on  
 9 your property? And you can't tell me that we've not  
 10 faced low commodity prices before.  
 11       **MR. BERTSCHE:** I agree we have faced low  
 12 prices before.  
 13       **MR. GRIFFIN:** I believe this gentleman is  
 14 represented by Mr. Luetkehans, so I don't think he  
 15 has any right to cross-examine witnesses.  
 16       **MR. LUETKEHANS:** I think he does. I'm not  
 17 cross-examining. I'm waiving. Why can't he  
 18 cross-examine the witness?  
 19       **MS. WALLEY:** One minute at a time, one  
 20 person at a time. Are you going to cross-examine?  
 21       **MR. LUETKEHANS:** No.  
 22       **MS. WALLEY:** Okay, if Mr. Luetkehans is  
 23 not --  
 24       **CHAIRMAN FINNIGAN:** Somebody has to turn a

1 button off.  
 2 **MS. WALLEY:** In answer to your question,  
 3 Mr. Griffin, I understand what you're trying to say.  
 4 If Mr. Luetkehans is not going to cross-examine the  
 5 witness, I will allow -- Mr. Duzan?  
 6 **MR. DUZAN:** Duzan.  
 7 **MS. WALLEY:** -- Duzan the opportunity, but  
 8 again, like I said, there will be no two bites at  
 9 the apple. Before you continue, and you can  
 10 cross-examine Mr. Bertsche, can you spell your first  
 11 and last name for the court reporter?  
 12 **MR. DUZAN:** David, D-A-V-I-D, Duzan,  
 13 D-U-Z-A-N.  
 14 **MS. WALLEY:** Thank you, sir.  
 15 **MR. DICK:** Can you give your address  
 16 again?  
 17 **MR. DUZAN:** 24322 North 2250 East Road,  
 18 Lexington, Money Creek Township.  
 19 **MS. WALLEY:** You may have to repeat your  
 20 question for Mr. Bertsche since we interrupted you.  
 21 **QUESTIONS BY**  
 22 **MR. DUZAN:**  
 23 Q. Joe, did you hear me the first time?  
 24 A. **Yes, we have had these low prices before**

1 **A. Approximately, yes.**  
 2 Q. Do you really think that's going to help  
 3 us with the corn surplus in this country?  
 4 **A. Not really. I think the corn surplus --**  
 5 Q. Then why did you say it?  
 6 **A. Well, we do have a lot of surplus. The**  
 7 **trouble is the surplus is all coming from the**  
 8 **outlying areas, poor ground and all this and that,**  
 9 **so --**  
 10 Q. Again, do you think this will help  
 11 decrease the surplus of corn and soybeans in this  
 12 country?  
 13 **A. That's just hard to say. I really**  
 14 **couldn't tell you whether it will or not, but --**  
 15 Q. A yes or a no.  
 16 **A. It probably won't decrease it.**  
 17 Q. So, Joe, it's really about financial gain.  
 18 **A. To a certain extent, yes.**  
 19 Q. To a hundred percent.  
 20 **A. Not completely.**  
 21 **CHAIRMAN FINNIGAN:** We are going to have  
 22 to kind of wrap this up here. Push the button if  
 23 you're done.  
 24 **MR. DUZAN:** Thank you.

1 **and I came through since '71 very low prices. I**  
 2 **don't -- I don't really farm that much. I only**  
 3 **have -- right now I only farm 320 acres, I'm**  
 4 **semi-retired, but there's no doubt in my mind I'm**  
 5 **going to make it, there's no problem there. I'm**  
 6 **worried about some of the bigger farmers that are**  
 7 **doing a lot of cash renting. A lot of them I hear**  
 8 **are in a world of hurt. So if they had a windmill,**  
 9 **why it might help them out or the landlord.**  
 10 **A lot of this thing is the landlords can**  
 11 **take a lot of that money and improve their tiling**  
 12 **system, and if they take an acre out of production**  
 13 **for the windmill, they can do enough tiling to make**  
 14 **up the bushels two to three times over.**  
 15 Q. So it's really about financial gain to  
 16 make farm improvements or to retire on?  
 17 **A. Probably both.**  
 18 Q. Okay. How many acres do you think will be  
 19 taken out of production by the wind turbines and  
 20 substation?  
 21 **A. Probably an acre a turbine, so you're**  
 22 **talking a hundred acres there, and then it will be**  
 23 **roughly 10 to 15 acres on the substation.**  
 24 Q. So about 16 acres altogether roughly?

1 **CHAIRMAN FINNIGAN:** Does anyone else have  
 2 a question of this witness?  
 3 **MS. COTTER:** Julie Cotter, 23571 North  
 4 2900 East Road, Lexington. Mr. Bertsche, would you  
 5 have considered having them on your farm had they  
 6 not offered you a lot of money for them? You seem  
 7 very passionate that we are all too spoiled here,  
 8 but would you have let them do this to contribute to  
 9 the electricity in our country had you not gotten a  
 10 lot of money for them?  
 11 **MS. WALLEY:** Ms. Cotter, you have to ask  
 12 one question at a time.  
 13 **MS. COTTER:** Oh, I'm sorry.  
 14 **MS. WALLEY:** It's okay.  
 15 **MR. BERTSCHE:** We signed up with the other  
 16 ones and they weren't paying near as much as  
 17 Invenergy because the windmills weren't near as big  
 18 at that time, but we signed on with the other  
 19 company, I think it was 2008 or whatever it was, and  
 20 they didn't pay near as much because they were  
 21 smaller turbines. But I think, I think we got to --  
 22 with all the coal generator systems going to switch  
 23 over to gas and going obsolete, they're not  
 24 replacing them, I think we have a product that we

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1 can sell indirectly through Invenergy, a resource  
 2 that we can sell just like corn and beans and export  
 3 it out of here just like we do our corn and beans  
 4 and it can become a cash income for us.  
 5 **MS. COTTER:** Would you have considered  
 6 putting the turbine there for the good of everyone  
 7 else had you not made a lot of money on it?  
 8 **MR. BERTSCHE:** Yes, I think I would, I  
 9 mean because we signed on with the other company for  
 10 a lot less money.  
 11 **MS. COTTER:** But that was quite a few  
 12 years ago.  
 13 **MR. BERTSCHE:** Not that -- well, it was  
 14 2008 or '10.  
 15 **MS. COTTER:** Eleven years or nine years.  
 16 **MR. BERTSCHE:** Yeah, they didn't go  
 17 through with their deal.  
 18 **MS. COTTER:** Do you live in your house 365  
 19 days a year?  
 20 **MR. BERTSCHE:** Yes, I do.  
 21 **MS. COTTER:** Okay, that's all I had.  
 22 **CHAIRMAN FINNIGAN:** Anyone else want to  
 23 ask questions of this witness? State your name and  
 24 address.

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1 **MS. ADAMS:** Katie Adams, 322 West Main,  
 2 Lexington, Illinois.  
 3 **QUESTIONS BY**  
 4 **MS. ADAMS:**  
 5 Q. And my quick question is, you said it's  
 6 near your foundation, it's just over 1500 feet. How  
 7 close is your nearest neighbor?  
 8 **A. Oh, gee whiz, let me think. Nearest**  
 9 **neighbor would be at least three-quarters of a mile**  
 10 **away.**  
 11 Q. Would you have made the decision to put  
 12 the turbine on your property all the way on the edge  
 13 only 1500 feet from your neighbor's house?  
 14 **A. The rules are they have to be 1500 feet**  
 15 **away from any occupant.**  
 16 Q. I understand that, but what I'm saying is,  
 17 you're saying that yours are closer to your house  
 18 than your neighbor.  
 19 **A. Oh, yes.**  
 20 Q. Okay. Not everyone is in the same  
 21 situation. Some people might have 500 acres, their  
 22 house might be all the way to the east, and some are  
 23 choosing or having their turbines all the way on the  
 24 west edge knowing their neighbor's house is right

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1 there. As a good neighbor, would you have chosen to  
 2 have a turbine 500 acres away from your house but  
 3 still on your property but on the edge so that it  
 4 would affect your neighbor?  
 5 **A. Well, as a landowner or host of it, you**  
 6 **don't really -- I don't determine where it's going**  
 7 **to be. It's determined by the Invenergy how far**  
 8 **away from any -- it has to be 1500 feet away from**  
 9 **any house.**  
 10 Q. Okay, so they determine that, Invenergy?  
 11 **A. They determine that.**  
 12 Q. If you would have --  
 13 **A. Well, they not only determine that, it's**  
 14 **the zoning board rules. That's --**  
 15 Q. No, I interrupted you. I mean as far as  
 16 on your property, if you would have been given the  
 17 choice, would you have done that to your neighbor  
 18 and put it just over 1500 feet from their house?  
 19 **MS. WALLEY:** Ms. Adams, you're allowed to  
 20 cross-examine the witness about things that he  
 21 testified to.  
 22 **MS. ADAMS:** Okay, well, he was just saying  
 23 about 1500, so I was saying like -- he had said  
 24 about, I guess, the heritage factor of the property

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1 and handing it down and being neighborly and all  
 2 this. I just wanted to verify that he is getting  
 3 the money from the turbine that's near his house --  
 4 **MS. WALLEY:** Right.  
 5 **MS. ADAMS:** -- but if it was fair to put  
 6 it next to somebody else as long as he's getting the  
 7 money.  
 8 **MS. WALLEY:** Well, and I think he  
 9 testified to all that. If you would like to offer  
 10 an opinion about that, about the placement of the  
 11 turbines when it's your opportunity, you're more  
 12 than welcome to do so.  
 13 **MS. ADAMS:** Okay, that's fine.  
 14 **MS. WALLEY:** Okay?  
 15 **CHAIRMAN FINNIGAN:** Any other questions?  
 16 Come forward.  
 17 **MR. JANES:** My name is Matt Janes, 209  
 18 West Willow, Normal.  
 19 **MS. WALLEY:** Can you spell your last name?  
 20 **MR. JANES:** J-A-N as in November E-S.  
 21 Like you, I served my country, and to your point,  
 22 every man is his land, correct?  
 23 **MR. BERTSCHE:** Correct.  
 24 **MR. JANES:** So the questions that everyone

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1 else was asking you were pertaining to your  
 2 business.  
 3 **MR. BERTSCHE:** Correct.  
 4 **MR. JANES:** So would you say that to  
 5 better your business and to better your livelihood,  
 6 this is going to help?  
 7 **MR. BERTSCHE:** Oh, definitely.  
 8 **MR. JANES:** Because the purpose of a  
 9 business is to maximize profits and pay taxes,  
 10 correct?  
 11 **MR. BERTSCHE:** Correct.  
 12 **MR. JANES:** And this will only help your  
 13 business and your livelihood.  
 14 **MR. BERTSCHE:** Correct.  
 15 **MR. JANES:** I have no further questions.  
 16 **CHAIRMAN FINNIGAN:** Push that button  
 17 before you leave, would you? Thank you. Ted, hang  
 18 on just a second. I guess go ahead.  
 19 **MR. HARTKE:** My name is Ted Hartke,  
 20 H-A-R-T-K-E. My address 117 South East Avenue,  
 21 Ogden, Illinois, 61859.  
 22 **MR. GRIFFIN:** Before Mr. Hartke starts,  
 23 I'm going to object to him asking any  
 24 cross-examination questions. He's got no standing

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1 to be here in these proceedings, he doesn't live in  
 2 the county, and this is just not an open forum for  
 3 people that live in the state of Illinois to stop by  
 4 and ask questions. So he has no standing to ask  
 5 questions. I ask that he, unless he can establish  
 6 some standing, that he not be permitted to ask  
 7 questions. Thank you.  
 8 **MS. WALLEY:** Just a minute.  
 9 **CHAIRMAN FINNIGAN:** As long as you are  
 10 just going to ask questions, we're going to let you  
 11 do that. Just questions, okay?  
 12 **MR. HARTKE:** Okay, sure.  
 13 **QUESTIONS BY**  
 14 **MR. HARTKE:**  
 15 Q. I'm sorry, I didn't catch what your name  
 16 was.  
 17 **A. Joe.**  
 18 Q. Joe. First off, Joe, thank you for your  
 19 service for our country. And can you tell us where  
 20 you were when you saw the woman come out of her hut?  
 21 Was that in Vietnam?  
 22 **A. It was in Korea.**  
 23 Q. It was in Korea. When you went and served  
 24 our country, did you go there to help us preserve

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1 our rights as Americans, for an American cause for  
 2 our citizens here?  
 3 **A. I was drafted and I was sworn in, I**  
 4 **stepped forward.**  
 5 Q. Thank you.  
 6 **A. Yes, I did.**  
 7 Q. When you did your work there for us on our  
 8 behalf, did you feel -- you felt a duty to your  
 9 country to do that; is that right?  
 10 **A. I was drafted. We don't have that**  
 11 **anymore, sir.**  
 12 Q. When you said that we need to appreciate  
 13 what we have here and that we're very spoiled, do  
 14 you think that all of the neighbors who are near  
 15 wind turbines who are not paid, who are not part of  
 16 the project, do you think that it is fair for them  
 17 to lose the use of their home if the wind turbines  
 18 turn out to be noisier than what Invenergy says they  
 19 are?  
 20 **A. The trouble is now we have -- if you move**  
 21 **to the country, if you live within seven or eight**  
 22 **miles of a high line or a trans whatever you call it**  
 23 **line, there are pretty good chances you're going to**  
 24 **get -- you know, or somebody is going to try to**

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1 **figure out how to put a wind farm there, and I think**  
 2 **it's the coming thing. If you move out to the**  
 3 **country, you've got to take the bitter with the**  
 4 **sweet. Who's to say that somebody's not going to**  
 5 **put a pasture hog farm right across the road from**  
 6 **you. And I've been there, done that, and it doesn't**  
 7 **smell good, and it's 365 days a year hog confinement**  
 8 **setups. You take that chance.**  
 9 **As a young man or boy growing up, I lived**  
 10 **in a house that was 150 feet away from a cattle lot**  
 11 **and your eyes burned when you stepped onto the**  
 12 **place. You take that chance when you move out to**  
 13 **the country. It's all not sweet smelling and roses**  
 14 **out there. You take the bitter with the sweet and**  
 15 **you have to accept what can happen out there. High**  
 16 **line can come through, a transmission line can come**  
 17 **through, a windmill farm can come through. You take**  
 18 **your chances.**  
 19 Q. I understand. If the wind turbine is  
 20 constructed and a family is severely sleep deprived  
 21 and they lose the use of their home --  
 22 **MS. WALLEY:** Mr. Hartke.  
 23 Q. -- is that part of taking the good with  
 24 the bad?

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1           **MS. WALLEY:** Mr. Hartke, you have to limit  
 2 your questions to what he testified to. He did not  
 3 -- hold on, he did not testify to anything about  
 4 what would happen to anyone else. He testified to  
 5 what was happening on his land, okay?  
 6           **MR. HARTKE:** Sure, that's fair enough. I  
 7 don't think I have any more questions, though that  
 8 would be an interesting thing for you to tell us  
 9 what your feeling about that was.  
 10           **AUDIENCE VOICE:** Questions not comments.  
 11           **CHAIRMAN FINNIGAN:** Thank you. I'm  
 12 working on this. Any more questions? Anyone else  
 13 in the audience have questions? Come forward. You  
 14 didn't know you signed up for all this, did you?  
 15           **MR. BERTSCHE:** No. Like I said, I was  
 16 drafted.  
 17           **CHAIRMAN FINNIGAN:** Would you state your  
 18 name and address for the record?  
 19           **MR. WORTHLEY:** Ryan Worthley.  
 20           **CHAIRMAN FINNIGAN:** Better spell your last  
 21 name too.  
 22           **MR. WORTHLEY:** Ryan Worthley,  
 23 W-O-R-T-H-L-E-Y, 319 South Bell Avenue. Are you  
 24 sick of hearing from Ted Hartke?

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1           **MR. LUETKEHANS:** Objection.  
 2           **CHAIRMAN FINNIGAN:** You don't ask that  
 3 question. If that's the way it's going to go, we're  
 4 not --  
 5           **MR. WORTHLEY:** All right, no more  
 6 questions.  
 7           **CHAIRMAN FINNIGAN:** Any other questions?  
 8           **MR. GLACINSKI:** I have a procedural  
 9 question.  
 10           **CHAIRMAN FINNIGAN:** You got to come  
 11 forward.  
 12           **MR. GLACINSKI:** Just need a procedural  
 13 clarification about the process.  
 14           **CHAIRMAN FINNIGAN:** We've got to have --  
 15 it's going to be on the record, so you've got to  
 16 speak into the microphone.  
 17           **MR. GLACINSKI:** Thank you. I was drafted  
 18 too. A procedural question.  
 19           **CHAIRMAN FINNIGAN:** I think we still need  
 20 your name and address.  
 21           **MR. GLACINSKI:** Oh, I'm sorry, my name is  
 22 David Glacinski, live at 132 Hilton Drive in  
 23 Lexington, Illinois.  
 24           **CHAIRMAN FINNIGAN:** We're going to have to

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1 get you to spell that last name.  
 2           **MR. GLACINSKI:** Just like it sounds.  
 3           **CHAIRMAN FINNIGAN:** I can't spell anyways.  
 4           **MR. GLACINSKI:** G-L-A-C-I-N-S-K-I. My  
 5 wife and I live at 132 Hilton Drive, Lexington,  
 6 Illinois.  
 7           **CHAIRMAN FINNIGAN:** Okay. After all that  
 8 now, you can ask your question.  
 9           **MR. GLACINSKI:** You think my name is bad,  
 10 you should hear my friends' names. I just have a  
 11 procedural question. On page 3 of your handout,  
 12 third from the bottom, it says friendly  
 13 cross-examination is not permitted. Okay, aren't we  
 14 kind of grilling this guy here?  
 15           **MS. WALLEY:** Yes, friendly  
 16 cross-examination, another word for that is  
 17 bolstering. So what friendly cross-examination  
 18 refers to is let's say I agree with Mr. Bertsche and  
 19 I asked him questions to further along what he had  
 20 to say. That's referred to as friendly  
 21 cross-examination. That's not what we want. We  
 22 want people to be able to cross-examine and ask  
 23 questions to challenge the testimony of any  
 24 individual. So friendly cross-examination is kind

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1 of meant to further statements, which you can do  
 2 that but not during cross-examination. You do it  
 3 during your own testimony period. Does that make  
 4 sense?  
 5           **MR. GLACINSKI:** I suppose if you're a  
 6 lawyer it does, okay, which I'm not. Okay, I just  
 7 kind of feel like he's trying to make his position  
 8 known and he's being grilled from all kinds of  
 9 people. It doesn't quite seem fair.  
 10           **MS. WALLEY:** And that's -- well, and I can  
 11 tell you that's part of our open hearing, that's  
 12 part of due process, is everyone has an opportunity  
 13 to speak, but everyone also has an opportunity to  
 14 challenge that and to ask questions and to make sure  
 15 that the board has the most accurate, truthful,  
 16 honest information before them before they make a  
 17 decision, okay?  
 18           **MR. GLACINSKI:** Thank you.  
 19           **CHAIRMAN FINNIGAN:** Any other questions?  
 20 All right, I think you're off the hook.  
 21           **MR. BERTSCHE:** Okay, thank you for letting  
 22 me speak to you.  
 23           **CHAIRMAN FINNIGAN:** Thank you for coming  
 24 up, thank you for your patience.

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1 **MR. DICK:** Mr. Hartke, are you ready?  
 2 **MR. HARTKE:** If our computer is ready, I'm  
 3 ready. I have a full copy of my presentation here  
 4 and I have some special select pages that are more  
 5 important as a handout to distribute.  
 6 **MS. WALLEY:** Hold on just a second. Can  
 7 you sit down and put the microphone on?  
 8 **CHAIRMAN FINNIGAN:** I think we're going to  
 9 have you -- we're going to swear you in, if that's  
 10 okay.  
 11 **MR. HARTKE:** Okay.  
 12 (Mr. Theodore Hartke was duly sworn.)  
 13 **CHAIRMAN FINNIGAN:** You've got to state  
 14 your name and address for the record.  
 15 **MR. HARTKE:** My name is Theodore Philip  
 16 Hartke. Address is 117 South East Avenue, Ogden,  
 17 Illinois, 61859.  
 18 **CHAIRMAN FINNIGAN:** Now she can talk.  
 19 **MS. WALLEY:** All right. Mr. Hartke, I  
 20 know you said you have a couple of exhibits. My  
 21 understanding is that you want to be qualified as an  
 22 expert; is that correct?  
 23 **MR. HARTKE:** Yes.  
 24 **MS. WALLEY:** Okay, I am going to ask you a

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1 series of questions and then it is ultimately up to  
 2 Chairman Finnigan whether or not you're qualified  
 3 and all that means is with regard to how long you're  
 4 allowed to speak and --  
 5 **MR. HARTKE:** I understand.  
 6 **MS. WALLEY:** -- that sort of thing, okay?  
 7 And then we can get to your -- once that  
 8 determination is made, we can get your handouts if  
 9 that's all right.  
 10 **MR. HARTKE:** Okay.  
 11 **MS. WALLEY:** All right, you stated your  
 12 name.  
 13 **QUESTIONS BY**  
 14 **MS. WALLEY:**  
 15 Q. Can you tell me where you work?  
 16 **A. I'm the president of Hartke Engineering**  
 17 **and Surveying Incorporated.**  
 18 Q. And how long have you held that position?  
 19 **A. I started my business in 2011.**  
 20 Q. Okay. And what are your duties at that  
 21 place of employment?  
 22 **A. I'm the president and I oversee all of the**  
 23 **construction layout, boundary surveying, engineering**  
 24 **projects for all of my staff.**

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1 Q. Okay. How many people work for you?  
 2 **A. I have nine employees.**  
 3 Q. Full-time or part-time?  
 4 **A. All full-time.**  
 5 Q. All right. Where did you attend school,  
 6 Mr. Hartke?  
 7 **A. I attended Southern Illinois University at**  
 8 **Carbondale.**  
 9 Q. And what's your highest degree of  
 10 education?  
 11 **A. I have a bachelor's of science in civil**  
 12 **engineering with land surveying specializations.**  
 13 Q. And when did you obtain that?  
 14 **A. I graduated in May of 1999.**  
 15 Q. Have you given any lectures in that  
 16 capacity?  
 17 **A. Yes.**  
 18 Q. How many?  
 19 **A. Probably half a dozen.**  
 20 Q. Okay. And I'm differentiating between  
 21 testimony. Lecturing --  
 22 **A. I would -- lecturing as in class**  
 23 **lecturing?**  
 24 Q. A forum, a -- any sort of conference, that

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1 sort of thing.  
 2 **A. Okay, I have given presentation at the**  
 3 **Illinois Land Surveyors Association conference.**  
 4 Q. Okay. So would that be your sole lecture?  
 5 **A. Yes.**  
 6 Q. Okay, and when was that?  
 7 **A. I think that that was in the beginning of**  
 8 **2013, February 2013.**  
 9 Q. Are you a member of any professional  
 10 associations?  
 11 **A. Yes. I'm a member of the Illinois Society**  
 12 **of Professional Engineers, the Illinois Land**  
 13 **Surveyors Association, American Congress of**  
 14 **Surveying and Mapping, Indiana Land Surveyors --**  
 15 **Indiana Land Surveyors Association. Those are the**  
 16 **major ones. I have some other minor ones, but they**  
 17 **are insignificant.**  
 18 Q. Okay. And how long have you been a part  
 19 of these professional associations?  
 20 **A. Approximately 20 years for longest, for**  
 21 **the longest one of them.**  
 22 Q. Okay, so since you graduated?  
 23 **A. Even before I graduated.**  
 24 Q. Okay. All right, have you received any

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1 honors or awards in your field?  
 2 **A. I got the 2012 Young Surveyor of the Year**  
 3 **Award from the Illinois Professional Land Surveyors**  
 4 **Association. I -- I served on their board of**  
 5 **directors and went all the way through the ranks.**  
 6 **I'm also a past -- I'm past president of the**  
 7 **Illinois Surveyors Association.**  
 8 Q. Okay. And just so I understand, your  
 9 company is a surveying company, correct?  
 10 **A. It's an engineering and surveying company.**  
 11 Q. Okay. And that would be as a civil  
 12 engineer, correct?  
 13 **A. I'm a civil engineer and licensed surveyor**  
 14 **both.**  
 15 Q. Okay.  
 16 **A. For -- if it matters any, for a while I**  
 17 **also had an engineering license in the state of**  
 18 **Georgia.**  
 19 Q. Okay.  
 20 **A. But it was only for one project.**  
 21 Q. Okay. And you do not currently maintain  
 22 that?  
 23 **A. I do not maintain my Georgia license.**  
 24 Q. Okay. And do you specialize in any

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1 particular field?  
 2 **A. We do a lot of construction layout for**  
 3 **building structures and bridges and roadwork. We do**  
 4 **land development such as subdivisions, strip malls,**  
 5 **a Taco Bell or two. I didn't -- I wasn't prepared**  
 6 **for this kind of interview, but we do a lot of land**  
 7 **development construction type work and also boundary**  
 8 **surveys.**  
 9 Q. Okay. What specific training have you had  
 10 in the area of your specialty?  
 11 **A. In my specialty, which would be surveying,**  
 12 **I have 27 hours of undergraduate work that was**  
 13 **required to get my surveyor's license.**  
 14 Q. Anything more recent than your  
 15 undergraduate work?  
 16 **A. No, besides continuing education for**  
 17 **license maintenance, that's all.**  
 18 Q. Okay. Do you have any publications or  
 19 research?  
 20 **A. No.**  
 21 Q. And you indicated that you have a license,  
 22 you're a licensed surveyor and you are a licensed  
 23 civil engineer?  
 24 **A. Yes.**

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1 Q. Do you hold any additional licensing?  
 2 **A. With my engineering firm, my company also**  
 3 **holds an Illinois professional design firm**  
 4 **registration.**  
 5 Q. You have to tell me what that is.  
 6 **A. A design firm registration is if you**  
 7 **incorporate your company, you need to have a design**  
 8 **firm registration. If you are not incorporated and**  
 9 **you're a sole provider, you do not need to get your**  
 10 **company registered as a licensed design firm.**  
 11 Q. Okay, so this design firm registration has  
 12 to do with the makeup of your company.  
 13 **A. Yes.**  
 14 Q. Understand. Do you have any board  
 15 certifications?  
 16 **A. No.**  
 17 Q. Please list your previous places of  
 18 employment including each position.  
 19 **A. My most recent employment was at Foth**  
 20 **Infrastructure and Environment, LLC. That was in**  
 21 **Champaign, Illinois. My position there was lead**  
 22 **surveyor. Before that, it was --**  
 23 Q. When did you leave Foth?  
 24 **A. I quit my job at Foth in April of 2011.**

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1 Q. Okay, go ahead.  
 2 **A. Prior to Foth, that company was called**  
 3 **Daily and Associates Engineers, and for them, that**  
 4 **was pretty much my first job out of college, my**  
 5 **first long time job out of college, and for them, I**  
 6 **went from survey technician all the way up to**  
 7 **licensed land surveyor in those five years. I was**  
 8 **one of the 85 shareholders of Daily and Associates**  
 9 **before they sold out to Foth Engineering.**  
 10 Q. So you just said six years, so if I'm  
 11 doing my math right, it's from 2011 to 2005.  
 12 **A. 2005 to 2011, that would cover the time**  
 13 **period when I worked at Foth, and from 2000 until**  
 14 **2005, that's the time period I would have been at**  
 15 **Daily and Associates Engineers.**  
 16 Q. Okay.  
 17 **A. Prior to that, I worked in Marion,**  
 18 **Illinois, at a company called Clarida Engineering**  
 19 **Company. I worked there --**  
 20 Q. Can you spell that for me?  
 21 **A. Clarida is spelled C-L-A-R-I-D-A.**  
 22 Q. And what was the time period that you  
 23 worked there?  
 24 **A. I started there in probably 1998 and moved**

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1 **to Champaign in 2000, so from 1998 to 2000.**  
 2 Q. Okay, and I interrupted you, what did you  
 3 do at Clarida?  
 4 **A. I was a staff surveyor.**  
 5 Q. What type of scientific or technical  
 6 studies have you conducted?  
 7 **A. None.**  
 8 Q. Has your work been peer reviewed?  
 9 **A. Our -- as a surveyor, our work is always**  
 10 **peer reviewed since it's -- we present our surveys**  
 11 **and plats to zoning boards and things of that**  
 12 **nature, so --**  
 13 Q. I'm sorry, let me clarify. Have any  
 14 studies you would have conducted been peer reviewed?  
 15 **A. I have not done studies.**  
 16 Q. Okay, so that's a no. Did you prepare a  
 17 report for this case?  
 18 **A. I, I prepared -- I suppose you could**  
 19 **qualify this as a report.**  
 20 Q. Okay, so you have your PowerPoint  
 21 presentation?  
 22 **A. I prepared a specific presentation**  
 23 **specific to this project.**  
 24 Q. Okay. Explain the materials that you

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1 reviewed, and not necessarily content but the  
 2 materials that you reviewed in creating that.  
 3 **A. I reviewed my correspondence with**  
 4 **Invenergy, my interactions/correspondence with**  
 5 **acousticians.**  
 6 Q. With what, I'm sorry?  
 7 **A. Acousticians, noise engineers.**  
 8 Q. Okay.  
 9 **A. I went through all of my wife and I's**  
 10 **notes from when we were having issues with the wind**  
 11 **farm.**  
 12 Q. Okay.  
 13 **A. It's a rather -- we could be here a long**  
 14 **time talking about what I have put together to**  
 15 **compile something to get it done in a short time**  
 16 **frame.**  
 17 Q. And I understand and I'm not trying to  
 18 delay your testimony. I just want to make sure that  
 19 if you want to be qualified as an expert, I want to  
 20 make sure the proper foundation has been laid.  
 21 **A. I understand.**  
 22 Q. Okay. So let me make sure I understand  
 23 what you've told me. That the materials you  
 24 reviewed in creating your PowerPoint presentation

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1 were correspondence and personal notes; is that  
 2 correct?  
 3 **A. I also reviewed some of Invenergy's**  
 4 **previous testimonies at my county board, audio and**  
 5 **video. I could provide a reference to each item**  
 6 **that I have in my presentation if you want that**  
 7 **level of detail.**  
 8 Q. More than what you provided?  
 9 **A. I did not include reference material with**  
 10 **my -- with each slide.**  
 11 Q. Well, and I guess that's what I'm asking.  
 12 Did you consult periodicals, did you consult any  
 13 journals, did you speak with any acousticians or are  
 14 you relying on paper documents that were in your  
 15 possession? That's all I'm trying to discern.  
 16 **A. 99.9 percent of all this information has**  
 17 **to do with what happened to me and my family**  
 18 **personally on the wind farm.**  
 19 Q. And I understand that. Like I said, I'm  
 20 not trying to get into the content, I'm just trying  
 21 to get to what you rely on, so -- and I guess what  
 22 I'm trying to explain is did you rely on Wikipedia,  
 23 did you rely on --  
 24 **A. No.**

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1 Q. Well, and I'm just saying did you rely on  
 2 internet sources, personal experience, that sort of  
 3 thing?  
 4 **A. I believe that everything in my packet is**  
 5 **all things that pertain to my personal family**  
 6 **information or items that have been directly**  
 7 **corresponding -- correspondence between my family,**  
 8 **acousticians, my county board and items that have**  
 9 **been sent to me directly.**  
 10 Q. Okay.  
 11 **A. I don't think I have anything here that**  
 12 **would pop out as internet science or --**  
 13 Q. And I'm not accusing you of that. I'm  
 14 just trying to make sure I understand what you  
 15 relied upon.  
 16 **A. Okay.**  
 17 Q. After you completed your report, did you  
 18 arrive at a particular conclusion?  
 19 **A. We've done -- we have submitted summaries**  
 20 **of what happened to my family as a conclusion in a**  
 21 **two or three page document in the past for testimony**  
 22 **to submit to ZBAs or to court cases.**  
 23 Q. Okay. So you believe that you have a  
 24 conclusion to provide, an expert conclusion to

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1 provide to the board today?  
 2 **A. Oh, I definitely do.**  
 3 Q. Okay. Describe the scientific or  
 4 technical principles or methods that you used to  
 5 come to this conclusion.  
 6 **A. My conclusion is based upon us living in a**  
 7 **home immediately near wind turbines.**  
 8 Q. Okay, and I don't -- I don't want to get  
 9 into the content of it. Like I said, you'll have  
 10 every opportunity to describe in great detail what  
 11 you want to present. I'm asking about scientific or  
 12 technical principles. So --  
 13 **A. No.**  
 14 Q. Okay, so no raw data or anything of that  
 15 nature.  
 16 **A. If you include my text messages to a wind**  
 17 **company asking permission to sleep in my home,**  
 18 **that's data, but we don't have any -- I'm not**  
 19 **presenting any noise level data or --**  
 20 Q. Okay. So would it be fair to say that  
 21 there were not -- although there is narratives on  
 22 personal information, there's not necessarily  
 23 scientific or technical principles that were  
 24 employed?

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1 **A. That would be fair to say.**  
 2 Q. Okay. Do you believe that your testimony  
 3 will be helpful in assisting the board in  
 4 understanding the facts of this case?  
 5 **A. Yes.**  
 6 Q. Okay. What specifically are you asking to  
 7 be determined an expert in?  
 8 **A. I specifically would like to be considered**  
 9 **as an expert for a proper setback between a wind**  
 10 **turbine and a nonparticipating homeowner**  
 11 **specifically.**  
 12 Q. Is there anything that I have asked you or  
 13 I have not asked you that you would like the board  
 14 to consider with regard only to whether or not you  
 15 are to be considered an expert?  
 16 **A. Yes, there is one thing. I would hope**  
 17 **that this board would consider me as an expert**  
 18 **because of my firsthand experience living near wind**  
 19 **turbines with my family in a home in a wind farm.**  
 20 Q. Well, okay.  
 21 **A. That's -- that's my expertise. I have a**  
 22 **very unique situation which I can go into.**  
 23 Q. I understand and I know that you intend  
 24 to, but is that all that you would like them to

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1 consider --  
 2 **A. Yes, yes.**  
 3 Q. -- in addition?  
 4 **A. I think that's fair. That's the main**  
 5 **thing.**  
 6 **CHAIRMAN FINNIGAN:** I don't know if this  
 7 will make you happy or not, but I think what our  
 8 opinion is is that you are an expert in your field  
 9 in surveying and maybe engineering, but probably not  
 10 in what you're testifying to. That's our opinion.  
 11 So I think we're going to limit it to ten minutes.  
 12 **MR. HARTKE:** For the record, I would like  
 13 to say that you may not find anyone else in my  
 14 predicament that I was put in, and if you limit my  
 15 testimony, I believe that you are shortchanging the  
 16 rights of citizens to be heard, to appeal to this  
 17 board to get all of the information, and I would  
 18 like that on the record.  
 19 **MS. WALLEY:** Mr. Hartke, your ten minutes  
 20 is going to start in just a moment. Before we do  
 21 that, I know you said that you had some exhibits.  
 22 Do you want those handed out now?  
 23 **MR. HARTKE:** Yeah, you can just take one.  
 24 They're stapled together. Just grab one and send it

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1 down the line.  
 2 **MS. WALLEY:** Do you want to be marked as a  
 3 neutral witness, an opponent or a proponent?  
 4 **MR. HARTKE:** I think you better mark me  
 5 down as an opponent.  
 6 **MS. WALLEY:** An objector?  
 7 **MR. HARTKE:** I'm objecting to the project.  
 8 **MS. WALLEY:** Okay. So can we call that  
 9 Objectors Exhibit 1?  
 10 **MR. DICK:** Did we have one of these  
 11 submitted to us?  
 12 **MR. HARTKE:** This is the full submittal.  
 13 It's 46 pages.  
 14 **MS. WALLEY:** We'll just take a copy of  
 15 what you provided to the board. That way it can  
 16 become part of the record.  
 17 **MR. HARTKE:** Their pieces are not the  
 18 entire packet.  
 19 **MS. WALLEY:** Okay, that's fine.  
 20 **MR. HARTKE:** This is every single slide.  
 21 **MS. WALLEY:** You can email it after the  
 22 fact if you like.  
 23 **MR. HARTKE:** Of course.  
 24 **MS. WALLEY:** If you want to go ahead, but

1 you need to indicate to Mr. Mitchell --  
 2 **MR. HARTKE:** Can I have a clicker?  
 3 **MS. WALLEY:** Do you have one?  
 4 **MR. HARTKE:** Sorry I didn't ask for that  
 5 earlier.  
 6 **MS. WALLEY:** That's all right.  
 7 **MR. HARTKE:** Didn't think about that.  
 8 **MS. WALLEY:** All right, go ahead, Mr.  
 9 Hartke, as soon as you get back to your microphone.  
 10 **MR. HARTKE:** Good evening. Thank you for  
 11 all the hard work you're doing to help understand  
 12 this situation. I think we pretty much covered all  
 13 this in this slide here. This is my family in 2012.  
 14 That's me -- or my daughter Sophia, that's me and my  
 15 wife Jess and that's my son Philip.  
 16 To start out with, I'm going to ask a  
 17 question here and we're going to talk about this.  
 18 Is it fair to compare the existing McLean County  
 19 wind turbines to the proposed turbines and have you  
 20 spoken with anyone who's lived nearby a 500-foot  
 21 tall turbine?  
 22 So in Twin Groves, I think these are the  
 23 biggest wind turbines in your county, these are  
 24 400-foot tall to the tips of the blades and they

1 then the third closest 3,147 feet away. These wind  
 2 turbines caused us severe sleep deprivation and they  
 3 caused us to leave our home.  
 4 This is the view from our front yard.  
 5 Right here, this is the corner of the sidewalk, the  
 6 view to my bedroom window. That closest wind  
 7 turbine that you see there is 2,225 feet away. And  
 8 the fourth closest turbine from my house is there in  
 9 the distance and that's 3,454 feet away.  
 10 On January 22nd, 2013, almost to the day  
 11 here we're right at five years, at 1:22 in the  
 12 morning I wrote an email to a gentleman named Marlin  
 13 who's Invenergy's construction manager and stated  
 14 "The turbines are unbearable tonight, we need to  
 15 talk, I've been awake for 45 minutes praying for the  
 16 wind direction to change to quiet the machine  
 17 noise."  
 18 This is a picture of my daughter Sophia in  
 19 July of 2013. This is eleven o'clock at night, we  
 20 could hear wind turbines inside of our house and she  
 21 was not sleeping, and I went to her room to get her  
 22 to settle down and tell her that we were working on  
 23 the problem. And she said that she had an idea.  
 24 She ran to her toy box and she pulled out these

1 have about a one acre sweep area. My wife and I  
 2 visited this wind farm before the turbines were  
 3 built next to our home. We parked in the driveway,  
 4 we were there for 20 minutes, and I told my wife,  
 5 see, we have nothing to worry about, and we were  
 6 supportive of the project that came to our house.  
 7 This is a picture of a 495-foot tall wind  
 8 turbine. This is my house in Vermilion County.  
 9 This turbine is 1,665 feet away from and behind my  
 10 house. The turbines in my county are 495 feet tall  
 11 to the tips of the blades and that's a two acre  
 12 blade sweep area and that's twice as big as your  
 13 current biggest wind turbine sweep area in your  
 14 county.  
 15 Go the right way. The third nearest wind  
 16 turbine near our home, that's what it looks like  
 17 3,147 feet away. So here's a close-up of my house.  
 18 My dog lives in the garage, my son Philip's bedroom,  
 19 my daughter's bedroom, and my wife and I's bedroom  
 20 below hers. And behind our house at this angle,  
 21 that's the closest wind turbine. It's 1,665 feet  
 22 away. This is a look from our backyard. You can  
 23 see our playground here. That's what Invenergy's  
 24 closest wind turbine looks like 1,665 feet away and

1 headphones, these are Hello Kitty headphones, and  
 2 she asked me if she could wear these to bed so she  
 3 could sleep. It didn't work very good, but I think  
 4 it made her feel better.  
 5 And the next time Invenergy is up here  
 6 with their acousticians or selling you guys a wind  
 7 project, I want this board to ask them the question  
 8 from my daughter: Ask them if they're going to  
 9 provide headphones for all the kids to be able to  
 10 sleep in their own beds at night.  
 11 This is her bedroom window and that's the  
 12 wind turbine about 1700 feet away from her window,  
 13 and as that thing turns, it fills up her entire  
 14 window.  
 15 These are the beds in our living room. In  
 16 the fall of 2013, I kept finding my kids out in the  
 17 living room and they moved to the couch and the  
 18 sofa. And I went out there one night and it was  
 19 quieter in the living room, so we drug -- my wife  
 20 and I took our mattress, we put it on the floor, and  
 21 for the rest of that week we slept on our floor on a  
 22 mattress and the kids on the couch and recliner, but  
 23 then the weekend, we went up to the bedrooms, broke  
 24 down all the beds, carried them downstairs, and this

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1 is how we lived in our house the last about two and  
 2 a half months. And I would have people over and  
 3 they would walk in our house and they would say,  
 4 what in the hell is going on here? And we have  
 5 no -- we have a house with no beds in the bedrooms.  
 6 And in the past I've testified that this living  
 7 situation is very hard on a marriage.

8 Here's a wind turbine distance map. It's  
 9 in your handout. It just shows the orientation of  
 10 these turbines, how far away they are from my house.  
 11 If I was to choose, I would choose to have this  
 12 turbine that's 2,225 feet away, I would choose that  
 13 to be the one that is tore down because we were  
 14 downwind, and I think most of the rumbling and  
 15 thumping noise we had in our house was from us being  
 16 downwind of that wind turbine.

17 There were two nights when Invenergy shut  
 18 down all four of these wind turbines so we could  
 19 sleep. On 51 nights they either shut off one or two  
 20 or three, and on two nights all four of these were  
 21 shut down. I want you to look at these distances.  
 22 If I had to have a turbine shut down 3,454 feet from  
 23 my home, that's a really long way to just be able to  
 24 sleep in my house. I think that that was a severe

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1 encroachment. The reason why this was happening I  
 2 believe is that these -- the wind turbines next to  
 3 my home are the largest ones ever to be built in all  
 4 of Illinois and Indiana, and that's what they're  
 5 planning for your community.

6 For us, it was only about the noise. You  
 7 know, noise is three-dimensional. We talked about  
 8 there's the frequency of it. In our case we had  
 9 thumping and rumbling noise is what kept us awake.  
 10 We have the magnitude. You know, these things  
 11 aren't awfully loud. The problem is that you're  
 12 never free of the noise duration. It was coming and  
 13 going and it seemed like it was always there and we  
 14 could never get used to it and that's what caused us  
 15 to be sleep deprived is because it was off and on  
 16 all the time.

17 Steve Ambrose wrote me a letter once and  
 18 he was instructing me that, you know, as soon as you  
 19 get above 45 dBA there's widespread complaints. And  
 20 this is a chart that I added to his information  
 21 here. I want to give credit to Steve Ambrose who  
 22 creates this chart. All these black dots are the  
 23 1970s EPA study stuff and you can see that the  
 24 widespread complaints start at 33 and a half dBA.

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1 And at my house, the noise measurement was at 45  
 2 dBA. And that's just up here off the charts where  
 3 it says stop -- strong appeals to stop the noise.

4 In the application when Invenergy applied  
 5 for the project, they said the loudest predicted  
 6 turbine is at 45 dBA. I think they said something  
 7 similar to here. Oh, this button stuck. Let me  
 8 back this up. They said the loudest turbine was  
 9 going to be 45, and then it says the majority of  
 10 locations are going to experience less than 40.  
 11 Less than 40, this level is sufficiently low to  
 12 minimize or eliminate the potential for sleep  
 13 interference. I gave you guys this page because  
 14 this is from Invenergy's California Ridge wind  
 15 energy project and this is Invenergy's engineer who  
 16 says less than 40 will protect sleep, and this  
 17 county's application is way above 40.

18 I'm going to skip through some of these  
 19 for the sake of time. Invenergy also hired an  
 20 acoustician named Paul Schomer. He says keep it  
 21 below 39 decibels. Dr. Schomer did the noise study  
 22 at my house with Michael Hankard who is your -- who  
 23 is Invenergy's expert in this county.

24 In Livingston County, Invenergy's project

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1 had an acoustician come in and they said it was only  
 2 going to -- it was going to be safe up to 3,250 feet  
 3 from turbines, and there was still two houses  
 4 unprotected. And this is what -- I know I'm getting  
 5 low on time. I'll skip through some of this  
 6 information here.

7 And I want to point out that when  
 8 Invenergy came to my county in Vermilion County, we  
 9 have them on the record lying to my county board. I  
 10 feel as though that they are probably lying to you.  
 11 I want you to hold them accountable. If there are  
 12 any -- and sign one little piece of paper and it's  
 13 going to say this. This is my last sentence. I  
 14 want you to have Invenergy sign a piece of paper  
 15 that says our wind turbines will not cause children  
 16 to be sleep deprived or have sleep disturbance  
 17 inside the homes of their parents' houses, and if it  
 18 does, Invenergy will purchase their house.

19 They tried to keep us quiet for a long  
 20 time by turning off turbines so we could sleep. I  
 21 -- when my wife and I went public, they quit doing  
 22 that and we lost the use of our home even though we  
 23 asked permission to be able to stay and use our home  
 24 for its intended purpose.

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1       **MS. WALLEY:** Your time is up.  
 2       **MR. HARTKE:** Thank you for your patience  
 3 and extra 30 seconds, I appreciate it.  
 4       **MS. WALLEY:** That's all right.  
 5       **CHAIRMAN FINNIGAN:** Questions from the  
 6 board?  
 7       **MR. BANGERT:** So -- and I didn't get this  
 8 clarified in your discussion. You do not live in  
 9 the house any longer, is that my understanding?  
 10       **MR. HARTKE:** For the sake of time, I  
 11 didn't have enough time to talk about that. My wife  
 12 and I abandoned our home in December of 2013, just a  
 13 few days before Christmas of 2013.  
 14       **MR. BANGERT:** Okay, elaborate on  
 15 abandoned.  
 16       **MR. HARTKE:** Okay. We packed up our beds  
 17 and clothing and stuff, we left our home, and we  
 18 moved into a double wide trailer eight miles away as  
 19 a temporary solution so our children could continue  
 20 going to the same school.  
 21       **MR. BANGERT:** So is your house on the  
 22 market or what are you doing with the house now?  
 23       **MR. HARTKE:** We put our house up for sale  
 24 in early 2014. It was for sale all of 2014, all of

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1 2015, and in September of 2016 we sold it. We  
 2 finally sold our house three years later after  
 3 leaving it.  
 4       **MR. BANGERT:** Thank you.  
 5       **MR. ZIMMERMAN:** So you had someone come  
 6 out and test the decibels at your house?  
 7       **MR. HARTKE:** Yes.  
 8       **MR. ZIMMERMAN:** And what were their  
 9 findings?  
 10       **MR. HARTKE:** Their findings was that it  
 11 was a hair below the maximum noise limit allowed,  
 12 the numerical noise limit allowed by the Illinois  
 13 Pollution Control Board maximum noise limits.  
 14       **MR. ZIMMERMAN:** What number was that, how  
 15 many decibels?  
 16       **MR. HARTKE:** It's approximately 46 or so  
 17 decibels, within half a decibel of probably 46 dBA,  
 18 if you want to put it in --  
 19       **MR. ZIMMERMAN:** Was that -- for how long  
 20 was it just a hair below 46? Was this like all the  
 21 time or was it during the nighttime, was it  
 22 during --  
 23       **MR. HARTKE:** I don't know if --  
 24       **MR. ZIMMERMAN:** How did they measure it

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1 when you were around there?  
 2       **MR. HARTKE:** Invenergy hired Michael  
 3 Hankard and Dr. Schomer to do a sound study. The  
 4 sound study went for four months. They set the  
 5 microphones at distances which were relative to the  
 6 distance from where my house was relative to the  
 7 turbines, and in theory their noise measurement was  
 8 to the location where my house was. And I believe  
 9 that their findings was that at my house the noise  
 10 level would have been at the maximum allowable from  
 11 the IPCB.  
 12       And I need to add something. When they  
 13 did the measurements, they did them as a -- in a  
 14 position that would measure what the noise would be  
 15 like at my house. However, the IPCB rules say that  
 16 that maximum noise limit is supposed to be measured  
 17 at the property line. And in our case, they did not  
 18 follow the IPCB's protocol, they did not measure at  
 19 the property line. They were measuring in a place  
 20 that was similar to how my house was oriented.  
 21       **MR. ZIMMERMAN:** Okay, did you submit that  
 22 as part of your testimony, that study?  
 23       **MR. HARTKE:** That study is available to  
 24 the public on the Vermilion County website, the

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1 entire study.  
 2       **MR. ZIMMERMAN:** Okay.  
 3       **MR. HARTKE:** And if you would like, I can  
 4 give you a copy of the entire thing. And I would be  
 5 able to provide that to your ZBA.  
 6       **MR. LUETKEHANS:** Yeah, we all have it,  
 7 trust me. We can all give it to you.  
 8       **MR. HARTKE:** Both attorneys just told me  
 9 that they're going to both give it to you if you  
 10 want that.  
 11       While that study was going on by Michael  
 12 Hankard and Dr. Schomer, I also had a noise study  
 13 done at the same time to keep them honest. We have  
 14 not shared the results of that with anyone.  
 15       **MS. WALLEY:** Mr. Hartke, you'll have to  
 16 wait until there's a question pending.  
 17       **MR. HARTKE:** He asked me what noise  
 18 studies were done. I just told him there was two,  
 19 one was Invenergy's and one was mine.  
 20       **MS. TURNER:** Okay, and I was going to ask  
 21 if you had a noise study done, so you answered my  
 22 question.  
 23       **MR. HARTKE:** Yes.  
 24       **MS. TURNER:** But you have not shared

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1 the --

2 **MR. HARTKE:** No, I have not.

3 **MS. TURNER:** -- results of that? And I

4 assume that's for litigation reasons.

5 **MR. HARTKE:** Yes, we're reserving our

6 rights to litigate this further.

7 **CHAIRMAN FINNIGAN:** Unless I misunderstood

8 you, you had a comment that you weren't allowed to

9 enter your house, is that --

10 **MR. HARTKE:** No, I said we were not

11 allowed to sleep in our home. The 51 times when we

12 would text or email, they would shut down various

13 wind turbines. My summary of that is in the end

14 when they quit turning off turbines, I was very

15 embarrassed and ashamed that we had been asking

16 Invenergy to be able to sleep in our own home. You

17 know, we would email them and say turbine 57 is very

18 noisy, it's rumbling and we can hear it inside of

19 our house and none of us can sleep, will you please

20 turn off number 57 so we can finally sleep? And

21 they would and they did that 51 times.

22 What's unique about my situation is that

23 nowhere in all of North America have we ever known

24 or heard of anyone, any wind company voluntarily

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1 turning off wind turbines on the request of

2 citizens. The only shutdowns have been from court

3 order or judgments. So far.

4 **CHAIRMAN FINNIGAN:** How many wind towers

5 are in the project where you live?

6 **MR. HARTKE:** 134.

7 **CHAIRMAN FINNIGAN:** Were there other

8 similar complaints with other neighbors?

9 **MR. HARTKE:** Yes. Would you like me to

10 elaborate on that? I'm going to say in Vermilion

11 County there were five different households who had

12 approached the county board and pled during public

13 comments about noise issues at their homes, me

14 included. I am aware of 21 families with noise

15 problems inside their house that have to do with

16 sleep issues that I'm aware of. 21 families.

17 **MR. KURITZ:** Has Invenergy offered to try

18 to do any mitigation --

19 **MR. HARTKE:** Yes.

20 **MR. KURITZ:** -- as far as insulating or

21 any of those type of things to help your house out?

22 **MR. HARTKE:** During the nighttime

23 shutdowns, I was supposed to go find contractors

24 that would come and soundproof or insulate my home

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1 to make it not so noisy inside my house, and I was

2 having a lot of trouble. I couldn't find a

3 contractor willing to take on that type of a

4 project.

5 Invenergy called in two other contractors,

6 both of them are like home improvement companies

7 from the Champaign-Urbana area, and one of them

8 showed up and gave a price to insulate our home, but

9 not talking about soundproofing, just to insulate

10 the house. He submitted his proposal to my wife and

11 I. Invenergy the next day contacted that company

12 they had sent in to ask them for a copy of it. The

13 dollar amount was \$58,000 on the proposal for

14 insulation of my house.

15 Invenergy contacted my attorney and

16 offered \$58,000 towards insulation. We did not

17 entertain their offer. Instead, we asked if they

18 would show us any other home anywhere else ever that

19 had been soundproofed against wind turbine rumbling,

20 thumping, low frequency noise, and we have yet to

21 hear back from Invenergy. They have not responded

22 to our question about providing us an example where

23 this has ever been done or even possible anywhere

24 else. So we did not take the \$58,000 they offered

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1 us. We are still, I guess, at a standstill with our

2 discussions with Invenergy since then.

3 **MR. BANGERT:** The predominant wind

4 directions that affected your house the most, did

5 you request the -- those particular turbines upwind

6 or downwind and did that have an effect if you -- if

7 they're downwind, then the sound has got -- we heard

8 it has to go against the wind to get to the house,

9 so did that have an effect?

10 **MR. HARTKE:** Yes, I can explain that.

11 Darrell, can you get that started up again? I'm

12 going to go to one of the pictures to make it

13 easier. Let me see if I can go the correct way and

14 I'm going to find it.

15 Okay. The predominant wind direction

16 heading to my house is from the southwest to the

17 northeast. That is the predominant wind direction.

18 Most of the time we would be downwind or in the

19 exhaust of this particular wind turbine and that

20 turbine number was 75. Does that answer your

21 question about being downwind?

22 **MR. BANGERT:** So if they shut off turbine

23 number 75, was that sufficient to lower the noise

24 level?

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1           **MR. HARTKE:** It lowered the noise level  
 2 some, and I'm going to say it was about a split  
 3 even. Half the time they turned off turbines it  
 4 would be either 57 or 75, about let's say 25 percent  
 5 of the time 57 only, about 25 percent of the time  
 6 number 75 only, about -- the other 25 percent of the  
 7 time was both of them shut down, these closest  
 8 turbines, both of them were shut down so we could  
 9 sleep, because this noise, it would be like being  
 10 upwind or downwind from a guy running his sub  
 11 woofer. In one instance, he's only 1600 feet away;  
 12 in the other instance, he's almost a half mile away.  
 13 You kind of get the same amount of effect from  
 14 either wind turbine even though you're closer to the  
 15 one that's downwind of you.  
 16           **MR. BANGERT:** Okay, thank you.  
 17           **MS. TURNER:** Do you have -- do you have  
 18 any measurement information to show how many  
 19 decibels or anything like that were in your house or  
 20 anywhere close?  
 21           **MR. HARTKE:** Inside my house. We have a  
 22 lot of noise measurement levels inside and outside.  
 23           **MS. TURNER:** That you shared with us?  
 24           **MR. HARTKE:** No.

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1           **MS. TURNER:** Okay. All right.  
 2           **MR. HARTKE:** If I --  
 3           **MS. TURNER:** Because you're -- because  
 4 you're in a suit with Invenergy?  
 5           **MR. HARTKE:** We have not filed a lawsuit,  
 6 but we are reserving our rights for litigation.  
 7           **MS. TURNER:** Okay.  
 8           **MR. HARTKE:** And, you know, if I felt like  
 9 it would even make a difference and this board would  
 10 use my information to help protect the citizens, I  
 11 would probably share that.  
 12           **MS. TURNER:** You're here now, right, to do  
 13 that?  
 14           **MR. HARTKE:** I would have to check my  
 15 contractual obligations with the acoustician that  
 16 recorded all that information to see if he would  
 17 also agree to give it up because we've taken  
 18 measurements or measures to protect that data that  
 19 both of us will have to sign off on allowing that to  
 20 be released due to a lot of reasons.  
 21           **MS. TURNER:** You understand our need for  
 22 objective information.  
 23           **MR. HARTKE:** I do.  
 24           **MS. TURNER:** Okay.

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1           **MR. HARTKE:** Painfully so. I understand.  
 2 And I hope that you can understand my predicament  
 3 that we're in also. This is kind of like that  
 4 jump-in-front-of-a-train, you know, type of  
 5 situation.  
 6           **CHAIRMAN FINNIGAN:** You don't have to  
 7 answer this question if you don't want to, but --  
 8           **MR. HARTKE:** I'll answer any questions  
 9 that you have. I will. I'm an open book.  
 10           **CHAIRMAN FINNIGAN:** Why didn't you try the  
 11 insulation if they were willing to do that? I guess  
 12 my understanding, was there somebody -- was that  
 13 going to be your last resort and you couldn't do any  
 14 more or --  
 15           **MR. HARTKE:** We had done enough research  
 16 on our own and asking contractors and asking  
 17 acousticians, we asked a hundred people can this  
 18 work and is this going to work, and all of our  
 19 avenues were all dead ends. This was -- I think  
 20 that the insulating of my house to soundproof it for  
 21 low frequency noise, that was a bunny trail as a  
 22 delay, a wear-us-down type of an approach. To this  
 23 day, we've never heard of anyone soundproofing their  
 24 house against a wind turbine and it's been five more

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1 years.  
 2           And if there was a solution like that, I  
 3 think it would be advertised as a cool deal by  
 4 Invenergy today in hearings or last week or the week  
 5 before. I think they would say, hey, if we have  
 6 noise problems and all these people are worried  
 7 about noise and health, no problemo, we'll insulate  
 8 their homes. They've not offered that. They are a  
 9 black hole of that type of information. I would ask  
 10 them to provide you that information. They would be  
 11 the experts if there was such a thing.  
 12           **CHAIRMAN FINNIGAN:** I guess my question  
 13 was if they offered it and were going to pay for it  
 14 and you were not obligated with anybody else, why  
 15 didn't you try it?  
 16           **MR. HARTKE:** Well, the process of  
 17 insulating our home, it would have tore our home  
 18 apart. Your choice was -- would either be to  
 19 insulate it from the outside, tear off all siding  
 20 and decking and everything, even the roof, and  
 21 insulate it that way, or going inside and ripping  
 22 out all the drywall and insulate it from the inside  
 23 out. It wasn't going to happen. I didn't -- I  
 24 don't even think \$58,000 would have touched it. You

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1 know, my house was 3,900 square foot, it was a big  
 2 house, and when we saw that estimate from the siding  
 3 company, we thought it was kind of a joke. We never  
 4 even entertained it, that we thought that that would  
 5 even come close to taking care of the problem. It  
 6 fell woefully short.

7 **MR. KURITZ:** The people that purchased  
 8 your house, are they still living there?

9 **MR. HARTKE:** No.

10 **MR. KURITZ:** What has happened to them,  
 11 the same thing?

12 **MR. HARTKE:** The people that purchased my  
 13 house, they bought it on September 20th, 2016, they  
 14 moved in in November, they moved out in like April  
 15 or May at the latest of 2017. They were there for  
 16 only four months. I have not had any discussions  
 17 with them about why they moved out.

18 The people that bought my house, it was an  
 19 elderly lady, and she is a leaseholder with  
 20 Invenergy. She has at least one wind turbine on her  
 21 farm ground. I have some feelings of guilt that it  
 22 didn't work out for them either. We gave them  
 23 plenty of notice and we made it perfectly clear that  
 24 the only reason we're selling our home was because

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1 of the wind turbines. And I was not going to tell  
 2 them, no, you can't buy my home. I had -- I had  
 3 enough people accuse me of not letting it be sold  
 4 because we owned it for three whole years. I had --  
 5 I think it was even the attorney for Invenergy  
 6 that's here today, I was at a hearing in Princeton,  
 7 Illinois, he asked me, Mr. Hartke, have you listed  
 8 it with a realtor, and if you haven't, his follow-up  
 9 question was, I guess if you haven't listed it with  
 10 a realtor, you haven't even tried.

11 I have a slide that covers your question  
 12 too. Let's see if this clicker will let me. It's  
 13 going backwards, bear with me a second. My house is  
 14 currently listed on Zillow, my former house is  
 15 currently listed on Zillow. Here's the listing. I  
 16 was supposed to give this presentation like January  
 17 9th or something like that, so at the top of my  
 18 slide it says here's Hartke's abandoned home that's  
 19 for sale as of January 9, 2018. It's listed at  
 20 \$274,900. It's been listed by ReMax Realty. It has  
 21 been on the market for 217 days.

22 So there's my house. It's for sale now.  
 23 I think Invenergy should go buy it. But these --  
 24 this family that doesn't live there, give them some

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1 relief. I wish they would have bought it from me.  
 2 If Invenergy would have bought my house, I would  
 3 have signed a gag order, I wouldn't even be here.

4 In my county, another wind farm company  
 5 came in named Apex, Apex bought three houses, and I  
 6 was so envious of those families that got bought  
 7 out. I really wanted that and I wanted to move on.  
 8 I didn't -- I did not want to travel places to come  
 9 and talk about this. I would rather have kept all  
 10 of this private.

11 **MS. WALLEY:** Mr. Hartke.  
 12 **MR. HARTKE:** I'm sorry.

13 **MS. WALLEY:** No, that's all right. Make  
 14 sure you limit your answer to the question that was  
 15 posed, okay?

16 **MR. HARTKE:** I think he asked me what  
 17 happened to my house, so --

18 **MS. WALLEY:** He asked you if the family  
 19 still lived there.

20 **MR. HARTKE:** They do not live there. I'm  
 21 sorry for elaborating. I felt shortchanged because  
 22 I had all this information in my presentation, but  
 23 now we're talking, asking questions about exactly  
 24 what I would have presented --

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1 **MS. WALLEY:** I understand.  
 2 **MR. HARTKE:** -- to you.

3 **MR. KURITZ:** The other night someone  
 4 testified off the internet that you're being  
 5 subsidized to go around and do this by big oil money  
 6 and all that. Do you have an answer to that?

7 **MR. HARTKE:** Yes. It is unbelievable to  
 8 many people that I would come here unpaid,  
 9 unprovoked. You know, there's -- I grew up Catholic  
 10 and I am of the belief that there are certain things  
 11 you have to do to earn your way to heaven, and I  
 12 think that I have to do this so that way the  
 13 information is out there to help others even though  
 14 we took a loss. All of my time is donated.

15 If you want to talk about payment, one  
 16 time I left a venue like this in Boone County,  
 17 Illinois, I found a thank you card in my bag, there  
 18 was a thank you card and there was a Casey's gift  
 19 card, I think it was \$50, and I held onto that for  
 20 about a week and I found somebody that needed that  
 21 and I gave it to them.

22 I have never taken any money, any gift  
 23 card, any benefit besides if I stayed overnight in a  
 24 hotel room at a hearing, the hotel room was taken

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1 care of, but I felt as though I had paid enough out  
 2 of pocket. And, you know, I -- I don't want to say  
 3 I don't need the money, but, you know, I quit my job  
 4 so I could not be reliant on other people. And I  
 5 don't need the gas money. You know, some people  
 6 give a lot of cash to their church or to other  
 7 fund-raisers. I get in my truck and I drive places.  
 8 That's my way of contributing.  
 9 I've never taken anything from any oil  
 10 company. I've never worked for a coal company. I'm  
 11 not a disgruntled ex-employee. One of the gentlemen  
 12 that asked questions earlier, and I was not here  
 13 when he asked so I'm not sure what the exact  
 14 question was, but are you -- Hartke is a disgruntled  
 15 former Invenergy employee or Invenergy worker.  
 16 Well, that stems from --  
 17 **MS. WALLEY:** Mr. Hartke, I'm sorry, I'm  
 18 just going to have to ask you to limit your response  
 19 again. And I don't think --  
 20 **MR. HARTKE:** Okay.  
 21 **MS. WALLEY:** -- anybody's questioned your  
 22 financial responsibility or your --  
 23 **MR. HARTKE:** Okay.  
 24 **MS. WALLEY:** -- relationship --

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1 **MR. HARTKE:** I get it, we can move on.  
 2 **MS. WALLEY:** Okay, but just make sure you  
 3 answer the question that was asked.  
 4 **MR. HARTKE:** If I get out of control, it's  
 5 your job to slow me down, so --  
 6 **MS. WALLEY:** No, but they do want to hear  
 7 what you have to say, okay?  
 8 **MR. HARTKE:** I think I answered that  
 9 gentleman's question.  
 10 **CHAIRMAN FINNIGAN:** You did a fine job.  
 11 Any questions from staff?  
 12 **MR. DICK:** No.  
 13 **CHAIRMAN FINNIGAN:** Would the applicant  
 14 have questions of this witness? Come forward.  
 15 You've got to state your name and address again.  
 16 **MR. GRIFFIN:** Jim Griffin, law firm of  
 17 Schain Banks, 70 West Madison Street, Suite 5300,  
 18 Chicago, Illinois, 60602.  
 19 **QUESTIONS BY**  
 20 **MR. GRIFFIN:**  
 21 Q. Mr. Hartke, when you lived in your home,  
 22 you made many complaints about the noise to  
 23 Invenergy and to Vermilion County, correct?  
 24 **A. Yes.**

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1 Q. And you would make these complaints all  
 2 day and all night, wouldn't you?  
 3 **A. Yes.**  
 4 Q. And Invenergy tried to work with you as  
 5 you testified, correct?  
 6 **A. At first they turned off the wind turbines**  
 7 **and then they refused to do that, and then after our**  
 8 **testimony and continuous complaints because we still**  
 9 **had ongoing problems, Invenergy commissioned a noise**  
 10 **study at my house. I --**  
 11 Q. All right, they didn't commission a noise  
 12 study at your house, did they? They didn't go in  
 13 your house, did they?  
 14 **A. Oh, they set up their instruments on the**  
 15 **property line.**  
 16 Q. Did the question is did they go in your  
 17 house?  
 18 **A. We did not allow them to go into our**  
 19 **house.**  
 20 Q. They asked to come in your house, but you  
 21 wouldn't let them, correct?  
 22 **A. They wanted to record everything going on**  
 23 **inside my house. My wife and I --**  
 24 Q. So is your answer no? Please, we can't

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1 have you just, you know, going on a stream of  
 2 consciousness. Is your answer, no, you wouldn't  
 3 allow them in your house?  
 4 **A. We considered it. Ultimately we decided**  
 5 **that it was not in the best interest of the privacy**  
 6 **of my wife and kids and myself that we would allow**  
 7 **Invenergy to take continuous noise measurements.**  
 8 Q. Mr. Hartke, your whole testimony is about  
 9 the privacy of what occurred inside your house, so  
 10 why didn't you allow Invenergy to come inside your  
 11 house and take measurements?  
 12 **MR. LUETKEHANS:** Objection, argumentative.  
 13 **A. I think that the reason why would be**  
 14 **perhaps we would be overheard doing the things that**  
 15 **husbands and wives do with each other. I think that**  
 16 **that was my ultimate privacy between my -- sexual**  
 17 **relations between my wife and I would be recorded, I**  
 18 **would put it under the category of surveillance, and**  
 19 **that would be the reason why we did not allow**  
 20 **Invenergy to have their sound acousticians who were**  
 21 **strangers to us, we did not know who they were, we**  
 22 **had been jerked around by Invenergy for months by**  
 23 **this time and if we can't --**  
 24 Q. I think the question has been answered.

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1    **A. Okay.**  
 2    Q. So -- but you did have noise consultants  
 3 perform measurements at your house, correct?  
 4    **A. Yes, we did.**  
 5    Q. Who was that?  
 6    **A. That person's name is Richard James, Rick**  
 7 **James.**  
 8    Q. Where is his office at?  
 9    **A. Somewhere in Michigan.**  
 10 Q. And did he come to your house with  
 11 recording equipment?  
 12 **A. Yes.**  
 13 Q. And how long was he there for?  
 14 **A. Rick James was there probably two to three**  
 15 **days, two or three days.**  
 16 Q. And he did a noise monitoring study.  
 17 **A. Yes, he did.**  
 18 Q. And have you ever provided the results of  
 19 that study to Invenergy?  
 20 **A. No.**  
 21 Q. Have you ever provided the results of that  
 22 study to Vermilion County?  
 23 **A. No.**  
 24 Q. Have you ever provided the results of that

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1 study to the Illinois Pollution Control Board?  
 2 **A. No.**  
 3 Q. So you've complained about noise to  
 4 Invenergy and Vermilion County and you --  
 5 **A. Yes.**  
 6 Q. -- had tests done by your own consultants  
 7 in your own home and you did not disclose those to  
 8 any other parties; is that correct?  
 9 **A. Oh, I think that we have disclosed that,**  
 10 **and this information is indeed out there, that**  
 11 **several of my neighbors also had noise studies in**  
 12 **their homes too.**  
 13 Q. Have you ever presented a noise study by  
 14 Mr. James to any of the many zoning boards you've  
 15 testified before concerning wind energy projects?  
 16 **A. I'm not qualified to present noise**  
 17 **studies.**  
 18 Q. I'm not asking you if you're qualified.  
 19 I'm asking if you've presented the noise study at  
 20 your house to any of the many zoning boards you've  
 21 traveled to and testified before?  
 22 **A. The answer is no because I'm not qualified**  
 23 **to talk about noise studies because I'm not a**  
 24 **acoustician or an acoustical engineer.**

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1    Q. Have you ever given Mr. Rick James  
 2 permission to disclose the results of the noise  
 3 study taken at your house?  
 4    **A. No, we have not given permission to**  
 5 **disclose it. When we had --**  
 6    Q. All right, I want you to take a look --  
 7    **A. Sure. For the record, we didn't --**  
 8    Q. This will be Applicant's Exhibit No. 13.  
 9    **A. May I have a copy of that so I can see it**  
 10 **too?**  
 11       **MR. LUETKEHANS:** Jim, can I get a copy  
 12 too?  
 13       **MS. WALLEY:** Mr. Griffin, I may have  
 14 missed it, what did you want this to be identified  
 15 as?  
 16       **MR. GRIFFIN:** I believe Applicant's 13 is  
 17 the next in order; is that correct?  
 18       **MR. DICK:** That's correct.  
 19 **BY MR. GRIFFIN:**  
 20    Q. Mr. Hartke, Applicant's Exhibit No. 14 is  
 21 a noise level compliance analysis --  
 22       **MR. LUETKEHANS:** Mr. Griffin, 13 or 14?  
 23       **MR. GRIFFIN:** Excuse me, 13.  
 24       **MR. LUETKEHANS:** Thank you.

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1    Q. And you've seen this document before,  
 2 correct?  
 3    **A. Yes.**  
 4    Q. And you referred to it in your direct  
 5 testimony, correct?  
 6    **A. Yes, I did.**  
 7    Q. And that was performed by Mr. Hankard and  
 8 Mr. Schomer, correct?  
 9    **A. Yes.**  
 10 Q. And Invenergy -- why did Invenergy hire  
 11 Mr. Schomer? Do you know why?  
 12    **A. We tried to hire Mr. Schomer, but we**  
 13 **couldn't because Dr. Schomer at the time of -- I**  
 14 **think it was in March 2013 he was under contract**  
 15 **with Invenergy doing research for Invenergy, so Dr.**  
 16 **Schomer declined to work for us.**  
 17 Q. Did you ask Invenergy to hire Dr. Schomer?  
 18    **A. Through my attorney or we did directly, I**  
 19 **don't remember.**  
 20 Q. So you wanted him involved in the project.  
 21    **A. Yes, we -- we requested Dr. Schomer to be**  
 22 **involved because he was Invenergy's acoustician and**  
 23 **Dr. Schomer also worked on a project that was the**  
 24 **Highland Wind Farm where Michael Hankard was trying**

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1 to fit in some kind of a noise monitoring system and  
 2 that's why we -- we wanted to include Dr. Schomer  
 3 because he's from Champaign, Illinois, also --  
 4 Q. Okay, I think you've answered the  
 5 question.  
 6 A. -- and he was a local guy.  
 7 Q. All right, and --  
 8 MR. LUETKEHANS: Can I ask that Mr.  
 9 Griffin either --  
 10 MS. WALLEY: Hold on just a second.  
 11 You'll have to come up to the microphone.  
 12 MR. LUETKEHANS: I think it's important --  
 13 MS. WALLEY: Hold on, hold on just a  
 14 moment. You'll have to identify yourself. Do you  
 15 represent Mr. Hartke?  
 16 MR. LUETKEHANS: No.  
 17 MS. WALLEY: Okay.  
 18 MR. LUETKEHANS: I think it's important  
 19 though that we follow the rules, and if Mr. Griffin  
 20 wants -- believes that Mr. Hartke has gone too far,  
 21 he moves to strike. He should not be cutting him  
 22 off. You should have the opportunity to hear the  
 23 testimony. And that's the proper venue, not cutting  
 24 him off and saying we've heard enough from you. If

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1 he wants you to stop him, that's -- that's the  
 2 proper course of doing it.  
 3 MS. WALLEY: Noted, Mr. Luetkehans. I do  
 4 want to let everyone in the audience know that  
 5 although this is a quasi-judicial hearing, the rules  
 6 of evidence do not apply strictly to this hearing,  
 7 so they -- it is up to the chairman and it is up to  
 8 the board what evidence will be heard.  
 9 And I do want to indicate to Mr. Griffin  
 10 and to Mr. Hartke, Mr. Hartke, you have to wait  
 11 until the question is done, but again try to answer  
 12 his question to the best of your ability. Try not  
 13 to talk over Mr. Hartke, I understand you have a  
 14 point and a purpose and you're going somewhere,  
 15 because it's very hard for the court reporter and  
 16 it's hard for the board to get the gist of the  
 17 testimony. Everybody understand, okay?  
 18 MR. GRIFFIN: Thank you.  
 19 MR. HARTKE: So we tried to hire Dr.  
 20 Schomer and he --  
 21 MR. GRIFFIN: Was there a question  
 22 pending?  
 23 MR. HARTKE: No, I -- he cut me off  
 24 earlier and I wasn't allowed to finish.

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1 CHAIRMAN FINNIGAN: Hang on. We're going  
 2 to play nice, okay? So somebody's going to ask a  
 3 question, somebody's going to answer or else we're  
 4 not going to do it, you got that? I'm not a lawyer,  
 5 so -- you know, that's the way we're going to play.  
 6 Do it nice.  
 7 MR. HARTKE: May I answer the rest of his  
 8 question about Dr. Schomer and why we didn't hire  
 9 him because there's --  
 10 CHAIRMAN FINNIGAN: Let's move on to the  
 11 next question, okay?  
 12 MR. HARTKE: Okay, it's a heck of a mess,  
 13 so --  
 14 BY MR. GRIFFIN:  
 15 Q. All right. And, Mr. Hartke, this report  
 16 prepared by Mr. Hankard and Mr. Schomer concluded  
 17 that the California Ridge wind energy project was in  
 18 compliance with the Illinois Pollution Control Board  
 19 regulations, correct?  
 20 A. That's not correct. It's -- there's a  
 21 qualifier. Michael Hankard, I think his exact quote  
 22 is this: It is uncertain that Invenergy's wind  
 23 turbines exceeded the maximum noise allowable, the  
 24 numerical maximum noise allowable by the IPCB. And

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1 there are some issues with this report where Hankard  
 2 did not follow the IPCB's protocol. He did not  
 3 measure the noise at property lines.  
 4 Oh, and to answer your question earlier,  
 5 the reason we didn't have them measure at our house  
 6 is because IPCB rules state measure at property  
 7 lines.  
 8 CHAIRMAN FINNIGAN: So just question and  
 9 then answer.  
 10 MR. HARTKE: Okay. Well, I --  
 11 CHAIRMAN FINNIGAN: If we have to turn the  
 12 mic off in between, we're going to do that.  
 13 MR. HARTKE: I understand.  
 14 CHAIRMAN FINNIGAN: So turn your button  
 15 off until he asks a question. Then he's going to  
 16 ask a question and he's going to turn his mic off  
 17 until you're done, okay?  
 18 MR. HARTKE: Thank you.  
 19 BY MR. GRIFFIN:  
 20 Q. And you never filed any complaint in court  
 21 against Invenergy?  
 22 CHAIRMAN FINNIGAN: Turn your mic off.  
 23 A. So far, I have not filed any lawsuits  
 24 against Invenergy.

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1           **CHAIRMAN FINNIGAN:** You guys are playing  
 2 nice now, good.  
 3       Q. And you've never filed any complaint about  
 4 excessive noise with the Illinois Pollution Control  
 5 Board either.  
 6       **A. So far, we have not filed a complaint with**  
 7 **IPCB.**  
 8       Q. And were you aware that if you did file a  
 9 complaint against Invenergy, Invenergy would have  
 10 the right to obtain copies of the noise study that  
 11 Mr. James performed in your home?  
 12       **A. We are aware of that possibility.**  
 13       Q. And you did have a lawyer threaten to sue  
 14 Invenergy, correct?  
 15       **A. We had legal counsel. I can't remember**  
 16 **him being threatening. He was a very nice guy. I**  
 17 **don't know if he threatened you or if you felt**  
 18 **threatened.**  
 19       Q. Okay, your lawyer stated to Invenergy that  
 20 litigation was a possibility, correct?  
 21       **A. Anything is possible.**  
 22       Q. How many counties have you traveled to and  
 23 testified about your complaints with Invenergy?  
 24       **A. I've done a similar presentation to**

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1       **probably five counties in Illinois, three in**  
 2 **Indiana, one in Michigan, one in Tennessee and**  
 3 **that's it I think.**  
 4       Q. And is the Cal Ridge project in Vermilion  
 5 County still operational?  
 6       **A. Yes, it's still operational and it's owned**  
 7 **by TerraForm Power.**  
 8       Q. And were any administrative citations or  
 9 violations ever issued to the project based on your  
 10 complaints?  
 11       **A. No citations or violations that I know of.**  
 12       Q. So what evidence do you have to present to  
 13 the zoning board about the noise levels in your home  
 14 besides your own personal testimony?  
 15       **A. Well, nobody abandons their home for the**  
 16 **fun of it. Nobody decides to move to a double wide**  
 17 **trailer to prove a point. The ultimate reason that**  
 18 **we have not filed a lawsuit against Invenergy was**  
 19 **because Invenergy, being a multi-billion dollar**  
 20 **company, and I have, you know, perhaps a \$5 million**  
 21 **company, I'm at a severe disadvantage. And I was**  
 22 **also trying to use all of my resources to first off**  
 23 **get my family into better living conditions, that I**  
 24 **could fix my family first while my children were**

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1       **young, where we could escape our home, and that's**  
 2 **taken away from all of my other things I'd rather be**  
 3 **doing in my life.**  
 4       **I guess my way of -- the reason I would**  
 5 **come here is because I'm really pissed off that my**  
 6 **house had been ruined for the intended purpose that**  
 7 **it was meant for is to house my family in a safe**  
 8 **environment. You know, we uprooted our kids from**  
 9 **our church, our school, all our friends. I'm still**  
 10 **grasping how, since I have no other funding except**  
 11 **my own business and my wife's work, it's going to**  
 12 **take a serious amount of money for me to put up, and**  
 13 **it's going to be a very long lawsuit, perhaps five**  
 14 **years to get through all of that, and so far my wife**  
 15 **and I have been unwilling to give more to file a**  
 16 **lawsuit against Invenergy.**  
 17       **It's a very, very tough decision. There**  
 18 **are days when we decide we'll go ahead and do it and**  
 19 **then we would, you know, have a bill come due or a**  
 20 **setback or a project that I thought I might get and**  
 21 **I never got, so we're between a rock and a hard**  
 22 **place, and the only way I can get the most good out**  
 23 **of my house is to tell people what happened.**  
 24       Q. So for how many years have you been

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1       traveling to various zoning boards throughout the  
 2 country and testifying about Invenergy?  
 3       **A. Can you repeat the question, how many**  
 4 **years -- I have not done this solid, so what are you**  
 5 **-- can you repeat your question?**  
 6       Q. Well, for how many years have you been  
 7 traveling around the country testifying against  
 8 Invenergy?  
 9       **A. I think my first visit anywhere to testify**  
 10 **against Invenergy where I traveled was to Sandlot**  
 11 **County, Michigan, and I'm sorry, I don't know how**  
 12 **long ago that was, perhaps two or three years.**  
 13 **Probably about two and a half years ago was the**  
 14 **first time I traveled around the country to testify**  
 15 **against Invenergy.**  
 16       Q. So you've been traveling -- when was the  
 17 first time you testified against Invenergy at a  
 18 zoning board hearing?  
 19       **A. The only time I've testified against**  
 20 **Invenergy was in Livingston County, Illinois, at a**  
 21 **zoning board hearing. That's the only time I've**  
 22 **testified at a ZBA against Invenergy.**  
 23       Q. And have you reviewed any of the  
 24 application materials for this project?

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1 **A. I have only briefly. I looked through the**  
 2 **materials to see how tall the wind turbines were**  
 3 **going to be and how far away from a house the**  
 4 **turbines would be located and that spelled out what**  
 5 **I expect to happen here.**  
 6 Q. And how much did you sell your house in  
 7 Vermilion County for?  
 8 **A. My wife and I sold our house and 10.85**  
 9 **acres for \$363,000.**  
 10 Q. And that's substantially more than the  
 11 average house price in Vermilion County, isn't it?  
 12 **A. Yes, my house was the most expensive and**  
 13 **the nicest and the largest house in the entire Pilot**  
 14 **Township.**  
 15 Q. So when you say you abandoned your house,  
 16 you were still able to sell it for \$363,000,  
 17 correct?  
 18 **A. Yes.**  
 19 Q. And the house is for sale again, correct?  
 20 **A. Yes.**  
 21 Q. And the -- but the sale doesn't include  
 22 much of the acreage that goes with the home,  
 23 correct?  
 24 **A. I think that the current house only**

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1 **includes 2.95 acres.**  
 2 Q. I noticed in your PowerPoint you had a  
 3 letter from a Mr. Mulvaney, a school superintendent;  
 4 is that correct?  
 5 **A. Yes, that's my grade school superintendent**  
 6 **where my kids went to school.**  
 7 Q. And the letter that you presented was a  
 8 letter that Mr. Mulvaney sent to Vermilion County?  
 9 **A. Yes.**  
 10 Q. And is that letter referring -- the  
 11 letter's referring to your children, correct?  
 12 **A. My children and one other, one other child**  
 13 **that lived in the wind farm.**  
 14 Q. I want to show you what will be marked  
 15 Applicant Exhibit No. 14. This is correspondence  
 16 from Mr. Bill Donahue. Do you know who that is?  
 17 **A. Yes, Bill Donahue is the State's Attorney**  
 18 **for the county board in Vermilion County and he**  
 19 **works for the chairman named Michael Marrons, a**  
 20 **leaseholder in the wind project in Vermilion County.**  
 21 Q. All right, and in this letter Mr. Donahue  
 22 is telling Logan County officials that Vermilion  
 23 County's never received any reports from a licensed  
 24 physician or qualified medical person to

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1 substantiate any of the points raised in Mr.  
 2 Mulvaney's letter. Do you see that?  
 3 **A. Yes, and you see where it included Michael**  
 4 **Marrons as a carbon copy person and is from Bill**  
 5 **Donahue who works at the pleasure of Michael**  
 6 **Marrons, and Michael Marrons's family and his**  
 7 **parents and Michael himself, they are all**  
 8 **leaseholders of the Invenergy wind project.**  
 9 **To answer your question specific to my**  
 10 **children, my wife and I have never agreed to provide**  
 11 **the private medical information of our children,**  
 12 **they are still 13 and 11, and they have been the**  
 13 **subject of this problem for much of their childhood,**  
 14 **and my wife and I are vigorously protecting their**  
 15 **private medical information and we're not willing to**  
 16 **share any of that information with outsiders because**  
 17 **of our potential for litigation that still is --**  
 18 **CHAIRMAN FINNIGAN:** I'm going to cut you  
 19 off. I think you answered the question.  
 20 Q. You never provided Vermilion County with  
 21 any medical information to substantiate claims of  
 22 adverse health impacts from living near wind  
 23 turbines, correct?  
 24 **A. I think that Vermilion County board has**

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1 **witnessed me --**  
 2 **MR. GRIFFIN:** Mr. Chairman, it's a yes or  
 3 no question.  
 4 **A. -- break down and not even be able --**  
 5 **CHAIRMAN FINNIGAN:** Please respond yes or  
 6 no to that, just a straight answer.  
 7 **A. No, I have not been willing to provide all**  
 8 **of my medical information to outsiders.**  
 9 Q. I'm going to show you Applicant's Exhibit  
 10 15. It says Enjoying the Windfall at the top of  
 11 that.  
 12 **MS. WALLEY:** Mr. Griffin, two different  
 13 articles were passed out. I got Enjoying the  
 14 Windfall, I understand that's 15. Looks like  
 15 there's another one.  
 16 **MR. GRIFFIN:** I'll make that 16.  
 17 **MS. WALLEY:** Which one is 15 and which is  
 18 16?  
 19 **MR. GRIFFIN:** 15 says Enjoying the  
 20 Windfall at the top and 16 says Turbines Boosting  
 21 Governments' Bank Account Shares.  
 22 **MS. WALLEY:** Okay, thank you.  
 23 **BY MR. GRIFFIN:**  
 24 Q. So, Mr. Hartke, in Applicant's Exhibit 15

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1 on the second page, midway down, there's a quote  
 2 from Mr. Mulvaney, he says, "From a school  
 3 perspective, it's been a huge success, he said.  
 4 Revenues from the turbines have been very, very  
 5 beneficial." Do you agree with that?  
 6 **MR. LUETKEHANS:** I'm going to -- can I  
 7 object at this time? Economic issues are not one of  
 8 the standards, the set of standards that this board  
 9 has in front of you. To ask about those, especially  
 10 from a letter or an article in a paper, is  
 11 inappropriate.  
 12 **MR. GRIFFIN:** Mr. Hartke has a letter from  
 13 Mr. Mulvaney in his presentation about purported  
 14 impacts of the project on his school and that's  
 15 what -- and this is the same thing.  
 16 **MR. LUETKEHANS:** This obviously goes into  
 17 revenues when you read it, and revenues, as I think  
 18 the chairman mentioned at the last meeting, are not  
 19 appropriate at least for this issue.  
 20 **CHAIRMAN FINNIGAN:** I think he's trying to  
 21 rebut what's been said, that's all he's trying to  
 22 do. We don't care about money, but -- well, for  
 23 this particular issue. I mean it's -- they're just  
 24 talking back and forth and trying to cross-examine

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1 each other basically.  
 2 **MR. HARTKE:** I'd be glad to answer it.  
 3 **CHAIRMAN FINNIGAN:** So I think it's  
 4 relevant to what they're doing. Whether we take it  
 5 into consideration doesn't matter.  
 6 **MR. HARTKE:** Can we pull up my slides  
 7 again? Can we ask Darrell to pull up my slides  
 8 again?  
 9 **MS. WALLEY:** Only if Mr. Griffin asks for  
 10 it.  
 11 **MR. HARTKE:** Well, we're talking about the  
 12 Mulvaney letter. It's in my slides.  
 13 **MS. WALLEY:** I understand.  
 14 **MR. HARTKE:** He referred to it.  
 15 **MS. WALLEY:** Only if Mr. Griffin asks.  
 16 He's just asking questions right now and he's  
 17 cross -- if I understand correctly, and correct me  
 18 if I'm wrong, he's asking you about an exhibit that  
 19 he's showing you as of right now.  
 20 **CHAIRMAN FINNIGAN:** We have your  
 21 PowerPoint here too, so --  
 22 **MR. HARTKE:** Okay, can I have one of my  
 23 handouts?  
 24 **MR. DICK:** Here you go.

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1 **MR. HARTKE:** Thank you. Anybody remember  
 2 what page the Mulvaney letter was? Okay. What was  
 3 your question, Jim?  
 4 **BY MR. GRIFFIN:**  
 5 Q. Do you agree with Mr. Mulvaney's statement  
 6 in Applicant Exhibit No. 15 that the Cal Ridge wind  
 7 energy project from a school perspective has been a  
 8 huge success?  
 9 **A. Not a huge success. I disagree with**  
 10 **Mulvaney's statement that it was a huge success. I**  
 11 **take issue with that.**  
 12 Q. All right. Take a look at Applicant's  
 13 Exhibit No. 16, this is another article, and about  
 14 two-thirds of the way down on the first page there's  
 15 another quote from Mr. Mulvaney. He says, "They  
 16 have been a huge boon, and from a financial point of  
 17 view, they will keep us alive for a minimum of ten  
 18 years." So you don't agree with that comment  
 19 either; is that correct?  
 20 **A. From a financial, purely financial point**  
 21 **of view, I'm not sure if that's going to keep him**  
 22 **alive for ten years.**  
 23 **CHAIRMAN FINNIGAN:** Let's go to a yes or  
 24 no.

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1 **A. All right, not -- he used the word huge**  
 2 **again. That's a huge exaggeration to use the word**  
 3 **huge. I would never use the word huge.**  
 4 Q. All right. So, Mr. Hartke, just a few  
 5 more questions. So you testified that you have  
 6 refused to submit or allow anybody to review any  
 7 medical records for you and your family that would  
 8 substantiate the claims you've made about the harm  
 9 these turbines caused; is that correct?  
 10 **A. Can you repeat that question?**  
 11 **MR. GRIFFIN:** Can you read that one back?  
 12 **CHAIRMAN FINNIGAN:** I think he's already  
 13 answered that question. You already asked it and  
 14 he's already answered it. Let's move on to the next  
 15 one.  
 16 Q. Do you have any information to present to  
 17 this zoning board from a third-party as to the  
 18 impacts of the Cal Ridge project on your home and  
 19 your family?  
 20 **A. Yes. Can you all turn to page 32 of my**  
 21 **presentation? I want you to go to the second to**  
 22 **last paragraph. This is a letter from Bill**  
 23 **Mulvaney, the superintendent of my school. I'm**  
 24 **going to read you the sentence that's the most**

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1 important and I want you all to hear. He says, "The  
 2 revenue generated by the turbines is a blessing to  
 3 our schools, but the unintended consequences are  
 4 real."  
 5 In the second paragraph, he says, "I have  
 6 noticed that we have some children in our district  
 7 who appear to be having some medical issues related  
 8 to wind turbines. Headaches, lack of sleep and jaw  
 9 issues are the most common. Students also complain  
 10 about not being able to sleep or not getting a full  
 11 night's sleep due to sound issues."  
 12 That would be your third-party independent  
 13 person who talks about the direct problem that my  
 14 children were having in my home in Vermilion County  
 15 next to Invenergy's wind turbines.  
 16 Q. And Mr. Mulvaney knew about those problems  
 17 because you told him about them, right?  
 18 A. I want you to read this, look at what  
 19 Mulvaney wrote. He says, "I have noticed." I  
 20 believe Mr. Mulvaney's an independent person. I  
 21 think that you should have --  
 22 CHAIRMAN FINNIGAN: Mr. Mulvaney is not  
 23 here, so I don't know if you're just --  
 24 A. I think you should have him come and

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1 testify.  
 2 CHAIRMAN FINNIGAN: It's hearsay testimony  
 3 on both sides, so --  
 4 A. You should have --  
 5 CHAIRMAN FINNIGAN: Unless Mr. Mulvaney  
 6 wants to come and testify, we can't really consider  
 7 it.  
 8 MR. HARTKE: Okay, I understand.  
 9 BY MR. GRIFFIN:  
 10 Q. So you have no third-party evidence to  
 11 establish the noise levels or health impacts to  
 12 present to this zoning board, correct?  
 13 A. I am unwilling to provide my medical  
 14 records, my children's medical records, nor my  
 15 personal that-I-paid-for sound study that was inside  
 16 my home during periods of time.  
 17 MR. GRIFFIN: No further questions for  
 18 this witness. Thank you.  
 19 CHAIRMAN FINNIGAN: At this time, we're  
 20 going to take a break, so you've got a little chance  
 21 to breathe.  
 22 MR. HARTKE: Okay, thank you.  
 23 CHAIRMAN FINNIGAN: Ten minutes.  
 24 (Recess at 8:18 p.m. to 8:28 p.m.)

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1 CHAIRMAN FINNIGAN: Would anyone in the  
 2 audience have questions of this witness? Come  
 3 forward if there are. You need to push the little  
 4 button there.  
 5 MR. DICK: On the right side.  
 6 CHAIRMAN FINNIGAN: State your name and  
 7 address, spell your last name.  
 8 MR. NELSON: Roger Nelson, N-E-L-S-O-N,  
 9 112 Kreitzer, Bloomington, Illinois.  
 10 CHAIRMAN FINNIGAN: Go ahead.  
 11 QUESTIONS BY  
 12 MR. NELSON:  
 13 Q. This is a question as to your standing as  
 14 an expert by the board. Do you consider any of your  
 15 testimony to be anecdotal or scientific?  
 16 A. This board did not find me as an expert  
 17 witness, so therefore they cut me off at 15 minutes,  
 18 10 minutes, so --  
 19 Q. You had scientific information you were  
 20 going to present and the board deleted you from the  
 21 ability to do that?  
 22 AUDIENCE VOICE: Can't hear the question.  
 23 A. Scientific information? I was simply  
 24 providing what details and facts that happened to my

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1 family.  
 2 Q. Which is anecdotal.  
 3 MS. WALLEY: Mr. Nelson, I'm sorry, when  
 4 you ask questions, can you lean into the microphone?  
 5 That way everybody --  
 6 MR. NELSON: Yes, I apologize.  
 7 MS. WALLEY: No, that's all right.  
 8 MR. NELSON: This is brand-new to me.  
 9 MS. WALLEY: That's okay.  
 10 Q. Did you not also testify under oath that  
 11 you were an open book, ask me anything?  
 12 A. Yes, and I've answered all of --  
 13 Q. And one minute before that, somebody asked  
 14 you about specific scientific information which you  
 15 brought out that you have and you refused to  
 16 disclose it.  
 17 A. Are you talking about --  
 18 Q. Acousticians.  
 19 A. -- medical information?  
 20 Q. No, the acoustician going in -- you said  
 21 that you couldn't do that. You could have brought a  
 22 waiver with you.  
 23 A. At this time, I am -- since I have  
 24 potential litigation that would be ongoing, I'm

1 **unwilling to share the minute details of exact**  
2 **measurements or my doctor reports at my house.**

3 Q. And that litigation wouldn't involve any  
4 amount of money?

5 **A. I don't understand.**

6 Q. Well, I mean everybody is saying how  
7 horrible it is that this is all about the money. Do  
8 you have a money motive here?

9 **A. My wife and I have discussed about what**  
10 **would be the good of the outcome of the lawsuit or**  
11 **our goal from the lawsuit. First off when we were**  
12 **still living in our house was to simply have the**  
13 **wind turbines torn down. That's what the goal of**  
14 **our lawsuit would have been. It would not have been**  
15 **a payment. It would've just been us being able to**  
16 **be allowed to sleep in our house. That's what we**  
17 **wanted. If not tearing down the wind turbines, I**  
18 **think we would have agreed to let them run them in**  
19 **the daytime but definitely not at night when we were**  
20 **trying to sleep. That was our goal. We wanted to**  
21 **be left alone and stay in our home. That was our**  
22 **first choice was to stay where we were.**

23 Q. And the second choice was having testified  
24 to --

1 anything as I understood your testimony. If I  
2 misunderstood --

3 **A. You did not misunderstand. I think if**  
4 **they would have purchased our home and they would**  
5 **have bought it and I would have accepted that and we**  
6 **would have moved out, we would have definitely moved**  
7 **on with our lives and I would not be still angry**  
8 **about it enough to, like Jim said, travel across the**  
9 **country to testify against Invenergy. Invenergy did**  
10 **my family wrong, and even though my house was**  
11 **ruined, I am not letting it be wasted.**

12 **MR. NELSON:** No further questions here.

13 **CHAIRMAN FINNIGAN:** Push that button,  
14 would you? Thank you.

15 **MS. WALLEY:** Before you start to  
16 cross-examine Mr. Hartke, this is a general notice  
17 to everyone not just you. We have to limit  
18 cross-examination to new questions. We can't have  
19 cumulative questions. For example, you can't ask  
20 Mr. Hartke is your name Ted Hartke every time. If  
21 you have a new question, if you have a different  
22 question, we encourage you to come up and ask those  
23 questions of Mr. Hartke, but if you heard someone  
24 else ask about the issue that you've previously or

1 **A. Our second choice to staying in our house,**  
2 **which Invenergy was not cooperating or allowing us**  
3 **to have sleep at night, we had very limited choices,**  
4 **so we moved to a temporary home. That was our**  
5 **choice. Some people can't afford to move or live**  
6 **elsewhere and still have the house payment and such,**  
7 **but fortunately we were able to figure out how we**  
8 **could live in a temporary situation until we could**  
9 **afford another house.**

10 Q. Did you testify earlier that if Invenergy  
11 had bought your house, you would've willing signed a  
12 gag order and never brought any of this forward?

13 **A. If Invenergy would have -- we requested --**  
14 **as a solution to our problem, we requested Invenergy**  
15 **to purchase our home and they flat out refused to**  
16 **purchase our house. I think their answer was we**  
17 **don't buy residential real estate and that was their**  
18 **deadpan answer. It was a nonstarter for Invenergy.**

19 Q. But it was a clear option for you.

20 **A. We would have negotiated and we would have**  
21 **taken -- to be relieved of our home and the**  
22 **financial burden, we would have sold our house to**  
23 **Invenergy.**

24 Q. And signed a gag order and never done

1 the issue that you want to touch upon, we're going  
2 to have to move beyond that. That way, we're not --  
3 Mr. Hartke doesn't spend the rest of the evening in  
4 the hot seat, so to speak. Everybody understand?  
5 Okay.

6 **MS. WINTERLAND:** Amy Winterland, 22825  
7 North 3075 East Road, Colfax, Illinois, 61728.

8 **QUESTIONS BY**

9 **MS. WINTERLAND:**

10 Q. So we were talking about Cal Ridge. Is  
11 that this California Ridge Wind Energy, LLC?

12 **A. Yes.**

13 Q. So -- and there was some testimony that  
14 the Cal Ridge, I think somebody named Mulvaney said  
15 it was a huge boon from a school perspective, was a  
16 huge success and would keep them alive for ten  
17 years. Is that what was just testified?

18 **A. That was an article that the Invenergy**  
19 **attorney handed out tonight.**

20 Q. Were you aware that there's an October  
21 12th, 2016, article that says Invenergy/TerraForm  
22 Powers' wind farm California Ridge Wind, LLC, owes  
23 the most outstanding property tax bill in all of  
24 Champaign County in the amount of \$480,298?

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1 **A. Yes, I remember that article specifically.**  
 2 Q. So would outstanding property tax bills  
 3 result in a huge boon to the economic welfare of  
 4 that county --  
 5 **A. No.**  
 6 Q. -- in your opinion?  
 7 **CHAIRMAN FINNIGAN:** This is friendly  
 8 cross-examination. Just have questions. And it's  
 9 hearsay as to evidence, you know, so ask the  
 10 question.  
 11 **MS. WINTERLAND:** It's a published  
 12 newspaper article. I can provide a reference. Is  
 13 that what you need?  
 14 **MS. WALLEY:** You can ask cross-examination  
 15 on things that he's already testified to. If you  
 16 have the article available for everyone to review,  
 17 that's fine, but you have to ask him questions about  
 18 what he's already testified to. I understand he's  
 19 testified about Mr. Mulvaney and all sorts of  
 20 things, but ongoing articles are beyond the scope of  
 21 what he's previously testified to because that was  
 22 brought up in someone else's cross-examination.  
 23 Does that make sense?  
 24 **MS. WINTERLAND:** Okay, so keep me

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1 straight. I am very interested in the noise part of  
 2 this.  
 3 **MS. WALLEY:** Okay.  
 4 **BY MS. WINTERLAND:**  
 5 Q. So my next questions are going to be about  
 6 the noise part of this. So did I understand you to  
 7 say that the maximum decibels was 46 decibels that  
 8 was recommended by the Schomer study?  
 9 **A. The maximum decibels at my house were**  
 10 **measured in the magnitude of about 45 and a half to**  
 11 **46 and a half decibels, dBA. Dr. Schomer states in**  
 12 **his analysis that the noise maximum should be at or**  
 13 **less than 39 decibels.**  
 14 Q. Do you know if there was a noise study, a  
 15 model study done of your house prior to the turbines  
 16 being built?  
 17 **A. There was.**  
 18 Q. Do you know what your model number, what  
 19 your house was modelled to be?  
 20 **A. I've never thought to go look at the**  
 21 **original noise levels in the original noise model.**  
 22 **I believe that it's very basic, it's just some**  
 23 **contour lines, and there's a huge jump from 40 dBA**  
 24 **to 45 dBA. It's -- it's not very forthcoming with**

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1 **information. It's really a bare bones contour map**  
 2 **for how loud turbines will be.**  
 3 Q. But 39 dBA is the recommended maximum.  
 4 It's not the Illinois Pollution Control's maximum,  
 5 but it's the recommended annoyance maximum, am I  
 6 understanding? Am I confused, I'm sorry?  
 7 **A. It was -- my testimony included**  
 8 **information from Dr. Schomer who did the noise**  
 9 **analysis at my home, and his subsequent publications**  
 10 **all say designed for a noise limit of 34 dBA, with**  
 11 **the maximum, 95 percent of the time, is at or below**  
 12 **39 dBA. That in a nutshell is Dr. Schomer's summary**  
 13 **of his submittals.**  
 14 Q. Were you aware that in Invenergy's  
 15 application they're using a -- I believe it's a 47  
 16 dBA, dB at 500 hertz as a maximum and the models  
 17 come in at like 46.8?  
 18 **MS. WALLEY:** Ms. Winterland, you're  
 19 testifying, so you have to ask a question.  
 20 Q. Were you aware of that?  
 21 **MS. WALLEY:** Close, closer.  
 22 **A. Okay, during my -- I looked at Invenergy's**  
 23 **application for McLean County and I saw a big huge**  
 24 **list of all the homes listed in -- I think it had**

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1 **the receiver house number and it had a maximum noise**  
 2 **level, and many of them are at the same or maybe**  
 3 **slightly higher noise level than what the actual**  
 4 **measurements at my house were.**  
 5 Q. And can you tell us again what sound  
 6 bothered you the most?  
 7 **A. The sound that bothered us the most was a**  
 8 **rumbling, thumping noise like heavy bass. To**  
 9 **describe it, it's like if someone comes to your home**  
 10 **and you're expecting guests and you're cleaning and**  
 11 **you're furiously getting ready and you hear a car**  
 12 **door slam and you say, oh, crap, I got to get**  
 13 **clothes on, that sudden jolt and kind of like an**  
 14 **awakening or piquing of your senses, that feeling of**  
 15 **something just happened and I need to do something**  
 16 **kind of like reaction. That's the type of noise**  
 17 **that would happen.**  
 18 **Because with the wind, the turbines would**  
 19 **speed up or slow down or have a gust of wind and we**  
 20 **would get these pulsating, like I would consider it**  
 21 **like a rubble or a thump, like somebody opening the**  
 22 **door of your house suddenly or your kid falling out**  
 23 **of bed. That's the type of feeling and the type of**  
 24 **noise that was bothering us the most, was just it's**

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1 **just the bump in the night, thumping, rubble noise**  
 2 **that you cannot insulate against or get away from.**  
 3 Q. So do you think -- so your only -- so do  
 4 you think setting back turbines farther would help  
 5 with that?  
 6 **A. Most definitely. Larger setbacks would**  
 7 **help all of the noise issues.**  
 8 Q. I have only one other question, it's not  
 9 related to noise, but do you know what the distance  
 10 setback for the Mackinaw River is?  
 11 **A. A half mile. I was here when that was**  
 12 **being discussed.**  
 13 **MS. WINTERLAND:** Is that off topic?  
 14 **MS. WALLEY:** It's beyond the scope of what  
 15 he's testified to and he's not testifying to things  
 16 that he heard at a prior hearing.  
 17 **MR. HARTKE:** Yeah, that's the only  
 18 information I have.  
 19 **MS. WINTERLAND:** Okay, no further  
 20 questions.  
 21 **CHAIRMAN FINNIGAN:** Anyone else in the  
 22 audience have questions? Come forward. You know  
 23 the process.  
 24 **MS. COTTER:** I do. Julie Hall-Cotter,

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1 23571 North 2900 East Road, Lexington. I have  
 2 pretty much yes or no questions.  
 3 **QUESTIONS BY**  
 4 **MS. COTTER:**  
 5 Q. So when you mentioned they wanted to  
 6 insulate your home, was your home not already  
 7 insulated?  
 8 **A. It's already insulated.**  
 9 Q. So they wanted to put additional  
 10 insulation or redo it completely?  
 11 **A. I think the plan was to remove and replace**  
 12 **or just add, add more, pack it in as much as they**  
 13 **could fit in a wall.**  
 14 Q. Okay. When you did sell your home, did  
 15 you sell your home at a profit or a loss?  
 16 **A. That's kind of a trick question because I**  
 17 **bought my home out of a foreclosure. My house**  
 18 **didn't look anything like it did in the photos I**  
 19 **shared here. It didn't have a garage or a breezeway**  
 20 **addition and it was a foreclosure home, it was a**  
 21 **real mess.**  
 22 Q. I understand.  
 23 **A. So --**  
 24 **CHAIRMAN FINNIGAN:** It's still yes or no

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1 because you know what you paid for your house and  
 2 what you got.  
 3 Q. What you had in it.  
 4 **CHAIRMAN FINNIGAN:** So yes or no.  
 5 **A. Perhaps I probably lost financially -- can**  
 6 **I include the time I wasn't able to live in the**  
 7 **house? I mean the expenses have not --**  
 8 **CHAIRMAN FINNIGAN:** This is a yes or no  
 9 answer.  
 10 Q. Considering what you had put into your  
 11 home and what you would have gotten out of it were  
 12 you to sell it if there were no wind farm around.  
 13 **A. I'm going to say if there had been no wind**  
 14 **farm there, I'd be -- we probably lost a hundred**  
 15 **thousand dollars. If someone held a gun to my head**  
 16 **and said, Mr. Hartke, how much exactly is it and I**  
 17 **didn't have time to go through all of the details,**  
 18 **it's in the magnitude of a hundred thousand dollars.**  
 19 Q. Okay. And you spoke at a community  
 20 meeting in Lexington on January 17th?  
 21 **A. Yes.**  
 22 Q. Is it true that when we offered you even a  
 23 bottle of water for the ride that you did not want  
 24 to be accused of taking any compensation?

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1 **MS. WALLEY:** Ms. Cotter, this is referred  
 2 to -- this is referred to as friendly  
 3 cross-examination, you're bolstering his testimony,  
 4 so cross-examination is an opportunity to challenge  
 5 or test the veracity of what someone is testifying  
 6 to, okay?  
 7 **MR. HARTKE:** The veracity of me not taking  
 8 any payment, I have not ever taken payment.  
 9 **MS. WALLEY:** And I'm not challenging that.  
 10 I just want to make sure we maintain the same  
 11 process throughout the hearing.  
 12 **MR. HARTKE:** Like, for instance, this  
 13 bottle of water was provided --  
 14 **MS. WALLEY:** Mr. Hartke, I was speaking to  
 15 Ms. Cotter, thank you.  
 16 **MR. HARTKE:** Thank you.  
 17 **BY MS. COTTER:**  
 18 Q. I believe it was Michael Hankard you said  
 19 did Invenergy's studies?  
 20 **A. Yes, Hankard and Dr. Schomer were both**  
 21 **involved in the noise study for Invenergy.**  
 22 Q. Did you have an opportunity to even speak  
 23 to them when they came to your home to do your  
 24 study?

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1 **A. On the first day of the study I met**  
 2 **Michael Hankard and that's the only time I've ever**  
 3 **seen him.**  
 4 Q. Did you speak with him?  
 5 **A. Yes.**  
 6 Q. Could you share the conversation? Is that  
 7 allowed or --  
 8 **A. In my testimony I have --**  
 9 **MS. WALLEY:** Hold on just a second.  
 10 **MR. HARTKE:** This is in my testimony.  
 11 **MS. WALLEY:** I understand.  
 12 **CHAIRMAN FINNIGAN:** Unless he's here, it's  
 13 just hearsay to us because we, you know --  
 14 **MR. HARTKE:** You can ask --  
 15 **CHAIRMAN FINNIGAN:** You could say he said  
 16 anything, you know. Not that I don't believe you,  
 17 but we can't use it --  
 18 **MR. HARTKE:** I understand.  
 19 **CHAIRMAN FINNIGAN:** -- so it doesn't  
 20 really matter.  
 21 **MR. HARTKE:** It doesn't matter what he  
 22 told me.  
 23 **MS. COTTER:** Okay, I have no other  
 24 questions.

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1 **MR. SHIELD:** I'm Dave Shields. Do you  
 2 need the address also? 701 Broadway, Normal,  
 3 Illinois.  
 4 **MS. WALLEY:** Can you spell Shields for the  
 5 record?  
 6 **MR. SHIELD:** S-H-I-E-L-D-S. Just a couple  
 7 curiosity questions.  
 8 **QUESTIONS BY**  
 9 **MR. SHIELDS:**  
 10 Q. Hi. You seemed angry. You seem like a  
 11 great guy --  
 12 **CHAIRMAN FINNIGAN:** Going to have to be a  
 13 little louder.  
 14 Q. You seem like a great guy who's angry and  
 15 kind of a man on a mission here. At what point --  
 16 under what set of circumstances will your mission be  
 17 complete?  
 18 **A. If I think that Invenergy will stop taking**  
 19 **away people's ability to sleep in their home and**  
 20 **doing the same thing that they did to us, when that**  
 21 **repeat scenario goes away, I will go away and I --**  
 22 **I'll live on in my life or -- and not just**  
 23 **Invenergy, it's E.ON or Apex, it doesn't matter. As**  
 24 **soon as there's a realization that -- or an**

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1 **admission or they stop harming families like what**  
 2 **happened to mine, then I will stop.**  
 3 Q. Is there a set of evidence that would  
 4 affirm that for you?  
 5 **A. A set of evidence that would affirm that**  
 6 **they would quit causing problems for people? Yeah,**  
 7 **I think the moment in time that -- all of these wind**  
 8 **turbine setbacks are based on noise in relationship**  
 9 **to the distance. As soon as those safe distances**  
 10 **are put in place for nonparticipants, that's when**  
 11 **I'll stop.**  
 12 **I am totally in agreement with allowing**  
 13 **any wind company to negotiate those noise easements**  
 14 **or, you know, possible effects that might happen to**  
 15 **neighbors as long as those neighbors even have that**  
 16 **opportunity, but for as long as it's shortchanged by**  
 17 **a ZBA or a county board and their intermediary who**  
 18 **disallows those residents to represent themselves**  
 19 **and negotiate directly with wind companies, I think**  
 20 **that's theft, taking away people's ability to**  
 21 **protect their homes by not being able to purchase an**  
 22 **easement or sell an easement and protect all of**  
 23 **their property, because they own all of it. As soon**  
 24 **as individuals are allowed to represent themselves**

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1 **to do that with wind companies. I don't think any**  
 2 **time Invenergy should ever be allowed to build**  
 3 **turbines within the distances that they were from my**  
 4 **house.**  
 5 **You know, I testified twice and I admitted**  
 6 **this once, that if Invenergy would have --**  
 7 Q. I think you answered my question, thank  
 8 you.  
 9 **A. -- built 3200 feet away and I only lost**  
 10 **two nights of sleep in half of a year, I would be**  
 11 **okay with that, I really would be, but --**  
 12 **CHAIRMAN FINNIGAN:** I think he's got one  
 13 more question for you.  
 14 **MR. HARTKE:** Okay.  
 15 Q. I have not lived near or around a wind  
 16 turbine, but I've lived in towns and fire trucks go  
 17 by at night, ambulances go by at night, trains go by  
 18 frequently. Compare the noise level of a wind  
 19 turbine to a fire truck or an ambulance going right  
 20 by your house.  
 21 **A. The ambulance and the fire truck are much,**  
 22 **much noisier going by your house. The trouble and**  
 23 **the root cause of the problem that we have is that**  
 24 **in an ambulance or fire truck situation, that's an**

1 emergency and that's -- it goes by and in one or two  
 2 minutes it's over with and you go back to sleep or  
 3 go back to what you were doing. In the case of a  
 4 wind turbine, it grinds on you and wears you down.  
 5 It's instead of --  
 6 Q. Or a train that's on a regular schedule.  
 7 A. Or a train that's here and gone in five  
 8 minutes or ten minutes even, every hour at least  
 9 you'd still have 55 minutes of that hour to sleep or  
 10 relax, whereas the wind turbine was grinding on and  
 11 on and it just wears us down. It's like --  
 12 Q. Okay.  
 13 A. -- carpal tunnel disease.  
 14 MR. SHIELDS: Okay, that's good, thanks.  
 15 CHAIRMAN FINNIGAN: Anyone else have  
 16 questions? One more. Name and address, spell your  
 17 last name.  
 18 MR. KAUFMAN: David Kaufman,  
 19 K-A-U-F-M-A-N, 549 County Road 2500 East, El Paso.  
 20 Illinois.  
 21 QUESTIONS BY  
 22 MR. KAUFMAN:  
 23 Q. I got a question. I looked at your aerial  
 24 of your -- where your house is sitting. Being a

1 MS. WALLEY: You can ask him about what  
 2 surrounds his property, but you can't -- he only  
 3 testifies to what occurred on his property or  
 4 nearby, if that makes sense.  
 5 MR. KAUFMAN: Okay.  
 6 MS. WALLEY: So to ask him what would  
 7 prevent you from doing something else is beyond the  
 8 scope of what he testified to, but you can ask him  
 9 about the condition or where his property is  
 10 situated or what surrounds his property.  
 11 MR. KAUFMAN: Okay.  
 12 BY MR. KAUFMAN:  
 13 Q. When you moved to the country and bought a  
 14 house, it was repossessed or whatever, I don't  
 15 remember what you said, were you aware at the time  
 16 that there was going to be windmills coming?  
 17 A. No, when we purchased our home, it was way  
 18 before the county even had a wind farm ordinance.  
 19 There was no thought or knowledge for anyone  
 20 probably on the earth that thought there was a wind  
 21 farm coming from when I purchased my home.  
 22 Q. When you moved out to the country, did you  
 23 ever think anything could happen?  
 24 A. Oh, yeah. We lived in the country and

1 landowner that I am, being out in the country and I  
 2 do live in the country, what -- if I own land right  
 3 next to you, what would stop me from putting a bin  
 4 site up there where I've got dryers going all night  
 5 for nights of the year, fans blowing six months of  
 6 the year, or cattle or hogs? And you, instead of a  
 7 wind turbine --  
 8 CHAIRMAN FINNIGAN: Give him a chance to  
 9 answer the question. You kept going there. Just  
 10 give him a chance.  
 11 A. I'll be glad to answer it.  
 12 CHAIRMAN FINNIGAN: My counsel says that's  
 13 beyond the scope of what we talked about, so I'm not  
 14 sure. She'll answer it. She's --  
 15 A. Well, actually I grew up on a hog farm, I  
 16 can easily answer.  
 17 CHAIRMAN FINNIGAN: I've got to --  
 18 MS. WALLEY: Mr. Kaufman, when I stated  
 19 it's outside the scope, you have to limit your  
 20 question to what Mr. Hartke testified to, okay? So  
 21 he testified to things that happened on his property  
 22 and that sort of thing.  
 23 MR. KAUFMAN: That's what I was pointing  
 24 out is his property is out in the country.

1 Vermilion County had no zoning, so therefore, to  
 2 answer your question earlier, they could put a bin  
 3 immediately on the property line. They could put a  
 4 hog farm. I think the limit is 1,500 feet from your  
 5 home because of Illinois CAFO laws. And I grew up  
 6 on a hog farm. I had no problems dealing with any  
 7 agricultural use on my neighbor's property, whether  
 8 it be hog barns or bins, because I lived within 200  
 9 feet of one for 18 years. My family -- I'm the only  
 10 engineer surveyor in my family and most of the rest  
 11 of them are all farmers, so I understand your urge  
 12 to be able to do whatever you want on your land.  
 13 But today I'm testifying about how what  
 14 you did came inside my home, in my bedrooms, in the  
 15 beds of my children. That's where Invenergy crossed  
 16 the line.  
 17 Q. But did you testify that you wouldn't let  
 18 Invenergy in, but you let someone else in to do the  
 19 measurement in your house?  
 20 A. I did. And the type of noise measurements  
 21 that we did in our home was not recording the  
 22 conversation audible levels inside of our home.  
 23 Q. Couldn't Invenergy do the same thing?  
 24 A. Invenergy wanted to record all of the

1 **noise at or inside my home.**

2 Q. But couldn't they have done it to your  
3 request and not recorded all that? If somebody else  
4 could do that, I don't know why couldn't --

5 **A. Okay, our negotiations with Invenergy**  
6 **about the limitations of what we would or would not**  
7 **allow, it lasted one letter, and they demanded to**  
8 **have access to our house within one week of them**  
9 **starting their sound study. We replied back with**  
10 **their contract, that was like a hold harmless**  
11 **agreement and had a bunch of stuff in it, we were**  
12 **not in agreement with the terms that they provided**  
13 **to us. And when we suggested otherwise, and we also**  
14 **suggested to have Dr. Schomer involved with the**  
15 **wind, the noise study, Invenergy quickly declared**  
16 **that the Hartkes are unreasonable, they were**  
17 **refusing to cooperate, they're the bad guys, and**  
18 **they --**

19 Q. Is that hearsay from you or is that --

20 **A. No, that's what happened. Within one week**  
21 **of them demanding access to my home, they had -- I**  
22 **think it was within one week they had instruments**  
23 **set up on my property line. So we had no time to**  
24 **react to their request except to say --**

1 **record everything.**

2 Q. But isn't, isn't the noise complaint in  
3 your house? Wasn't your daughter in your house with  
4 the earmuffs on? Why wouldn't you measure inside  
5 the house instead of outside?

6 **MS. WALLEY:** Mr. Kaufman.

7 **MR. KAUFMAN:** Oh, I'm sorry.

8 **MS. WALLEY:** Oh, no, it's just I think Mr.  
9 Hartke has already answered that question for you.

10 **A. It was simply for the protection of our**  
11 **privacy.**

12 Q. Okay.

13 **A. In the terms of their offer, they were,**  
14 **they were -- I don't want to say the word crazy.**  
15 **They were totally to Invenergy's advantage to**  
16 **pouring into my home that I wasn't -- I was going to**  
17 **negotiate some different kind of arrangement to have**  
18 **noise measured inside my home, but they immediately**  
19 **went to declaring that I was uncooperative.**

20 Q. After they said they would be there within  
21 a week and you said no. If you have a problem --

22 **A. Oh, they did not -- okay.**

23 Q. -- with sleep, I would get them out there  
24 right away.

1 Q. But if somebody -- if you were  
2 complaining, wouldn't you want somebody -- if you  
3 couldn't sleep at night, wouldn't you want somebody  
4 there right away --

5 **A. We --**

6 Q. -- or wait several months?

7 **A. We begged for them to come record the**  
8 **noise, measure the noise.**

9 Q. But they did.

10 **A. They did it and they started about nine**  
11 **months after we started complaining. We wanted any**  
12 **help we could get, you know, all the way until**  
13 **May --**

14 Q. Didn't you say that they were going to be  
15 there the next week and you wouldn't let them?

16 **A. Well, it was -- if you was to read the**  
17 **terms of the agreement --**

18 Q. I'm not saying I'm going to read them, but  
19 it's just --

20 **A. They wanted full --**

21 Q. -- what you said --

22 **A. They wanted full access to my entire home**  
23 **in their request. I mean it was like a demand**  
24 **letter, we're going to come into your home and**

1 **A. There's specific items. So they sent a**  
2 **letter to my attorney. We wrote back, hey, these**  
3 **terms aren't very good for us and we'd like to talk**  
4 **about items whatever, I'm paraphrasing, and they**  
5 **showed up unannounced without telling us, hey, we**  
6 **have a week, we have a deadline, nothing. They**  
7 **immediately -- they showed up on their own without**  
8 **telling us when to expect them. They didn't give us**  
9 **a deadline, they just showed up and did their thing**  
10 **and declared that we're uncooperative.**

11 Q. But you wanted them to do it right away so  
12 you could sleep at night, correct?

13 **A. Well, we wanted to be able to sleep at**  
14 **night, but having the noise measurements were not**  
15 **going to change our ability to sleep in our beds.**  
16 **They were just going to sit there and record and**  
17 **we're supposed to go about our business.**

18 **CHAIRMAN FINNIGAN:** I think we've kind of  
19 covered all this already, unless you have something  
20 else.

21 **MR. KAUFMAN:** No.

22 **CHAIRMAN FINNIGAN:** Thanks for coming up.

23 **MR. HARTKE:** It was a very difficult  
24 situation.

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1       **CHAIRMAN FINNIGAN:** That's all. Any more  
2 questions? Push your button, I think you're done.  
3       **MR. HARTKE:** Thank you very much.  
4       **MR. DICK:** Ryan Worthley, 503 Mulberry.  
5       **MS. WALLEY:** Mr. Worthley, did you want to  
6 testify?  
7       **MR. WORTHLEY:** No.  
8       **MR. DICK:** Jake Bolton on Locust Street.  
9 Craig Corry, 17 Clinton Place. Mr. Gonzalez, 410  
10 East Washington Street. John Slagel.  
11       **MR. LUETKEHANS:** Mr. Slagel is our witness  
12 on behalf of me and my clients.  
13       **MS. WALLEY:** Is this your expert witness?  
14       **MR. LUETKEHANS:** It is one of our two  
15 expert witnesses.  
16       **MS. WALLEY:** Okay. Do you intend on  
17 laying a foundation?  
18       **MR. LUETKEHANS:** Mr. Slagel's presentation  
19 lays the foundation.  
20       **MS. WALLEY:** Okay, we'll have to do it in  
21 advance of the 30 minutes.  
22       **MR. LUETKEHANS:** The first three  
23 PowerPoint slides give his background, and if you  
24 wish to make a decision then, we can have a

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1 discussion about it if necessary.  
2       **MS. WALLEY:** Is it contained within his  
3 exhibit there?  
4       **MR. LUETKEHANS:** Yeah, it's the first  
5 three or four pages of his PowerPoint.  
6       **MS. WALLEY:** Okay.  
7       **CHAIRMAN FINNIGAN:** Would you like to be  
8 sworn in?  
9       **MR. SLAGEL:** Sworn is fine.  
10 (Mr. John Slagel was duly sworn.)  
11       **CHAIRMAN FINNIGAN:** State your name and  
12 address, spell your last name.  
13       **MR. SLAGEL:** John Slagel, S-L-A-G-E-L.  
14 I'm at 308 East Mirlynbeth, that's  
15 M-I-R-L-Y-N-B-E-T-H, in Fairbury, Illinois.  
16       **MR. LUETKEHANS:** For the record, we would  
17 label the PowerPoint as SLG Exhibit 18.  
18       **MS. WALLEY:** Give me just a moment.  
19       **MR. DICK:** What does SLG stand for?  
20       **MR. LUETKEHANS:** Schirott, Luetkehans and  
21 Garner, my law firm. That's based on conversations  
22 I had with Ms. Walley yesterday.  
23       **MR. SLAGEL:** Bottom one there. It's just  
24 a PDF. Try right clicking and try opening it as

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1 administrator. I have my laptop if you need it  
2 also.  
3       **MS. WALLEY:** I believe all the board  
4 members have it, so if it doesn't work, it's  
5 something you can always email to us and we can move  
6 through it.  
7       **MR. SLAGEL:** Okay, he can copy the PDF.  
8 Do you have internet? Could I send you a Dropbox  
9 link?  
10       **MS. WALLEY:** Mr. Luetkehans, I do have  
11 some questions about Mr. Slagel's qualifications.  
12 Do you mind if I go ahead and ask the questions or  
13 would you like to lay a foundation?  
14       **MR. LUETKEHANS:** No, you can go ahead.  
15       **MS. WALLEY:** Okay.  
16       **QUESTIONS BY**  
17       **MS. WALLEY:**  
18       Q. Okay. Mr. Slagel, I'm going to -- Mr.  
19 Slagel, some of these are going to be yes or no  
20 questions based on what's in your PowerPoint. So my  
21 understanding is that you have a bachelor's of  
22 science in computer science from U of I you obtained  
23 in 1993?  
24       **A. Correct.**

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1       Q. Okay. You are a member of the Acoustical  
2 Society of America?  
3       **A. Correct.**  
4       Q. Okay. And the bachelor of science, that's  
5 your highest degree of education?  
6       **A. Correct.**  
7       Q. Okay. And it indicates that you are a  
8 professional computer programmer for the last 25  
9 years?  
10       **A. Yes.**  
11       Q. 25 years to current?  
12       **A. Yes.**  
13       Q. Okay. And it indicates that you now own  
14 and I think it's supposed to say manage an  
15 engineering and manufacturing company based in  
16 Fairbury.  
17       **A. That's correct.**  
18       Q. Okay. What's the name of the company?  
19       **A. E-Motion, LLC, with a dash between the E**  
20 **and motion.**  
21       Q. And what is your position there?  
22       **A. I'm the president, acting manager, acting**  
23 **partner -- managing partner, sorry.**  
24       Q. Okay. Now it says here that the company

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1 itself makes electronics, but what do you do for the  
 2 company?  
 3 **A. Well, I program for it, I'm a programmer,**  
 4 **but then I also run the --**  
 5 Q. Okay, so you do ground floor stuff as well  
 6 as administrative.  
 7 **A. Yes, exactly.**  
 8 Q. Okay. Is your bachelor of science, is  
 9 that the only degree that you hold?  
 10 **A. Yes.**  
 11 Q. Have you lectured --  
 12 **A. No.**  
 13 Q. -- previously? Okay, have you testified  
 14 previously?  
 15 **A. I have testified about this same sound**  
 16 **study that I'm going to testify about today in**  
 17 **Livingston County.**  
 18 Q. In Livingston County?  
 19 **A. Yes.**  
 20 Q. Do you recall when that was?  
 21 **A. 2000 -- let's see. 2015 I believe.**  
 22 Q. Is that the only other time that you can  
 23 recall?  
 24 **A. Yes, yes.**

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1 Q. Okay, so you said no lectures. Is the  
 2 Acoustical Society of America, is that your only  
 3 professional association?  
 4 **A. That has to do with this, yes.**  
 5 Q. Okay, and how long have you held  
 6 membership with that society?  
 7 **A. Since 2015.**  
 8 Q. Okay. Any honors or awards in your field?  
 9 **A. No.**  
 10 Q. Okay. Other than your bachelor of science  
 11 in computer science, do you have any specialization  
 12 or certification within your field?  
 13 **A. No.**  
 14 Q. Okay. What specific training beyond your  
 15 bachelor's do you have in your area of speciality?  
 16 **A. Well, in terms of this, in terms of sound**  
 17 **stuff I would say.**  
 18 Q. In terms of -- we'll get to what you want  
 19 to be qualified as.  
 20 **A. Yeah.**  
 21 Q. It says you're a professional computer  
 22 programmer. What, what -- what special training  
 23 have you or specific training have you received in  
 24 that regard?

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1 **A. Basically what I learned in school and**  
 2 **then on the job and stuff.**  
 3 Q. Okay. Do you have any publications or  
 4 research?  
 5 **A. No.**  
 6 Q. Do you possess any professional licensing?  
 7 **A. No.**  
 8 Q. Can you list your places of employment  
 9 prior to owning or working for E-Motion, LLC?  
 10 **A. Yes. It's -- none of it is really**  
 11 **pertinent to sound stuff except for my game**  
 12 **programming experience.**  
 13 Q. Okay, tell us about that.  
 14 **A. Basically from 1993 until 2006 I made**  
 15 **computer games in Champaign, Illinois.**  
 16 Q. Okay.  
 17 **A. We --**  
 18 Q. Was that for a particular company?  
 19 **A. Yes.**  
 20 Q. What was the company?  
 21 **A. It started out called Parallax Software**  
 22 **and it ended up being a studio called Volition which**  
 23 **got bought out by a company called THQ. That's**  
 24 **where it ended up.**

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1 Q. Okay. And you made video games for them?  
 2 **A. Yes.**  
 3 Q. Can you state your duties or your  
 4 responsibilities at your previous position?  
 5 **A. At the game stuff? Yeah, basically I was**  
 6 **an engine programmer which means we did a lot of the**  
 7 **graphics and physics and sound to make 3D games.**  
 8 Q. Okay.  
 9 **A. They have a lot of sound in them, you**  
 10 **know, bullets ricocheting, explosions, they all mix**  
 11 **together in real-time, fade with distance, and**  
 12 **things like that.**  
 13 Q. What type, if any, of scientific or  
 14 technical studies have you conducted?  
 15 **A. None.**  
 16 Q. Okay.  
 17 **A. Well --**  
 18 Q. No, go ahead.  
 19 **A. I guess, you know -- no, none.**  
 20 Q. Has any of your work been peer reviewed?  
 21 **A. No.**  
 22 Q. Okay. Did you prepare a report for this,  
 23 this hearing today?  
 24 **A. Yes, I did.**

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1 Q. Okay. Is that contained in here?  
 2 A. Yes.  
 3 Q. Okay, can you tell me what page?  
 4 A. **Oh, the report I would -- basically the**  
 5 **summary of the data that I'm presenting is starting**  
 6 **on pages, let me see -- 16.**  
 7 Q. 16 to the end?  
 8 A. **Yeah, 16 to the end.**  
 9 Q. And I see a handful of it looks like  
 10 pictures, charts, that sort of thing.  
 11 A. **Yes, correct.**  
 12 Q. Okay. And these have been color coded by  
 13 you?  
 14 A. **Yes.**  
 15 Q. Okay. Okay, can you explain the material  
 16 that you reviewed to create this report, just  
 17 generally speaking?  
 18 A. **Yeah. A lot of what I reviewed was like**  
 19 **the ISO 9613 specs that we will be talking about.**  
 20 **The other thing is the -- obviously the application**  
 21 **for this wind farm very carefully. I contacted the**  
 22 **county to try and get some data files that were**  
 23 **mentioned in the application but couldn't get those.**  
 24 **So I spent a lot of time on the application. I took**

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1 **a lot of data out of the application and put it into**  
 2 **spreadsheets, converted coordinates, put it into my**  
 3 **program. I spent a lot of time on -- well, not a**  
 4 **lot. I downloaded like elevation maps for the area**  
 5 **to do the sound study. I used Google Maps to go**  
 6 **through and get pictures of the houses in question.**  
 7 **Read the California Ridge sound validation study**  
 8 **that we keep talking about. I actually brought**  
 9 **copies of that also. I spent a lot of time on that.**  
 10 **So that's the gist of it.**  
 11 Q. Okay.  
 12 A. **And on my computer making these charts.**  
 13 Q. Okay. Can you describe what, if any,  
 14 scientific or technical principles or methods you  
 15 used to come to the conclusions in your report?  
 16 A. **Yes, basically I used ISO 9613 sound**  
 17 **propagation outdoor stuff, I used C++ Compiler, I**  
 18 **used Google Maps to get train data, I used USGS**  
 19 **elevation data.**  
 20 Q. Okay. And when you refer to the ISO 96,  
 21 that's a prediction model?  
 22 A. **Yes.**  
 23 Q. Okay, and is that something that you used  
 24 previously as a computer programmer?

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1 **A. It's something that I needed to be a**  
 2 **computer programmer to use the way I used it.**  
 3 Q. Okay, is it -- but is it something in your  
 4 prior experience making video games or in your  
 5 current job now is it something that you utilize as  
 6 part of your profession?  
 7 A. **No, no. In my -- in my basically current**  
 8 **profession, we do a lot of ISO and SAE**  
 9 **specifications for vehicle communication networks**  
 10 **and stuff like that, so I'm very familiar with**  
 11 **taking a specification and implementing it into**  
 12 **code.**  
 13 Q. Okay, but it's not necessarily something  
 14 that you do on a regular basis as required due to  
 15 your tasks in your profession.  
 16 A. **Not for the sound part of this.**  
 17 Q. Okay.  
 18 A. **Not in the automotive industry.**  
 19 Q. Okay. Are these -- the ISO 96 prediction  
 20 model, is this something that's widely used for  
 21 computer programmers in the field?  
 22 A. **I wouldn't say it's widely used by**  
 23 **acousticians and -- unless acousticians are**  
 24 **programmers, it was first implemented by a**

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1 **programmer, and the program is a program an**  
 2 **acoustician would be using.**  
 3 Q. Do you believe that your testimony will be  
 4 helpful in assisting the board in making --  
 5 understanding the facts of this case and coming to a  
 6 determination?  
 7 A. **I think so.**  
 8 Q. Okay. Now, I want to try and understand.  
 9 What in particular are you asking to be qualified as  
 10 an expert in?  
 11 A. **Programming because basically I took the**  
 12 **ISO 9613 specs, implemented them into a program,**  
 13 **took the data from the applicant's sound study and**  
 14 **implemented it in the program and produced graphs,**  
 15 **so I would say making graphs and programs out of**  
 16 **their data.**  
 17 Q. Okay. Are you asking to be determined as  
 18 an expert for the purpose of explaining or  
 19 describing the results between moving data from  
 20 program to program?  
 21 A. **Yes, and then -- yes, and presenting the**  
 22 **results in way that people can understand them.**  
 23 Q. Okay, so said in another way, you're  
 24 asking to be qualified as an expert in noise

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1 prediction?

2 **A. I wouldn't say so. The ISO spec is pretty**

3 **much done by experts. I just implemented it**

4 **following what they did.**

5 Q. Okay, so you replicated what acousticians

6 do.

7 **A. Yes. Well, I implemented their steps that**

8 **they outlined in order -- basically they say in**

9 **order to do this calculation you follow these steps,**

10 **so I did.**

11 Q. Okay.

12 **MS. WALLEY:** Mr. Slagel, based on what I

13 understand you're going to testify to, I certainly

14 believe that you have experience and considerable

15 credentialing with computer programming, and to that

16 regard if you want to testify to that, I think

17 that's perfectly appropriate. But with regard to

18 what data means, pulling it out of one program into

19 what an acoustician, a model that an acoustician

20 would use, and what that means to interpret it for

21 the board I think is beyond your expertise being

22 qualified as an expert.

23 So you can do one of two things, and you

24 can confer with Mr. Luetkehans before you testify.

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1 If you're going to limit your testimony to computer

2 programming only, you would be an expert and you

3 would have to make it relevant for 30 minutes or

4 less. If you want to testify about something less,

5 something about prediction or interpretation or that

6 sort of thing, I don't believe that you would meet

7 the qualifications to be an expert.

8 **MR. LUETKEHANS:** Can I ask a question

9 because I'm a little confused?

10 **MS. WALLEY:** Certainly.

11 **MR. LUETKEHANS:** He's not going to say

12 what anything, he's not -- he's just going to show

13 what the model predicts where. That's all he's

14 doing. He's running the model and showing you

15 exactly what it predicts at what point. It is

16 computer programming. He's not going to give

17 opinions as to whether a certain decibel is

18 inappropriate. He's going to just give you here is

19 what the model shows at these locations.

20 So that's my question, is he able to do

21 that, because that's really nothing more than

22 programming and that's really all that is. He's

23 running a program.

24 **MS. WALLEY:** What I can tell you is based

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1 on what Mr. Slagel has testified to, and I believe

2 he's been very honest and forthright with me, I

3 don't believe he meets the threshold to be an expert

4 with regard to what the data means. I think he can

5 testify absolutely to the steps that he took and I

6 plugged A into B and that equalled C, but when we

7 get into we have X amount of hertz or this

8 particular wind turbine will present this much or

9 something of that nature, I think that's beyond his

10 expertise. Like I said, I want to afford him every

11 opportunity given his expertise, but I do not

12 believe that he rises to the level of interpretation

13 such as an acoustician would make.

14 **MR. LUETKEHANS:** He's not -- here's the

15 difference. He's not interpreting. He is running

16 the model and all he is doing is telling you what

17 the model ended up at. That is nothing more than a

18 computer programming issue. It is not an

19 acoustician. It is run the model, here's where it

20 is, here's what happens, and that's what he's going

21 to testify to, and he does not need to be published

22 as an acoustician to do that.

23 He has under the Federal Rules of Evidence

24 what is specialized knowledge which will assist the

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1 trier of fact to understand the evidence or to

2 determine a fact in issue. A witness qualified as

3 an expert by knowledge, skill, experience, training

4 or education may testify thereto in the form of an

5 opinion or otherwise. He meets Rule 702 of the

6 Federal Rules of Evidence, and this board should not

7 even go to that standard.

8 **MS. WALLEY:** I understand your position,

9 Mr. Luetkehans. I have discussed it with the board

10 and the board is of the opinion that he is not an

11 expert in that regard. So he -- it's up to you, you

12 can confer with Mr. Slagel, he can do the 10 minutes

13 or he can do the 30 minutes, but it will have to be

14 confined in that manner.

15 **MR. LUETKEHANS:** So if he does the 10

16 minutes he can go beyond, if he does the 30 he

17 cannot go beyond what he did, is that what you're

18 saying? I just want to understand what the rules

19 are here.

20 **MS. WALLEY:** No, I understand. What I'm

21 telling you is that, similar to a court of law,

22 experts are afforded a weight, there's a weight and

23 credibility issue with experts, that that's why we

24 look into their background and look into their

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1 credentials and that sort of thing. That's not to  
 2 say that I'm going to limit what he can talk about.  
 3 I'm saying that the weight and credibility of what  
 4 he testifies to is different, and I believe that as  
 5 a member of the bar I believe you understand that.  
 6 I am not saying that he is inexperienced or anything  
 7 of that nature. I am simply indicating that he does  
 8 not meet the threshold to be an expert with regard  
 9 to the interpretation. Like I said, I absolutely --  
 10 **MR. LUETKEHANS:** Okay, and I guess that's  
 11 where we're having this problem because I'm not  
 12 asking him to interpret anything. I'm asking him to  
 13 run the model and to provide the results. That is  
 14 nothing more than computer programming. That is  
 15 what he's been asked to do. He's not asked to come  
 16 up with the solution. He's not asked to say that  
 17 41.4 is inappropriate. He's just going to give you  
 18 what the computer runs.  
 19 **MS. WALLEY:** I think, do you want to  
 20 limit --  
 21 **MR. SLAGEL:** At this time of night, I can  
 22 handle ten minutes. I mean you've covered my first  
 23 three slides.  
 24 **MS. WALLEY:** If you can do it in 10

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1 minutes, have at it.  
 2 **CHAIRMAN FINNIGAN:** Sounds good.  
 3 **MR. SLAGEL:** Okay, good. Thank you, Mr.  
 4 Chairman. Lead into it?  
 5 **CHAIRMAN FINNIGAN:** Yes.  
 6 **MR. SLAGEL:** Okay. So basically I've been  
 7 studying wind developer applications like you guys  
 8 have in front of you since 2014. Someone mentioned  
 9 this tonight. I'm also not -- I wasn't satisfied  
 10 with the limited view that the wind companies give  
 11 you. They give you very little data.  
 12 **MR. LUETKEHANS:** Go ahead, keep going.  
 13 **MR. SLAGEL:** They give you very little  
 14 data. They don't give you clear data. You can't  
 15 always tell which homes represent which sound data.  
 16 You can't really re-analyze it. You know, they give  
 17 you just enough to support their conclusion and you  
 18 can't go through, so I wasn't satisfied with that.  
 19 So I thought is there -- you know, can someone else  
 20 validate this? I looked around and it's expensive  
 21 to hire a sound engineering company to go out and do  
 22 these sound studies, it takes time. So the minute  
 23 you get an application in and there's a ZBA hearing,  
 24 you do not have the time between there to handle it

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1 or most people don't have the money to hire somebody  
 2 to do it.  
 3 So basically I'm a programmer. I saw  
 4 these wind companies were using ISO 9613, so I  
 5 implemented it myself. Basically it's not a  
 6 complicated algorithm, not very strenuous, didn't  
 7 take me long to write. The hard part is, short of  
 8 getting the data, marking all the houses, marking  
 9 the turbines, pulling them in from the coordinate  
 10 system used in the application, that sort of thing,  
 11 figuring out where to show the data, you know, a  
 12 good view of the data and things like that.  
 13 So basically -- and then what I do is I  
 14 put the numbers in that they give in the  
 15 application. I make sure my data matches their data  
 16 so we're all calculating the same numbers. Once I  
 17 can match the limited data they gave me, then I can  
 18 go back and create any other data. I can create  
 19 contour maps, I can then look at particular houses,  
 20 I can change scenarios, like I can say what if this  
 21 was a little further away, and things like that. So  
 22 that's basically what I did.  
 23 Basically the ISO 9613 -- this is on page  
 24 5, if you turn the pages. So basically the ISO 9613

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1 is -- I don't know if you remember when you were a  
 2 kid and lightning and thunder would come out and  
 3 you'd basically count seconds between lightning and  
 4 thunder and divide it by five, that's how many miles  
 5 away it is. Obviously the real physics behind that  
 6 is way more complicated than that, so it's a rough  
 7 approximation, but it's good, you know.  
 8 And that's what ISO 9613 is. It takes  
 9 very complicated things, sounds reflecting off the  
 10 ground, going through materials, and it simplifies  
 11 it down into a set of equations. If you really  
 12 wanted to, you could solve it in Excel, in a  
 13 spreadsheet. The hard part of doing that would be  
 14 when you have 120 sound sources and 500 homes, the N  
 15 square complication area, it's a huge number, so a  
 16 computer just chugs right through it.  
 17 So the other thing about ISO 9613 is they  
 18 give very good limits on it in the documents for it.  
 19 You know, they say the delta height, they recommend  
 20 a 30 meter max between listener and then the sound  
 21 meter. This is how -- wind farms are obviously over  
 22 that. They recommend a max of up to 1,000 meters.  
 23 Wind farms go beyond that. But generally, as the  
 24 California Ridge project shows, the ISO 9613, it

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1 does a decent job predicting. You know, you plug  
 2 these numbers in, you get a decent prediction,  
 3 people have been using it, it seems to work, as  
 4 validated by the California Ridge project.  
 5 **MR. GRIFFIN:** So, Mr. Slagel, I'm sorry to  
 6 interrupt, but this -- his testimony is not about  
 7 computer programming, it's about Mr. Slagel  
 8 purporting to be an acoustician or a professional  
 9 engineer and he is not. So he's not claiming that  
 10 he's a party that --  
 11 **MR. LUETKEHANS:** Can we stop the clock  
 12 please?  
 13 **MR. GRIFFIN:** -- has standing here to  
 14 testify. So basically he's a, he's a person who  
 15 doesn't have standing to come here and testify or at  
 16 least he hasn't explained that. So he's a nonexpert  
 17 who's been presented as an expert to talk about a  
 18 subject matter he's not been determined to be an  
 19 expert in. So I don't know what the purpose of his  
 20 testimony is.  
 21 **MS. WALLEY:** I understand your position,  
 22 Mr. Griffin, but I think that was, that was the  
 23 point of the exchange between me and Mr. Luetkehans.  
 24 That's why I indicated to Mr. Luetkehans that Mr.

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1 Slagel will not be considered an expert, so his  
 2 testimony is -- he's given a more brief period of  
 3 time.  
 4 And by the way I understood Mr. Slagel's  
 5 testimony when I was questioning him, his indication  
 6 was that he as a computer programmer simply followed  
 7 the steps to complete the matrix as he understood it  
 8 and that he is reporting on that. So you certainly  
 9 will have your opportunity to cross-examine Mr.  
 10 Slagel if you feel that it's necessary, but that was  
 11 the purpose of the exchange between Mr. Slagel, Mr.  
 12 Luetkehans and I.  
 13 **MR. GRIFFIN:** Okay.  
 14 **MR. LUETKEHANS:** And for the record, the  
 15 standing is I brought him in here and I have  
 16 standing with 52 residents.  
 17 **MR. SLAGEL:** Okay, thank you. So  
 18 basically this is the applicant's sound study here  
 19 in the application. They say they used ISO 9613.  
 20 They give all their parameters. I plugged all their  
 21 numbers into my thing, came out, matched their  
 22 numbers, I agreed with what they -- with the numbers  
 23 they generated, they fit the data, they didn't fudge  
 24 the numbers in any way, so that's good.

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1 So one thing I did want to relate here is  
 2 on the real world example of how the modeling in ISO  
 3 9613 for predictions relates to what you actually  
 4 see in real life. So to do this, you sort of -- you  
 5 need a prediction and then you need the what  
 6 happened in real life. And what we have is, thanks  
 7 to California Ridge, a noise compliance analysis,  
 8 page 9 now, I'm whipping through this. Basically  
 9 the analysis was done because of complaints of two  
 10 residents, Hartke being one of them that you saw  
 11 tonight, they came to prove that they meet the IPCB  
 12 legal limits, and before that they had done a sound  
 13 study prediction model in their application, so  
 14 perfect, it's what we need.  
 15 So the key thing here is the page 10,  
 16 which for some reason page numbers are not on there,  
 17 but this graph here. This graph is beautiful in  
 18 terms of understanding how the prediction relates to  
 19 what was actually measured. So in the case of  
 20 Hartke's -- not Hartke, in the case of this project,  
 21 for the sound data points where they measured, where  
 22 they set up the microphones and they measured the  
 23 sound over the course of the study, that according  
 24 to -- you know, I did the model using their turbines

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1 and stuff, and according to the data model, in the  
 2 1000 hertz band, the prediction there would be 39.8.  
 3 This jibes exactly with what Invenergy said. They  
 4 said none of our predicted models in this 1000 hertz  
 5 range for this project were over 40 decibels, so  
 6 it's -- basically that's the predictive value there.  
 7 So if you look at this graph, you see the  
 8 green horizontal line, that's the predicted value  
 9 there of 39.8 decibels in the 1000 hertz octave  
 10 band. The X axis, the horizontal axis, is the wind  
 11 speed that they measured at the time they took each  
 12 of these average readings, hourly readings. The  
 13 vertical axis is the octave -- is the sound decibel  
 14 that they measured at that level.  
 15 So now the -- if you look at this, and I'm  
 16 referring to the -- well, the slides don't matter.  
 17 Go back to the graph I would say. If you look at  
 18 the graph, so they predicted the green horizontal  
 19 line. When they go out and measure, they got data  
 20 above it and below it, wasn't perfectly on that  
 21 line, as you would expect. Some is above, some is  
 22 below. What they did for the purpose of the sound  
 23 study compliance report was they said anything below  
 24 5 meters per second wind speed doesn't -- there's

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1 too much wind noise in it, we're throwing it out and  
 2 it doesn't count towards IPCB analysis, which is  
 3 fine.  
 4       So if you look at the 5 meters per second  
 5 wind speed, they took all the data to the left of  
 6 that and that's what they used in the sound report  
 7 to say we met IPCB limits. As you can see though,  
 8 there are readings above the measured data. So  
 9 while the measured data does give you a rough  
 10 approximation of what you're going to see in the  
 11 real world when you measure it, it certainly doesn't  
 12 give you the upper limit of what you're ever going  
 13 to see.  
 14       Okay, so moving on here, three minutes, so  
 15 basically their study concluded they met it. While  
 16 they were -- interesting thing to me in the study is  
 17 while they were doing the study and determining that  
 18 they met IPCB limits, they were also recording, and  
 19 you can see it in the study, they recorded the logs  
 20 of the citizens calling in noise complaints. So my  
 21 red line there on this page shows just because you  
 22 meet the IPCB doesn't mean you won't have noise  
 23 complaints. So that's interesting.  
 24       Now the next page here, IPCB. The first

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1 thing I did when I heard about this was I went to  
 2 the IPCB web page to see what is their enforcement  
 3 of this, what do they do, can't we just call them  
 4 and say go do a study on Hartke's house or whatever  
 5 they need to do. It turns out if you look at this,  
 6 the red things I have underlined, okay, basically  
 7 the IPCB does nothing. If you want to do a sound  
 8 study yourself and present, you know, a case to  
 9 them, you can do that, but there's nothing they can  
 10 do.  
 11       So anyway, if -- let's go back to that  
 12 graph for one second here. The applicant in  
 13 their -- the thing that caught my eye and the reason  
 14 I made this study and the reason I'm showing up here  
 15 tonight is the applicant basically looked at this,  
 16 the same thing you're looking at, and they said this  
 17 shows that our model overestimated by 2 decibels.  
 18 So when they did their sound study for McLean  
 19 County, they chopped 2 decibels off every value in  
 20 the 1000 hertz range to prove that they meet the  
 21 limits. Now when you look at this, do you say that  
 22 green line is overestimating everything by 2  
 23 decibels?  
 24       So anyway, so what I did is I just, I took

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1 the data that matched their stuff, I plugged in  
 2 the -- I took out the 2 dB factor reduction that  
 3 made my numbers match theirs and I then reran some  
 4 of the graphs, and what I found were a bunch of  
 5 homes that are, if you take out that 2 dB, clearly  
 6 over the IPCB limits. The -- I didn't include any  
 7 participating houses from -- based on the data from  
 8 their sound study. There are participating houses  
 9 way over the sound limit. That's fine, they signed  
 10 their rights away, they can do that.  
 11       So my sound maps -- I have one minute  
 12 left. The maps for each of them was 475 square  
 13 foot. I calculated the sound for every basically  
 14 square nine inches roughly, so it's a little more  
 15 accurate than the one point on top of each house  
 16 that they gave. Seven houses had a majority of  
 17 their property over the IPCB limits, nine had about  
 18 half their property over the limits, 13 had illegal  
 19 limits encroaching into the property, but they were  
 20 corner cases I call them, I'm not showing them in  
 21 the graphs.  
 22       So if you look at the graphs, you can see  
 23 that the first ones are the ones that are the  
 24 property is completely covered. One of the more

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1 interesting graphs that I'd like to point out --  
 2       **MR. LUETKEHANS:** Mr. Slagel, for the  
 3 record, the red is -- anything in red is over the 41  
 4 decibels, 41.0?  
 5       **MR. SLAGEL:** Yes, and yellow is 1 below  
 6 and green would be 2 decibels below. An interesting  
 7 house is on page 23, .509, which is a nice new  
 8 house, I actually had my mother and dad drive by and  
 9 take pictures to make sure it was not an abandoned  
 10 house. This was not in Invenergy's sound study.  
 11 The house across the street from it was also not in  
 12 the sound study. I didn't include a picture because  
 13 just the corner of it was in red. And the rest of  
 14 these are basically you see where the red is  
 15 crossing into the property but not covering their  
 16 house.  
 17       And that's basically my report. Thank you  
 18 for your time and appreciate you giving me the  
 19 opportunity to present this. This one is  
 20 interesting in that they marked the barn instead of  
 21 the house, they did that in several areas, except  
 22 for the fact that this was the only one they did  
 23 that actually showed up in the red bands. The rest  
 24 were well below the limit.

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1           **CHAIRMAN FINNIGAN:** Questions from the  
2 board?  
3           **MR. ZIMMERMAN:** How far up is this .509 on  
4 slide 23. You've got County Road 2550 East. What's  
5 the cross road?  
6           **MR. SLAGEL:** I would have to actually look  
7 at the map. If you look at the .509 is actually --  
8 this is about -- what I would say, if you go from  
9 Chenoa on Route 24 and go about three to -- do you  
10 know Thacker Airport? About three miles west of 24  
11 and about two -- one, two or three miles south.  
12           **MR. ZIMMERMAN:** Yeah, okay. Why do you  
13 use 1000 versus 500?  
14           **MR. SLAGEL:** The 1000 hertz was the  
15 controlling band. Like if you take away that 2  
16 decibels, it's the one that they run up against.  
17           **MR. ZIMMERMAN:** Did you do 500 as well?  
18           **MR. SLAGEL:** I did not. I could have. I  
19 could change the data and run them. I didn't. In  
20 all their sound models it was fine, so --  
21           **CHAIRMAN FINNIGAN:** Any questions from  
22 staff? Would anyone in the audience have questions  
23 of this witness? I guess I should have asked you  
24 first.

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1           **MR. GRIFFIN:** Hi again. Jim Griffin, law  
2 firm of Schain Banks, 70 West Madison, Suite 5300,  
3 Chicago, Illinois, 60602.  
4           **QUESTIONS BY**  
5           **MR. GRIFFIN:**  
6           Q. So, Mr. Slagel, you basically did your own  
7 noise study, correct?  
8           **A. That's correct.**  
9           Q. And you are -- you are not a professional  
10 acoustician, correct?  
11           **A. That's correct.**  
12           Q. And you've never worked for an  
13 acoustician -- acoustical engineering firm, correct?  
14           **A. Acoustical.**  
15           Q. Acoustical, sorry.  
16           **A. No.**  
17           Q. Are you a licensed engineer in the State  
18 of Illinois?  
19           **A. No, I'm not.**  
20           Q. Do you hold any professional licenses in  
21 the State of Illinois?  
22           **A. No, I do not.**  
23           Q. Have you ever testified in a court case  
24 about noise issues?

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1           **A. No.**  
2           Q. Have you ever been hired to testify in a  
3 court case about noise issues?  
4           **A. No.**  
5           Q. Have you been hired to testify here?  
6           **A. No.**  
7           Q. So you've never been hired to give  
8 testimony about noise-related issues.  
9           **A. No.**  
10           Q. Have you ever performed any noise study  
11 that's been reviewed, to your knowledge, by any  
12 acoustician to confirm its accuracy?  
13           **A. No.**  
14           **MR. GRIFFIN:** That's all the questions I  
15 have. Thank you.  
16           **CHAIRMAN FINNIGAN:** Would anyone in the  
17 audience have questions? Will you come forward?  
18           **MS. BACHMAN:** Lindsay Bachman,  
19 B-A-C-H-M-A-N. We live at 23479 East 2700 North  
20 Road in Lexington. Can I just clarify? My husband  
21 and I believe that we saw our own personal residence  
22 in his slides. Can I ask that to be pulled back  
23 out?  
24           **MS. WALLEY:** Do you know which slide it

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1 was?  
2           **MS. BACHMAN:** It went by quick.  
3           **MR. SLAGEL:** Only ten minutes.  
4           **MR. LUETKEHANS:** That's where they start.  
5           **MS. BACHMAN:** Okay, the second slide A6.  
6           **QUESTIONS BY**  
7           **MS. BACHMAN:**  
8           Q. So we look to be approximately  
9 three-quarters covered in red. Can you just please  
10 clarify for me what that, what that means?  
11           **A. Yeah. Basically it means that the line**  
12 **there where the yellow touches the red, that would**  
13 **be in the 1000 hertz band 41 decibels. So that is**  
14 **right on the edge of where the legal limit is for**  
15 **this octave band for that, and that's one part of --**  
16 **of what eight octave, nine octave bands that are**  
17 **specified in the IPCB specs.**  
18           Q. Okay. Because I don't understand all of  
19 the numbers floating around, can you compare that to  
20 me or for me to the numbers that Ted Hartke was  
21 talking about?  
22           **A. Let me think. Yeah. Well, if -- the**  
23 **number from Ted Hartke in this exact 1000 hertz band**  
24 **would've been 39.8. That was from that figure 7-1**

1 on page 10. The estimated sound of the 1000 hertz  
 2 band would come out to be 39.8 at his house or at  
 3 the microphone that was at a comparable location as  
 4 his house.  
 5 Q. All right.  
 6 A. And yours is basically, since it's inside  
 7 there, I'd have -- I could look at my data table  
 8 numbers and tell you the exact numeric value, but it  
 9 is definitely over the limits.  
 10 Q. All right. So in your opinion, do you  
 11 think our --  
 12 A. I'm going to stick with I'm not an  
 13 acoustician.  
 14 Q. Okay. No, I understand.  
 15 MS. BACHMAN: I think that answers my  
 16 question. I just wanted to -- that's our house and  
 17 I just wanted to know how it would affect us, so  
 18 thank you.  
 19 CHAIRMAN FINNIGAN: Any other questions?  
 20 MS. WINTERLAND: Amy Winterland, 22825  
 21 North 3075 East Road, Colfax, Illinois.  
 22 QUESTIONS BY  
 23 MS. WINTERLAND:  
 24 Q. So could you, could you -- because that

1 had a corner of the property, that basically means  
 2 you have a rectangle property that just had some red  
 3 coming into the corner. I didn't bother printing  
 4 those out and putting those on here.  
 5 Q. But seven of them are clearly over the  
 6 legal limit per your model.  
 7 A. Yes.  
 8 Q. And did you --  
 9 A. Yes.  
 10 Q. Did you like cross-reference that against  
 11 Invenergy's highest predicted noise levels at  
 12 nonparticipating businesses table?  
 13 A. Yes, of course. When I first implemented  
 14 the model, the first thing I did was made sure that  
 15 their numbers matched mine with their 2 dB fudge  
 16 factor and then I took the fudge factor out and  
 17 reran the numbers.  
 18 Q. So is there a direct correlation to the  
 19 seven that you say are clearly over the legal limit  
 20 being the first seven ones on this list?  
 21 A. Probably. They are labeled -- the houses  
 22 are labeled and the numbers are in the top there.  
 23 Q. Well, the woman that just spoke, A006 is  
 24 the second one listed on that highest. I'm just

1 went really fast. Could you say again what the 7,  
 2 the 9, and the 13 numbers were that you testified  
 3 to?  
 4 A. The seven, nine, 13? Oh, the ISO, the ISO  
 5 like I-S-O.  
 6 Q. No, I think it was like seven of them were  
 7 over a certain decibel --  
 8 A. Oh, sorry.  
 9 Q. -- and nine were over a certain decibel  
 10 and 13 were over --  
 11 A. Yeah, so basically once you take out the 2  
 12 decibels from the 1000 hertz range, or add them back  
 13 in depending on -- it's very confusing how to say  
 14 that, but once you take away that little fudge  
 15 factor I call it, seven of the homes, the majority  
 16 of the property there -- the first seven slides, the  
 17 majority of the property is clearly red, meaning  
 18 it's over the legal limit. Nine of them, if you  
 19 look at the next nine in the sequence, you see the  
 20 red and the yellow crossing over the property, so  
 21 the house may or may not be in. In some of the  
 22 cases, the house is in yellow and some of it's in  
 23 red, but the property kind of contains both legal  
 24 and illegal areas. And then the other 13 homes that

1 trying to mesh in my head that list.  
 2 A. They should be -- yes, they should be  
 3 because basically if you take the 1000 hertz column  
 4 of Invenergy's Table 3 data there and you add 2 to  
 5 it, it's the exact same number as what I'm  
 6 calculating on top of the house. So the order  
 7 shouldn't change, which I don't know if...  
 8 Q. So you're adding 2 decibel points to just  
 9 the 1000 hertz or to the 500 hertz as well?  
 10 A. No, the 5000[sic] hertz, Invenergy  
 11 actually added a decibel to it because they were  
 12 saying that the model was underestimating it.  
 13 Q. The 500.  
 14 A. I was going the wrong way. But yeah, the  
 15 500 data they actually added a decibel because it's  
 16 not the controlling, it's not -- it's not what's  
 17 controlling them, so they subtracted 2 conveniently  
 18 from the 1000 hertz.  
 19 Basically in there, if you look at a  
 20 slide, I think I specify where they actually made  
 21 this announcement here. Yes, on page 14, I just  
 22 glossed over this page during my presentation, but  
 23 basically in the application here, I could read you  
 24 the paragraph if you'd like or I can give you a

1 copy, but basically they said they have worked on a  
2 similar project, meaning the California Ridge one.  
3 The validation showed that the model overpredicts,  
4 meaning what they did for this application,  
5 overpredicts noise levels in all octave bands except  
6 500 hertz where it underpredicts by approximately 1  
7 decibel. The model overpredicts in the 1000 hertz  
8 octave band by approximately 2 decibels. To account  
9 for this, 1 decibel has been added to all predicted  
10 noise levels in the 500 hertz band and 2 decibel has  
11 been subtracted from the 1000 hertz bands.

12 So that's where they say they subtracted 2  
13 from everything. And the ISO sound study data that  
14 I ran clearly demonstrated that that was accurate.  
15 If I ran it without that 2 decibel subtraction, all  
16 my numbers were 2 decibels higher in the 1000 hertz  
17 band.

18 MS. WINTERLAND: That's very concerning,  
19 but I don't think I have any other questions.

20 CHAIRMAN FINNIGAN: Would there be any  
21 other questions for this witness? We've only got 15  
22 minutes left, so --

23 MR. HARTKE: Name? My name is Ted Hartke,  
24 H-A-R-T-K-E, 117 South East Avenue, Ogden, Illinois,

1 testified to.

2 MR. HARTKE: I don't have any more  
3 questions.

4 MS. FEHR: Rebekah Fehr, R-E-B-E-K-A-H,  
5 last name is F-E-H-R, and I'm from 8290 North 1900  
6 East Road, Fairbury, Illinois.

7 MR. DICK: Could you repeat your address?

8 MS. FEHR: 8290 North 1900 East Road,  
9 Fairbury. It was easier when we could say Rural  
10 Route 1. I just had a quick question for John about  
11 the IPCB because it's been discussed several times  
12 and if there are issues that you could call or let  
13 the Illinois Pollution Control Board know if you're  
14 having problems. And I just had a question as to  
15 what happened when you called or if you called the  
16 IPCB about any kind of issues?

17 MR. SLAGEL: I remember calling them in  
18 2015 and I -- actually I do not remember the  
19 conversation. I remember the website that said we  
20 will not investigate any issues.

21 MS. FEHR: Okay, thank you.

22 CHAIRMAN FINNIGAN: Any other questions?  
23 Come on ahead.

24 MR. DENEEN: My name is Daniel Deneen,

1 61859.

2 QUESTIONS BY

3 MR. HARTKE:

4 Q. John, the California Ridge sound study  
5 showed raw data for my house and it had all the  
6 octave band limits. How many houses here -- can you  
7 tell us how many houses here are at or worse than  
8 what my house is that I left?

9 A. I could look at the tables that Invenergy  
10 gave as well as anybody else, but I don't have that  
11 handy. It would be a large number.

12 Q. More than 20?

13 A. Yeah, I think so, yeah.

14 Q. Less than 30?

15 MS. WALLEY: Mr. Hartke, you have to limit  
16 your questions to cross-examination.

17 Q. Okay. If there were 25 families -- 21  
18 families with issues in the California Ridge  
19 project, do you expect the same number having an  
20 issue in the Lexington-Chenoa project?

21 MS. WALLEY: Again, Mr. Hartke --

22 A. I'm going to go with my for sound I'm not  
23 an expert.

24 MS. WALLEY: -- this is beyond what he

1 2219 West Oakland Avenue, Bloomington, Illinois.

2 MR. DICK: Could you spell your last name?

3 MR. DENEEN: D-E-N-E-E-N. Just one  
4 question. Does yours -- or do the Invenergy data  
5 and your conclusions differentiate between what  
6 Invenergy calls participating and nonparticipating  
7 homeowners and someone else called it paid versus  
8 unpaid?

9 MR. SLAGEL: Yes. Well, why don't you  
10 reask the question so I make sure I understand?

11 MR. DENEEN: Okay. Did the data that you  
12 reviewed differentiate between residences that were  
13 participating with Invenergy and the residences that  
14 were not participating with Invenergy?

15 MR. SLAGEL: Absolutely, yes.

16 MR. DENEEN: Okay. Approximately -- if  
17 you have any knowledge, approximately what  
18 percentage of the residences that concerned you were  
19 not participating with Invenergy if you know?

20 MR. SLAGEL: I would answer that that I  
21 don't know in that I basically made two piles of all  
22 the homes, ones that are participating and signed  
23 away their rights, so frankly I didn't care what  
24 happened to them. I mean I care what happens to

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1 them, but as far as the data on their house, I can't  
 2 argue anything with it, so I just put it in a pile.  
 3 I do know that, I've said this, some of the  
 4 landowners are putting their money where their mouth  
 5 is. I mean there's houses that have very high sound  
 6 limits on it, so --  
 7 **MR. DENEEN:** No further questions.  
 8 **CHAIRMAN FINNIGAN:** One more time, any  
 9 other questions? Well, we're at a stopping point,  
 10 we're going to continue the case, so reconvene  
 11 tomorrow night, the 24th, at six o'clock and we're  
 12 going to run until ten, so that's what we're going  
 13 to do.  
 14 **MR. LUETKEHANS:** Can we talk about --  
 15 **MR. SLAGEL:** Are you done with me? Thank  
 16 you. You're a great chairman by the way. The way  
 17 you run this, awesome.  
 18 **CHAIRMAN FINNIGAN:** Push the button, thank  
 19 you.  
 20 **MR. LUETKEHANS:** Can we deal with some  
 21 procedural issues a little bit so I can understand?  
 22 I don't know where we are on the list tomorrow. I  
 23 have Dr. Schomer coming in tomorrow ready to  
 24 testify, I have his c.v. for everybody if you wish

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1 it tonight, but I'm trying -- I don't want to bring  
 2 an expert in that we're not going to get to  
 3 tomorrow. So I don't know where my name is on the  
 4 list. And I also -- we still got this question  
 5 about cross-examination of Mr. Hankard and Mr.  
 6 Parzyck, both of which are kind of lead items for  
 7 how, you know, how we're going to proceed.  
 8 **MS. WALLEY:** Mr. Luetkehans, it looks like  
 9 your name is listed on those wishing to testify. Is  
 10 that, then, so that Mr. Schomer can testify?  
 11 **MR. LUETKEHANS:** It's for us to present  
 12 our case in chief as well as for Dr. Schomer to  
 13 testify.  
 14 **MS. WALLEY:** Okay.  
 15 **MR. LUETKEHANS:** So at that point -- I  
 16 mean we would like to present, we have other  
 17 evidence, we have documents, we have et cetera, but  
 18 Dr. Schomer is our expert, is our next expert  
 19 witness.  
 20 **MS. WALLEY:** Okay, I can tell you that  
 21 there are three, six, nine --  
 22 **MR. LUETKEHANS:** I mean I guess I would  
 23 ask for a little professional courtesy for Mr.  
 24 Griffin and myself to be able to plan. If I can

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1 have Dr. Schomer tomorrow night at seven o'clock,  
 2 can we take a break to bring him in? I mean it  
 3 makes only sense that we're not paying for an expert  
 4 to come two nights on the if he comes he may or may  
 5 not testify.  
 6 **MS. WALLEY:** Well, I can tell you that we  
 7 will have the full four hours, we'll make every  
 8 effort to encompass him, but, you know, what I can  
 9 tell you is generally speaking nonexperts that have  
 10 testified have testified well less than the ten  
 11 minutes, they did four minutes, five minutes, so I  
 12 don't expect them to be --  
 13 **MR. LUETKEHANS:** Well, tonight we heard  
 14 people who are nonexperts testify for eight and be  
 15 cross-examined for 20. I mean I just only think  
 16 it's fair to have some idea of -- I mean we have an  
 17 expert coming in. Is he going to be able to testify  
 18 tomorrow night? We will bring him in at a  
 19 particular time. I think that evidence is -- I mean  
 20 we're paying someone to come here. I think it's  
 21 only appropriate for you to say, hey, the lawyers  
 22 and the 52 people I represent should be able to at  
 23 least be able to present their case in a manner of  
 24 knowing when we're going to be doing it.

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1 **MS. WALLEY:** And I certainly understand  
 2 that, but we have had other individuals sign up,  
 3 those that have waited for days and that have  
 4 attended multiple hearings in order to testify.  
 5 They're not experts, but their testimony is just as  
 6 important to the board as any expert. So we want  
 7 to -- we want to afford your expert the same  
 8 opportunity as anyone else. Like I said, we try to  
 9 get through people as quickly as we can.  
 10 The point -- we don't wish to belabor the  
 11 point for the community or for the board. If you'd  
 12 like to bring Mr. Schomer, if we can -- or Dr.  
 13 Schomer, if we can get him in, we will. I don't  
 14 want to make you a promise that we cannot keep. If  
 15 you want to bring him at the end of tomorrow night,  
 16 if we do not finish tomorrow night, we will  
 17 reconvene again Thursday night. If you would like  
 18 to -- if you prefer to have Dr. Schomer Thursday  
 19 night, like I said, I don't want to make a promise  
 20 on behalf of --  
 21 **MR. LUETKEHANS:** Well, and I guess the  
 22 question is here, if we know he's going to testify  
 23 Thursday night, I have no problem waiting until  
 24 Thursday to bring him in if he's available. I just

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1 don't think my clients should have to pay to bring  
 2 him in twice. Invenergy is able to control their  
 3 side of the hearing. It just makes sense. And also  
 4 we still have to have -- we still have to have a  
 5 discussion about Hankard and Parzyck. So those are  
 6 the two issues I'd like to figure out.  
 7 **MS. WALLEY:** I understand.  
 8 **MR. GRIFFIN:** Well, I think generally Mr.  
 9 Luetkehans would present a witness or an individual  
 10 he represents with standing and through that  
 11 presentation of a case in chief be able to present  
 12 an expert witness. I mean that's how the process  
 13 works I believe. So I don't see why he can't do  
 14 that, you know, within the rules, assuming he still  
 15 has witnesses left to testify. I don't know if he  
 16 does have witnesses left to testify.  
 17 As far as the cross-examination of expert  
 18 or witnesses that have already testified and been  
 19 cross-examined, I mean there's -- we object to that.  
 20 There's nothing in the rules that allow a witness to  
 21 be recalled for cross-examination that's already  
 22 been cross-examined.  
 23 **MR. LUETKEHANS:** Well, I guess I'd like to  
 24 stay with one issue at a time then. Is there an

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1 objection -- I mean I don't understand what Mr.  
 2 Griffin's -- is there an objection, I mean, to  
 3 having Dr. Schomer testify or not? I mean obviously  
 4 we know I represent 52 residents of this county. I  
 5 don't know what other kind of witness I have to  
 6 bring in to have him testify through. I guess I'm a  
 7 little lost at what Mr. Griffin is saying.  
 8 **MS. WALLEY:** I'm sorry, I was consulting  
 9 with a board member. My -- my understanding was Dr.  
 10 Schomer was an expert and you wanted him to testify.  
 11 My understanding in looking at the list that you've  
 12 provided and the people that are yet -- that have  
 13 yet to testify, several of those are individuals  
 14 that you represent. I don't know if they still  
 15 intend to testify or not, but I believe that they  
 16 would be encompassed in your case in chief or  
 17 whatever you intend to present tomorrow.  
 18 So -- and again, this is I'm trying to  
 19 give you the best estimation that I can. If they  
 20 all intend to testify and it's going to take maybe  
 21 the full ten minutes, I leave that up to you and  
 22 your clients. They're subject to cross-examination.  
 23 If they don't -- and again, that's not a positive or  
 24 a negative, it's up to you, but from what I can tell

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1 from that list, several of these are or would be  
 2 part of your case in chief.  
 3 **MR. LUETKEHANS:** Is it possible to get a  
 4 copy of the list because we have not been provided  
 5 that.  
 6 **MS. WALLEY:** What?  
 7 **MR. LUETKEHANS:** I don't have the list of  
 8 who's in front of me, who's still -- I don't have  
 9 that list.  
 10 **MS. WALLEY:** Okay, the secretary keeps it  
 11 and we just keep a --  
 12 **MR. LUETKEHANS:** I guess my question is  
 13 could somebody email me that in the morning so I can  
 14 make an estimate as to -- and my own decision as to  
 15 whether we're going to get to Dr. Schomer.  
 16 **MS. WALLEY:** We should be able to tell you  
 17 who is remaining, yes.  
 18 **MR. ZIMMERMAN:** You can tell him right  
 19 now, couldn't you?  
 20 **MS. WALLEY:** All right.  
 21 **MR. ZIMMERMAN:** We're still before ten  
 22 o'clock.  
 23 **MS. WALLEY:** All right, it looks like the  
 24 next name would be Cheryl Jolly. That's a client of

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1 yours; is that correct?  
 2 **MR. LUETKEHANS:** Yes.  
 3 **MS. WALLEY:** Ms. Fehr, Rebekah Fehr.  
 4 **MR. LUETKEHANS:** She's not testifying.  
 5 **MS. WALLEY:** Okay. Dwight I'm guessing  
 6 Sheldon. It's a Lexington address. I don't know.  
 7 Dennis Hoff.  
 8 **MR. LUETKEHANS:** Yeah.  
 9 **MS. WALLEY:** Andrew Downey.  
 10 **MR. LUETKEHANS:** That's an employee of  
 11 Invenergy.  
 12 **MS. WALLEY:** Well, but I'm -- you asked  
 13 who was left to testify. Daryl Haney.  
 14 **MR. HANEY:** I will give up my spot for  
 15 that guy.  
 16 **MS. WALLEY:** Amy Larbe, Laube.  
 17 **MS. LAUBE:** I'll give up my spot for the  
 18 expert as well.  
 19 **MS. WALLEY:** Dennis Bourgerie, Bourgerie.  
 20 Louis Lipscomb, Art Schlipf, Matt Wyss, Dave  
 21 Kaufman.  
 22 **AUDIENCE VOICE:** He just testified.  
 23 **MS. WALLEY:** Dave Glacinski, Yale Young,  
 24 Dan Deneen and it looks like David Klein. Those are

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1 all that we have that are pending for tomorrow at  
 2 6:00.  
 3 **MR. LUETKEHANS:** That were listed before  
 4 me on the list?  
 5 **MS. WALLEY:** Yes. No, it's just Cheryl  
 6 Jolly and Rebekah Fehr that are ahead of you. These  
 7 are those --  
 8 **MR. LUETKEHANS:** Okay, so then I should be  
 9 able to bring Dr. -- I should be able to bring Dr.  
 10 Schomer tomorrow. If I would've known we were two  
 11 people, then I have --  
 12 **MS. WALLEY:** Yes.  
 13 **MR. LUETKEHANS:** Okay, that's really the  
 14 issue.  
 15 **CHAIRMAN FINNIGAN:** Do we have a problem  
 16 with him bringing his witness back, Mr. Parzyck?  
 17 **MR. GRIFFIN:** To be cross-examined again?  
 18 Yeah, we do have a problem with that.  
 19 **CHAIRMAN FINNIGAN:** You have a problem  
 20 with it?  
 21 **MR. GRIFFIN:** Yes.  
 22 **CHAIRMAN FINNIGAN:** I don't think I can  
 23 force him to do it, so --  
 24 **MR. LUETKEHANS:** Well, Mr. Parzyck is

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1 here.  
 2 **CHAIRMAN FINNIGAN:** I understand, but he's  
 3 already -- the case is already closed, so if he  
 4 declines, I don't think that we can force him to do  
 5 that.  
 6 **MR. LUETKEHANS:** I mean, here, let's talk  
 7 about that, and at least I want to make my record,  
 8 and if you want to rule against me you can, but I  
 9 think I have the right to make a record on this.  
 10 **CHAIRMAN FINNIGAN:** She rules. I just --  
 11 **MR. LUETKEHANS:** No, you rule. I mean she  
 12 gets to tell you what to do, but you get to make the  
 13 decision. As you heard today, Hankard took 2  
 14 decibels off his model, that's what he did, it's in  
 15 his report, at the 1000 hertz level due to some  
 16 unnamed study to get under IPCB limits. He never  
 17 told you what that study was. We believe it's  
 18 California Ridge, but there's nothing in the record  
 19 that talks about that.  
 20 **CHAIRMAN FINNIGAN:** We're not going to get  
 21 into testifying.  
 22 **MR. LUETKEHANS:** No, I'm not trying to,  
 23 but here, the calculation is against the procedures  
 24 for your hearing. He failed to follow your rules,

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1 and we'll talk about this more, but the applicant  
 2 has had months if not years --  
 3 **MR. GRIFFIN:** This is just argument  
 4 about --  
 5 **MR. LUETKEHANS:** Can I explain? No, Mr.  
 6 Griffin, I let you talk all night, it's now my turn.  
 7 **MR. GRIFFIN:** To talk about what's  
 8 relevant to the question --  
 9 **MR. LUETKEHANS:** Well, I'm about to get --  
 10 **MR. GRIFFIN:** -- not about anything you  
 11 want to talk about.  
 12 **MS. WALLEY:** Okay, okay.  
 13 **CHAIRMAN FINNIGAN:** Okay, guys, we're  
 14 going to go home if you don't play nice.  
 15 **MR. LUETKEHANS:** Applicant has had months  
 16 if not years to prepare their testimony. MaRous's  
 17 testimony had to take them six to eight months to  
 18 prepare. Mr. Hankard's testimony took months to  
 19 prepare. You have people here who got an  
 20 application filed on I think December 11th. Hearing  
 21 started on January 2nd. Over the Christmas  
 22 holidays. This is -- there's a complete inequality  
 23 of ability to put on a case both financially and  
 24 timewise.

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1 The fact that we're asking them to bring  
 2 back their experts so that 52 people can be  
 3 represented by counsel and actually ask the  
 4 questions that will actually inform you and gives  
 5 you information I think at this point is something  
 6 you would like. If you ask Mr. Griffin to bring  
 7 back Mr. Hankard, he will do it. Mr. Parzyck's been  
 8 sitting here every night. He hasn't left. In fact,  
 9 he keeps answering everybody else's questions from  
 10 what I can tell.  
 11 So I think it's important under Klaren to  
 12 give us the right to cross-examine in the ability of  
 13 a very -- you had a very short time frame. Other  
 14 counties -- some other counties say you can't even  
 15 start your hearing for 90 days, I know that's not  
 16 your rule, but the reason for that is so that people  
 17 can prepare.  
 18 These people, you know, the hearing  
 19 started, you had the holidays, and it's been a very  
 20 short -- we've been all of five or six weeks since  
 21 they filed. We're just asking for half of an  
 22 evening to have Mr. Hankard and Mr. Parzyck testify  
 23 about something that, especially Mr. Hankard, is the  
 24 heart of this case, and we would ask that under

1 Klaren you give them the protection that they  
2 deserve.

3 **CHAIRMAN FINNIGAN:** We're going to have to  
4 confer with counsel because I think the only way we  
5 can have them come back is to subpoena them. The  
6 only way that we can legally have them come back is  
7 to subpoena them I think is --

8 **MR. LUETKEHANS:** You have the right to  
9 condition the development of --

10 **CHAIRMAN FINNIGAN:** No, I'm talking now,  
11 okay? I've been pretty nice all night, but we're  
12 going to get to a point here. And my legal counsel  
13 has told me what to do and I'm going to let her tell  
14 you and this is the way it's going to be.

15 **MS. WALLEY:** It is the chair's position  
16 that if -- that since Mr. Parzyck is here, that Mr.  
17 Parzyck can be recalled. However, Mr. Hankard  
18 resides out of state and resides in the state of  
19 Wisconsin. The subpoena power is limited here and  
20 the chair will not be exhausting or will not be  
21 overextending the subpoena power to force someone  
22 from out of state to return.

23 So, Mr. Parzyck, please make yourself  
24 available tomorrow, but Mr. Hankard will not be --

1 will not be subpoenaed.

2 **MR. LUETKEHANS:** Thank you.  
3 (Adjourned at 10:04 p.m.)  
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1 STATE OF ILLINOIS )  
2 COUNTY OF FORD )SS

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4 I, June Haeme, a Notary Public in and for  
5 the County of Ford, State of Illinois, do hereby  
6 certify that the following hearing was taken at the  
7 McLean County Government Center, 115 East Washington  
8 Street, Bloomington, Illinois, on January 23, 2018.

9 That the said hearing was taken down in  
10 stenograph notes and afterwards reduced to  
11 typewriting under my instruction and that the  
12 transcript is a true record of the testimony given  
13 at the hearing.

14 I do further certify that I am a  
15 disinterested person in this cause of action; that I  
16 am not a relative, or otherwise interested in the  
17 event of this action, and am not in the employ of  
18 the attorneys for either party.

19 IN WITNESS WHEREOF, I have hereunto set my  
20 hand and affixed my notarial seal this 5th day of  
21 February, 2018.

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