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1 MR. FORSTER: Good evening, ladies and
2 gentlemen, and welcome to the --

3 MS. DUFFY: Microphone.

4 MR. FORSTER: Good evening, ladies and
5 gentlemen. Welcome to the December 16th meeting
6 of the Lee County Zoning Board of Appeals. My
7 name is Bruce Forster, I'm the chairperson of
8 the Lee County Zoning Board of Appeals.

9 I call this meeting to order, and will the
10 clerk please call the roll.

11 MS. HENKEL: Bruce Forster?

12 MR. FORSTER: Here.

13 MS. HENKEL: Craig Buhrow?

14 MR. BUHROW: Here.

15 MS. HENKEL: Gene Bothe?

16 MR. BOTHE: Here.

17 MS. HENKEL: Mike Pratt?

18 MR. PRATT: Here.

19 MS. HENKEL: Glen Hughes?

20 MR. HUGHES: Here.

21 MS. HENKEL: And Rex Meyer is present by
22 Zoom.

23 MR. FORSTER: Next thing on the agenda, is
24 there a motion to approve the last meeting's

1 minutes and a second?

2 MR. BOTHE: So moved.

3 MR. HUGHES: Second.

4 MR. FORSTER: Gene's motion; Glen's
5 second. Any discussion?

6 (No verbal response.)

7 MR. FORSTER: Hearing none, all in favor
8 say aye.

9 (All those simultaneously
10 responded.)

11 MR. FORSTER: All opposed.

12 (No verbal response.)

13 MR. FORSTER: Motion carries.

14 There is no old business tonight. We'll
15 start with, tonight we will begin the public
16 hearing for Big Sky Repower, Petition Number
17 20-2-1557, known as the Big Sky Repower.
18 Application for an AG-1 Special Use Permit to
19 construct wind turbine generators in Lee County
20 as part of the wind energy conversion system.

21 As contemplated by the Lee County
22 Ordinance and our own Rules of Procedure, I will
23 entertain a motion to appoint retired Judge Tim
24 Slavin as our facilitator for the duration of

1 this hearing.

2 MR. BUHROW: So moved.

3 MR. HUGHES: Second.

4 MR. FORSTER: Craig motions; Glen seconds.

5 All in favor say aye.

6 (All those simultaneously
7 responded.)

8 MR. FORSTER: All opposed.

9 (No verbal response.)

10 MR. FORSTER: Motion carries.

11 Judge Slavin, it's all yours.

12 JUDGE SLAVIN: Okay. Well, thank you,
13 Mr. Chairman, members of the Lee County ZBA.
14 Welcome and good evening, everyone. I hope
15 everyone is healthy, remaining safe.

16 My name is Tim Slavin, and I am a retired
17 circuit judge engaged as an independent
18 contractor to what is called facilitate this
19 hearing. I have no adjudicatory
20 responsibilities. I am not for or against any
21 particular position. I'm a neutral. I am here,
22 hopefully, to add some organization, efficiency,
23 and flow to these proceedings.

24 This is BSW DevCo, LLC's, petition, Lee

1 County Number 20-P-1557, for a Special Use
2 Permit to what is, in the vernacular, which I
3 don't think is particularly descriptive, repower
4 a proposed wind energy conversion system, a
5 WECS, in East Grove and May Townships here in
6 Lee County.

7 As shown by certificates of publication,
8 notice of this hearing was published in the
9 Amboy News on November 27th of this year, and in
10 the Dixon Telegraph on November 28th. Notices
11 to adjoining property owners within one and a
12 half miles of the boundary of the existing
13 project have also been provided.

14 First of all, hoping you all understand, a
15 notable portion of tonight's Zoning Board of
16 Appeals session will probably be taken up by
17 organizational matters as we set some ground
18 rules, do some preliminary scheduling, and,
19 quite frankly, test out the technical and
20 practical protocols we have planned to
21 accommodate everybody but keeping you all
22 reasonably safe at the same time.

23 Initially, because of the unique
24 circumstances visited upon us courtesy of

1 COVID-19 and its recent spike in the positivity
2 testing rate in the nine counties of Illinois
3 Region 1, which has resulted in raising our
4 mitigation tier of the Illinois Public Health's
5 Restore Illinois Resurgence Plan, this hearing
6 room's capacity is now limited to ten total
7 people, which is entirely taken up by a reduced
8 number of necessaries who will be required to
9 wear masks except when speaking and are arranged
10 about 6 feet apart.

11 In addition to this former courtroom,
12 there are socially-distanced spaces in the rear
13 former jury room and appurtenances which can
14 accommodate 13 people: ten interested parties,
15 plus our Lee County IT expert, State's Attorney
16 Charlie Boonstra, and Zoning and Planning
17 Officer Dee Duffy. And in the first floor
18 stairway lobby will seat ten more interested
19 parties in a safe manner.

20 Any folks in either the rear jury room or
21 the first floor lobby will be able to
22 participate in these proceedings on a Zoom feed
23 provided by the County. I hope this all makes
24 everyone feel medically comfortable and,

1 importantly, the meaningful upshot of all of
2 this is that 33 people can still be in this
3 building and comply with the raised
4 restrictions. Then, of course, an unlimited
5 number of folks will be able to participate on
6 the Zoom platform or watch and listen on YouTube
7 from more remote locations like their homes or
8 businesses.

9 Dee Duffy has gone to extraordinary
10 lengths to advertise and post Zoom entry and
11 YouTube viewing information, but it never hurts
12 to repeat such things. Obviously if you're with
13 us on Zoom, you already know this, but in case
14 not and you're listening otherwise, maybe on
15 YouTube or on your phones, the Zoom meeting ID
16 is 915-3923-9154, and the password is 209840.
17 That meeting ID and password will remain the
18 same throughout the hearing.

19 Accordingly, if you are with us in the
20 building tonight but are not comfortable with
21 the safety protocols in place, you can always
22 join us during future sessions from your home or
23 business. The Zoom platform allows an
24 Interested Party to actually participate. It is

1 interactive. One may not only see and hear what
2 is taking place, but when the appropriate stage
3 comes, one may ask a witness questions, call a
4 witness, testify, or give a closing comment.

5 Further, in an attempt to be as
6 transparent and inclusive as possible, we are
7 also streaming this proceeding on YouTube;
8 however, YouTube is not an interactive platform.
9 On it one can only watch and hear what is being
10 said during the hearing but not participate in
11 it.

12 As to YouTube, on your computer or cell
13 phone user browser, go to [www.youtube](http://www.youtube.com), that's
14 all run together, Y-O-U-T-U-B-E, dot com. In
15 the search bar, type "Lee County IL," I-L, short
16 for Illinois, "Zoning Board of Appeals."
17 There's no need to be concerned with upper or
18 lower case letters. This should bring up a list
19 of Lee County ZBA YouTubes. Input or select the
20 date you want, which presumably the date you
21 want would be December 16th, 2020, and whala,
22 you should be seeing us here in the hearing
23 room.

24 However, please be advised that this

1 YouTube feed will, because of those ubiquitous
2 cyberspace thingies, have a short realtime
3 delay.

4 In case you're not a techno geek, for
5 assistance with any of these machinations you
6 may call 815.973.3449, which is Ms. Duffy's help
7 line for technical assistance.

8 I'm sure we all appreciate the protocols
9 developed by the incredibly hardworking Dee
10 Duffy and the expertise of Lee County's IT
11 development headed by Mike McBride to allow
12 these proceedings to even take place,
13 particularly with so much accommodation given
14 the circumstances.

15 Now, for a bit more substance. As I have
16 alluded, there are two groupings of attendees as
17 this zoning hearing moves forward. One I have
18 already alluded to as necessaries. These are
19 people who must attend this hearing in person.
20 They consist of your hardworking, practically-
21 volunteer Zoning Board of Appeals members; your
22 hardworking Zoning Officer, Dee Duffy; our
23 expert IT technician, Alice; your astute State's
24 Attorney, Charlie Boonstra; the Petitioner's

1 attorney, Dave Streicker; a witness; and, of
2 course, himself; and hardly, but not least, our
3 hardworking and skilled court reporter, Callie.

4 The other group I will -- the others I
5 will group into what I will call Interested
6 Parties. These are those of you folks who are
7 with us either in the building or more remotely
8 on the Zoom video or teleconferencing platform
9 or you're viewing and listening to the
10 proceedings on YouTube because you simply want
11 to observe your county government at work or,
12 beyond that, you have a particular interest in
13 the proceedings.

14 The next process I will try to explain is
15 that methodology for Interested Parties to
16 participate. I begin by emphasizing, please,
17 please know that everyone will have that
18 opportunity and I want to provide the
19 opportunity to participate in a manner that is
20 as orderly and as efficient as possible.

21 However, because of the necessary electronic
22 filtering, my usual process becomes even more
23 central, and I will flesh out more of this
24 further in my presentation tonight and as we

1 move through our time together in the weeks
2 ahead.

3 There are many possible reasons for an
4 Interested Party's appearance this evening and
5 during subsequent sessions, whether in person or
6 remotely. You could be, one, a member of the
7 public who is joining us simply as a citizen and
8 spectator. Two, a member of the public who
9 wants to be heard.

10 This does not necessarily mean someone who
11 is absolutely for or absolutely against the
12 requested Special Use, but someone who wants to
13 participate. If you're such a person, you will
14 fall into any one or more of three
15 subcategories:

16 One, you want to give testimony. This
17 means you desire, under oath, to have you or a
18 witness of your calling to testify to facts
19 relevant to the Board's eventual decision. Such
20 is not the time to describe your feelings or
21 announce your opinion, but to aver facts, and
22 you are subject to cross-examination. Everyone
23 so wishing to testify will be given one
24 opportunity to do so.

1 Or you want to be able to cross-examine
2 witnesses. But, please, that is just the time
3 to ask questions of a particular witness, not to
4 argue with him or her or not to announce your
5 own set of facts. Everyone so wishing to
6 cross-examine will be given one opportunity to
7 cross-examine each and every witness.

8 Or, three, you want to make a closing
9 statement or a public comment. This is your
10 opportunity to give a speech, to tell the Board
11 how you feel or give them your opinion based on
12 the facts adduced during the whole hearing
13 process as to what their decision should be.
14 During this closing statement or speech stage,
15 one cannot allege new facts. When one thinks
16 about it, the reason for that is very simple.
17 The two most important parts of adducing the
18 truth of a matter at a hearing such as this are
19 missing -- would be missing then: that person
20 is not under oath, nor is that person subject to
21 cross-examination. Everyone wishing to give a
22 closing statement will be given one opportunity
23 to do so.

24 For those of you joining us on the Zoom

1 platform this evening or in the future, that
2 interactive software allows an Interested Party
3 to indicate a desire when the time comes to ask
4 questions of a witness, to present one's own
5 witness, to testify oneself, or to give a
6 closing statement or make a public comment.

7 So when I indicate that time has come to
8 begin one of those Interested Party stages, I
9 will ask for participation from the Zoomers,
10 whether here in the Old Courthouse, at home, or
11 in another more remote location. If someone is
12 videoconferencing, one simply clicks on the icon
13 at the bottom of the center Zoom screen labeled
14 "Participants," and from the options that then
15 appear, click "Raise hand."

16 If one is remotely teleconferencing, while
17 remaining connected, one hits the star or
18 asterisk symbol, and then the Arabic numeral
19 nine on your phone. Either way, we should then
20 see any raised hands, and I will call on each
21 raised hand. However, unlike previous such
22 hearings, I don't think we will be able to do so
23 on a first-raised, first-come basis. So calling
24 on raised hands will probably be more by random,

1 referring to name, email address, or the last
2 four digits of a phone number that appear on our
3 display.

4 Written communications sent in advance of
5 this hearing or any written material intended as
6 something for the Board to consider is subject
7 to Board Rule Article 5, Section 12, that eight
8 copies be provided. Any communications received
9 that do not comply with this requirement may not
10 be considered by the Board.

11 I will now review the chronological
12 progress of the hearing. I know that the
13 following narration is really boring and really
14 tedious, but, please, I am reciting it for
15 everyone's benefit, to help you feel comfortable
16 and not worry that you will not have a fair and
17 complete opportunity to participate, but at the
18 same time to alert you when the three distinct
19 opportunity forms of participation will present.

20 The Applicant, BSW DevCo, has the burden
21 of initially going forward. Accordingly, its
22 agent or attorney may first make opening
23 remarks. Then the Applicant presents evidence,
24 one witness or document at a time. I will place

1 each witness under oath or affirmation. After
2 each Applicant witness, the State's Attorney,
3 the Zoning Officer, members of the ZBA first and
4 then Interested Parties, both onsite and remote,
5 have the opportunity to cross-examine. And,
6 please, again, I emphasize that this is the time
7 only for questions directed to the witness
8 testifying.

9 After the Applicant's evidence, the Zoning
10 Officer has the opportunity to present witnesses
11 and documents. After each Zoning Officer
12 witness, the State's Attorney, the Zoning
13 Officer, and members of the ZBA first and then
14 Interested Parties, both onsite and remote, have
15 the opportunity to cross-examine. And once
16 again, please, that is only the time for
17 questions directed to the witness testifying.

18 After the Applicant and Zoning Officer
19 have presented their respective evidence, then
20 Interested Parties may present evidence one
21 witness, including themselves, or document at a
22 time. I will place each such witness under oath
23 or affirmation. After each Interested Party
24 witness, the Applicant, the State's Attorney,

1 the Zoning Officer, members of the ZBA, and
2 other Interested Parties have the opportunity to
3 cross-examine.

4 Then the Applicant may offer rebuttal
5 witnesses or documents, one at a time. I will
6 place such witnesses under oath or affirmation.
7 Those may then be questioned by Mr. Boonstra,
8 Ms. Duffy, members of the ZBA, and other
9 Interested Parties, one at a time.

10 If the Applicant doesn't present any
11 rebuttal witnesses, Interested Parties may
12 present surrebuttal witnesses, one at a time,
13 and, of course, those surrebuttals may be
14 cross-examined by the Applicant, the State's
15 Attorney, the Zoning Officer, members of the
16 ZBA, and other Interested Parties.

17 Finally, first the Applicant is given an
18 opportunity for closing remarks, and then any
19 Interested Parties will be given an opportunity
20 for the same, whether you call them closing
21 statements, public comments, speeches, whatever
22 term you prefer.

23 There are some sub rules, after which I
24 promise I will be finished boring you any

1 further. As you may have heard, each session
2 has a time limit under the Zoning Board's Rules
3 of two and a half hours; however, we certainly
4 don't want to cut off anybody right in the
5 middle of something. So I will certainly make a
6 reasonable effort to let someone finish a
7 particular stage when the time limit has been
8 reached, or, if there is very little time
9 remaining at the end of a stage, I may simply
10 continue the session rather than starting on
11 another stage that night. I also have, for
12 everyone's benefit, the discretion to call short
13 recesses.

14 Under the Zoning Board's Rules, I have the
15 duty to rule on the admissibility of evidence.
16 While the strict judicial Rules of Evidence do
17 not apply, I will exercise some equitable
18 control of what is being presented with or
19 without an objection.

20 We do and will continue to have a court
21 reporter taking down what is said during these
22 proceedings. I ask all, please be mindful of
23 her job. She cannot take down two people
24 talking at once. She doesn't know what nodding

1 heads or gestures mean. And while I know she's
2 very skilled, there is a limit to how fast a
3 person can talk, including me, and expect her to
4 keep up.

5 I do ask for civility and decorum. This
6 is certainly a public forum, but please be
7 respectful of all who consider it important
8 enough to be here. I ask to refrain from
9 displays of approval or disapproval.

10 And as now with all public gatherings, I
11 request that you either turn off your cell phone
12 or at least put it on silent.

13 Lastly, your Zoning Board of Appeals,
14 these fine, hardworking and
15 practically-volunteer gentlemen, act as finders
16 of fact, much akin to a jury. And in that role,
17 their decisions during the last stage of the
18 proceeding, findings of fact and
19 recommendations, are based on the sworn
20 testimony, admitted exhibits and closing
21 statements they receive during the hearing
22 process.

23 These gentlemen are your friends, your
24 neighbors, your fellow citizens of Lee County.

1 So please appreciate and respect their role as
2 we move through the days and weeks ahead. I ask
3 you, please, don't put them in a compromised
4 position by privately lobbying them or having
5 extra-hearing conversations or correspondence
6 until the entire hearing, including their
7 decision, has been completed.

8 In fact, they have been asked to avoid
9 these appearances of impropriety by politely
10 telling an Interested Party something like, I'm
11 sorry, but I'm not allowed to discuss the matter
12 until the ZBA's work of finding of facts and
13 recommendations has been completed.

14 Thank you all for your kind understanding
15 in all of these regards.

16 All right. Gentlemen, housekeeping.
17 Before I forget, which I often almost do, let's
18 talk about our collective calendars.

19 (A discussion was held off the
20 record.)

21 JUDGE SLAVIN: All right. I'm going to
22 quit there.

23 Now, as to the time, we have morphed into
24 6 o'clock the last hearing. I don't want to be

1 the guy that says, We're going to do it. So
2 does everybody like that? Do I hear any
3 problems with it?

4 Mr. Streicker?

5 MR. STREICKER: 6 p.m. is ideal for us,
6 Judge.

7 JUDGE SLAVIN: Okay with you, Alice?

8 MS. HENKEL: Yes.

9 JUDGE SLAVIN: Okay with you, Ms. Duffy?

10 MS. DUFFY: Yes.

11 JUDGE SLAVIN: Okay. Charlie?

12 MR. BOONSTRA: Yes, sir.

13 JUDGE SLAVIN: Now, the dates I just gave
14 are what I started calling available dates.
15 They are not dates that this hearing is -- that
16 we will recess this hearing to. They are
17 available dates to recess to. At the end of
18 each night, I will try and remember to -- no, I
19 have got to remember to announce the next date.
20 The times will always be at 6 o'clock.

21 If after announcing a recessed date we
22 have a weather event, and it's that time of
23 year, and we have to cancel that night, I
24 encourage everyone who is an Interested Party or

1 necessity -- a necessary to go to the Lee County
2 Illinois Zoning and Planning Office website and
3 there will be a notice as -- posted as to when
4 the continued date will be.

5 Okay. I think that's enough housekeeping,
6 boring stuff.

7 Mr. Streicker, on behalf of the
8 Petitioner, are you ready to proceed?

9 MR. STREICKER: We are ready, Judge.

10 JUDGE SLAVIN: You may.

11 MR. STREICKER: All right. Thank you.

12 JUDGE SLAVIN: Is your mic working?

13 MR. STREICKER: I have got a yellow
14 indication.

15 JUDGE SLAVIN: What's your number?

16 MR. STREICKER: Desk 9.

17 MR. KUTEY: And Number 5 too.

18 JUDGE SLAVIN: Five, and what did you say?

19 MR. STREICKER: Nine, Judge.

20 Good evening, everybody. It's good to see
21 a lot of familiar faces again.

22 My name is David Streicker, and I'm the
23 attorney for the Petitioner BSW DevCo.

24 I want to thank all of you in advance for

1 attending this hearing. As the judge mentioned,
2 we, one, recognize that it is a very large
3 burden on the ZBA to go through a wind farm
4 Special Use Permitting hearing, and we promise
5 to do everything we can to make this as
6 streamlined as possible, recognizing that,
7 again, as the judge recognized, you are all
8 volunteers here to serve the best interest of
9 the County, and we want to be very respectful of
10 your time.

11 We also recognize that we were here last
12 year, and I'm going to take you through briefly
13 why we're here again and some of the
14 differences.

15 Before I do that, I want to again thank
16 Dee Duffy and the entire Lee County staff,
17 State's Attorney, and Judge Slavin for being
18 here. They are all a very important part of the
19 process. And I think that how well Lee County
20 runs and handles these zoning hearings is
21 certainly a credit to you all in the County and
22 especially to Dee.

23 I also want to thank all of the people out
24 there, whether it's on Zoom, YouTube, or here in

1 the building, that are participating. Having an
2 informed constituency and residents participate
3 in these type of hearings is absolutely crucial,
4 and we look forward to the engagement that we
5 will have with the Interested Parties.

6 We learned a lot in 2019 about how our
7 project is perceived in the public and how we
8 can make our project better with interacting
9 with Interested Parties, and we hope to have
10 that same dialogue here in 2020.

11 So with that, let me tell you why we're
12 here this evening. Again, we are very excited
13 to be talking about this project. I know that
14 the Big Sky Wind Farm has been here in the Lee
15 and Bureau County communities for over a decade,
16 and there is a lot of wind development in Lee
17 County, so I'm certain that you're all very
18 familiar with it.

19 Also, I know that I told you, Lee County
20 has already gone through a repowering of a wind
21 farm before with the Mendota Hills Project. So
22 I think that you all certainly, after going
23 through the SUP hearing for that and given what
24 we talked about last year under similar

1 circumstances, I think that you're all probably
2 pretty well prepped on what we're going to be
3 talking about here in 2020.

4 But the good thing is that we're very
5 excited to be here. We think that we have a
6 better project here in 2020 than we had in 2019.
7 This is a project that currently consists of 114
8 wind turbines and produces about approximately
9 240 megawatts of power. When we're done with
10 the repowering, this project will have the exact
11 same output.

12 One of the great things about a repowering
13 is, we're going to have the same output with 17
14 fewer turbines. So, again, we are going to
15 reduce the density of the project, and hopefully
16 that density reduction certainly helps folks out
17 locally because, as we'll get into in the
18 hearing, by being able to permanently
19 decommission turbines, it allows us to
20 strategically do that, again, taking the input
21 from community stakeholders and the residents in
22 and around our wind farm.

23 So what we plan to do is, right now, as I
24 mentioned, there's 114 turbines that comprise

1 the project. Those all have Suzlon S88
2 turbines. We would decommission all of those
3 turbines and put new turbines up that are a
4 decade newer.

5 One of the great things about these new
6 turbines, as you'll hear through both
7 Mr. Kutey's testimony and the testimony of some
8 of our experts, is that they are going to be
9 quieter turbines at low wind speed, which I
10 think is very important to the residents. One
11 of the great things about a repowering from a
12 community perspective is that the way Illinois
13 does property tax via the statutory formula,
14 when we repower these turbines we will be
15 setting the clock back ten years, meaning all
16 the depreciation that's being taken on the
17 current turbines will be off the books and we
18 will be paying essentially what a brand-new
19 project would be paying with regard to property
20 taxes.

21 So that will benefit Lee County as a
22 taxing district. It will certainly be very
23 beneficial to the Ohio -- the Village of Ohio
24 school systems, and many of the other taxing

1 districts in Lee and Bureau County. So we
2 definitely view that as one of the major
3 benefits of the county.

4 And I want to stress, as I did in Bureau,
5 that we fully intend to honor all of the
6 commitments that we made as a project during the
7 SUP process in 2019 here in 2020. And I know
8 that's probably especially important to some of
9 the folks that are out there listening right
10 now, that if you were concerned about a
11 particular turbine or a turbine number and we
12 had agreed to permanently decommission that
13 turbine in 2019, we will absolutely honor that
14 in 2020.

15 And, again, we intend to honor all the
16 agreements, whether it's with the Village of
17 Ohio, Ryan Wetland. All of our community
18 contribution and participation agreements that
19 were agreed to in 2019, we absolutely plan to
20 honor those in 2020.

21 So let me tell you why we're here again.
22 In 2019, both Lee and Bureau County approved the
23 repowering of the project specific to a GE,
24 which is a very top-of-the-line turbine, which

1 you'll hear about a GE 2.5 and a GE 2.3-megawatt
2 machine.

3 After approval in 2019, as the project
4 moved forward, those turbines in the pipeline
5 became unavailable. And for that and other
6 reasons, the repowering slowed down. Now we're
7 here in 2020. We are able to get a GE 2.7
8 turbine.

9 And it's interesting, and I think speaking
10 for Jim Kutey, who is here and he'll be one of
11 our witnesses tonight, this has been a learning
12 process for us too, because, as it turns out and
13 as you'll hear through the testimony, whether
14 it's a GE 2.7, a 2.5, or a 2.3, there is a lot
15 of commonality amongst those turbine models.
16 Most importantly, I think, for all of your
17 concerns, the rotor diameter will be the same.
18 It will be 116-meter rotor.

19 So what you'll hear is, whether it's
20 sound, shadow flicker, signal interference, or
21 impacts to local wildlife, those will all be
22 essentially the same for 2020 as the testimony
23 that you heard in 2019 because so much of that
24 is related to the diameter of the rotor and the

1 sound characteristics that that rotor makes as
2 it goes through the air.

3 Also of interest, and you'll hear through
4 the testimony, all of these -- this GE family of
5 machines -- and I don't know if some of you had
6 a chance to look in the application, but we
7 provided the specs -- they all essentially come
8 off the assembly line at a 2.7 rating, but
9 depending on the software that you buy, you can
10 have that 2.7-megawatt turbine de-rated to a 2.5
11 or a 2.3.

12 And we're going to be using, again, all
13 the GE 2.7-116 models, but the software packages
14 may vary within those turbines. It won't impact
15 any of the sound, shadow flicker, other effects.
16 But what you'll hear Jim say is, to take a
17 240-megawatt project, reduce 17 turbines and
18 keep that same power output, we're going to be
19 adjusting the software packages in each of those
20 turbines that we repower so we can essentially
21 put a puzzle together and have those 97 turbines
22 equal the 240-megawatt output, which is the most
23 that we can put out on the grid per our
24 interconnection agreement.

In Totidem Verbis, LLC (ITV)
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In Totidem Verbis, LLC (ITV)

1 And I want to stress, these will be
2 brand-new GE turbines. It will be, I think, a
3 big jump in technology over the existing Suzlon
4 S88s.

5 Another key difference between 2020 and
6 2019 is, when we talked to you all last year, we
7 intended to fully take down the turbines. We
8 were going to reuse the wiring that was
9 underground and also the concrete foundations
10 for those turbines, but we were going to put up
11 new towers to support the turbines. These GE
12 2.7 family that we'll be talking about, they are
13 specifically designed for repowering, and one of
14 the things we have learned is that GE has
15 designed a new ring that goes on top of an
16 existing tower to join the existing tower to the
17 new turbine. This is going to allow us to reuse
18 all of the existing towers out there, which,
19 again, is a great thing because, first of all,
20 our landowners don't have to go through the
21 repeated crane passes it would take to
22 decommission -- fully decommission a turbine and
23 put one back up.

24 Also, we believe it's going to lessen the

1 impact on the local roads, it's going to make
2 this a quicker process, and generally less
3 impactful on the neighbors and our landowners
4 and the residents, the county at whole.

5 So those are the two major differences
6 between 2019, when we talked before, and 2020.

7 I do want to stress that last year we had,
8 at the request of the Ryan Wetland folks, agreed
9 to permanently decommission Turbines 84 and 86,
10 which are both in Lee County. We absolutely, as
11 I mentioned, fully intend to permanently
12 decommission Turbines 84 and 86, as we talk
13 about this repowering here in 2020.

14 One of the things I mentioned that, again,
15 the turbines, since we are going to be reusing
16 the towers, will be the same height as the
17 current turbines that are there, plus or minus
18 about a meter. I think the joiner ring, you'll
19 hear through the testimony, is approximately a
20 meter. But the residents of the county will see
21 a bigger rotor diameter.

22 And it's interesting, if any of you have
23 been to Ohio, you see the Green River Project
24 which is right next to ours, sometimes it looks

1 like the same project, you will see those
2 turbines are all about the same height, but the
3 Green River turbines do have a larger rotor
4 diameter, and that is what you will see
5 consistently through that when -- if this
6 repowering is approved and completed.

7 So, again, all of the conditions that were
8 ultimately approved by the County in 2019, we
9 are fully prepared and ready to live with those
10 conditions as well in 2020. So we really hope
11 that this streamlines the job that is before you
12 right now and hopefully allows this process to
13 go through in a less impactful manner on your
14 time than it was in 2020. And, again, I want to
15 stress that we fully appreciate that you are all
16 volunteering here.

17 So specific to Lee County, here's what
18 you'll hear from our witnesses, is that, again,
19 we have an application pending for an SUP. The
20 application is to repower 58 turbines. What
21 you'll hear is that we ultimately only will
22 likely repower 51 of those turbines in Lee
23 County. We're certain that, again, Turbines 84
24 and 86 will be permanently decommissioned.

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1 There are others that we are looking at right
2 now for decommissioning, but for engineering and
3 other reasons, we're not certain, as we sit here
4 tonight on December 16th, which specific
5 turbines those are.

6 What you will hear is, we do -- we have
7 had engineers out in the field inspecting the
8 foundations and the different strings and
9 connections with the turbine, but that process
10 is still ongoing.

11 And just a couple points in conclusion.
12 Again, we're very excited for the opportunity to
13 talk to you here this evening. Obviously we
14 think Lee County is a great place to work and
15 invest in. If we weren't really committed to do
16 that, we would not have been here now for the
17 third time on the Big Sky Project. So hopefully
18 you appreciate that too.

19 And, again, we're excited to be able to
20 provide, hopefully, some very needed economic
21 impact here as we come out of the economic
22 downturn related to COVID. We're excited to be
23 able to restart the clock on property taxes.
24 I'm certain that's very important to the county

1 and the other taxing districts. And we're,
2 again, very excited to have a project with new
3 turbines that is less dense than what you have
4 out there right now. Hopefully this is the
5 direction that wind development is going in
6 Illinois, which is, you know, newer turbines
7 that are more spaced out than some of the
8 original circa-2011 projects that we're talking
9 about here.

10 So to my right is Jim Kutey. Jim will be
11 the first witness that you'll hear from this
12 evening. And you may remember, last year
13 Pattern Development was the developer for this
14 repowering. This time Jim's company, Third
15 Planet Wind Power will be in that role. And the
16 great thing about Jim is, he's not only a
17 developer but also an engineer.

18 So, as you may remember, we had three
19 witnesses from Pattern talk last time. Jim is
20 going to be able to cover all of that, and he'll
21 be able to do it from an engineering
22 perspective, which I think will be even more
23 valuable to all of you.

24 So once Jim has completed his testimony,

1 anticipating that you all will probably still
2 have questions with regard to shadow flicker, we
3 will have a shadow flicker expert available to
4 testify from Burns & McDonnell, one of our
5 project engineers.

6 I'm certain that you all probably still
7 have questions about sound. Obviously very
8 important criteria, not only in the way that
9 your Ordinance is structured but also with the
10 impact on Lee County residents. So we will have
11 our sound analyst and expert available to
12 testify.

13 We have renewed all of our communications
14 impact studies, whether that's AM, FM,
15 television, emergency management. We will be
16 able to take you through that process.

17 And also we'll have our ecologist
18 available, who has done not only impacts on
19 endangered species but, as Jim will talk about,
20 some of the other reports and aspects that
21 Stantec has been looking at with regard to
22 making sure we protect the environment and the
23 ecology of the area, which is sensitive in
24 parts, during both our decommissioning and

1 repowering process, as well as the operation and
2 maintenance of the project after its repowering.

3 The application is very straightforward.
4 Hopefully you found that we not only listed the
5 criteria in the Ordinance but how we believe
6 that we met those criteria.

7 There is one waiver request, and that's on
8 Page 1-2 of the application. I think this is
9 something that Lee County has granted to other
10 wind projects in the past, I know we discussed
11 it last year, but that your Ordinance requires
12 that the project be substantially underway
13 within one year of the SUP being granted. We
14 absolutely do anticipate, certainly now that we
15 have the benefit of going through 2019, that we
16 will be underway within one year, but we would
17 ask for a waiver of that requirement up to three
18 years just to account for any construction
19 delays.

20 One of the things that has been happening
21 because of COVID is, sometimes there are supply
22 line disruptions that are COVID-related. And
23 also out in the field, given worker and safety
24 protections, sometimes contractors are down for

1 an extended period of time if one of their crew
2 members or several test positive. So that
3 waiver is even more important, perhaps, in 2020
4 because of COVID than it was in 2019.

5 And, again, we thank you for your time and
6 attention. We hope that in the end you're as
7 excited about this repowering as we are. And
8 through the application, testimony, and
9 materials that we plan to enter into the record,
10 we hope that we earn your recommendation for
11 this repowering.

12 Judge, that concludes my opening remarks.

13 JUDGE SLAVIN: Thank you. You may call
14 your first witness.

15 MR. STREICKER: Judge, I will call Jim
16 Kutey.

17 JUDGE SLAVIN: Mr. Kutey, want to raise
18 your right hand for me, please.

19 (James Kutey was duly sworn.)

20 JUDGE SLAVIN: Have a seat.

21 THE WITNESS: Thank you, Judge.

22 JAMES KUTEY,
23 having been first duly sworn, was examined and
24 testified as follows:

DIRECT EXAMINATION

BY MR. STREICKER:

Q. Mr. Kutey, can you please state your name and spell it for the record.

A. Yes. Thank you, Mr. Streicker.

First name, James. Last name is Kutey, and it's K-U-T-E-Y.

Q. And what is your business address?

A. My business address is 3801 PGA Boulevard, Suite 904, and that's Palm Beach Gardens in Florida.

Q. And can you briefly take the Board members through your educational background?

A. Yes.

As Mr. Streicker mentioned, I'm an engineer by education. I have an undergraduate degree in chemical engineering, graduate work and extensive experience in nuclear engineering, and an MBA in management, all from Rensselaer Polytechnic Institute in Upstate New York in Troy, New York.

Q. And, sir, how are you currently employed?

A. I'm currently employed as the chief development officer for Third Planet Wind Power and as the

1 president of NaturEner USA, LLC.

2 Q. All right. Can you just spell NaturEner for
3 the record, please?

4 A. NaturEner is N-A-T-U-R-E-N-E-R.

5 Q. And what are your current job responsibilities?

6 A. In my current position, I'm responsible for the
7 overall and the day-to-day development,
8 operations, and financial performance of wind
9 energy projects across the U.S.

10 At NaturEner, I also have additional
11 responsibilities for the operation of its
12 balancing authorities. Its balancing
13 authorities are responsible for balancing load
14 and generation fundamentally and, most
15 importantly, in the Pacific Northwest.

16 Q. Okay. And we're here to talk about project
17 development. Can you describe your experience
18 in that field --

19 A. Yes.

20 Q. -- and what your current duties are?

21 A. Yes. As a project development and as a project
22 manager, I sort of quarterback, if you will,
23 project development, acquisitions, transactions,
24 all which entail coordinating a team of subject

1 matter experts to ensure that each portion of
2 the project is progressing as needed to meet the
3 overall objectives of the investors.

4 Q. And, sir, are you the lead developer for the
5 Big Sky Project?

6 A. I am the lead developer for the Big Sky Project
7 at this point.

8 Q. How long have you been with Third Planet Wind
9 Power?

10 A. I have been with Third Planet Wind Power for
11 approximately 13 and a half years.

12 Q. And do you have -- prior to that, have you had
13 any other experience in the wind industry?

14 A. Yes. Prior to my position at Third Planet Wind
15 Power, I was employed by FPL Energy, which is
16 now NextEra Energy Resources. They are the
17 largest U.S. developer of renewable assets in
18 the U.S.

19 Q. Okay. And how long were you with FPL?

20 A. I was with FPL about seven years. And then
21 prior to that, I was a nuclear engineer. I was
22 employed by the Knolls Atomic Power Laboratory,
23 which is a government laboratory then operated
24 by GE and Lockheed Martin, and the laboratory

1 supported research development and operations of
2 nuclear -- of the nuclear propulsion systems,
3 submarines and aircraft carriers.

4 Q. So you have been in the energy business for a
5 long time?

6 A. My entire career.

7 Q. Okay. And of your entire career, how long have
8 you been specifically working on wind energy or
9 renewables development?

10 A. Approximately 30 -- approximately 20 years at
11 this point.

12 Q. And during that time, how many megawatts, just
13 in a gross amount, have you been in charge of
14 developing?

15 A. Approximately 2,000 megawatts I have been
16 directly involved with.

17 Q. And have you ever managed a property similar to
18 the one we're talking about here at Big Sky?

19 A. Yes, I have managed development-stage wind
20 projects of a similar size in multiple markets
21 in the U.S. This is the first repower project
22 that I have managed; however, Third Planet has
23 thoroughly investigated repowering project
24 opportunities in different markets, particularly

1 in ERCOT.

2 We're also working closely with
3 third-party engineering and construction
4 companies that have completed repowering
5 projects in the past to ensure that all of the
6 proper considerations, you know, are taken into
7 account.

8 (Petitioner's Exhibit Number 1
9 marked for identification.)

10 Q. Okay. Mr. Kutey, I have put in front of you
11 what's been marked as Petitioner's Exhibit 1.
12 Do you recognize this document?

13 A. Yes, I do.

14 Q. Okay. Can you tell the Board what that
15 document is?

16 A. Yes. That is the BSW DevCo, LLC, application
17 that was submitted to Lee County for the Special
18 Use Permit and submitted on November 20th, 2020.

19 Q. Okay. And were you involved in the preparation
20 of that document?

21 A. Yes, I was.

22 Q. Okay. What was your involvement?

23 A. I coordinated the assembly of the document, as
24 well as the technical information that was in

1 there, collecting a lot of the technical
2 information from consultants and third-party
3 engineers.

4 Q. Is it fair to say that you were the lead
5 coordinator of the Special Use Permit
6 application?

7 A. Yes, sir.

8 Q. Okay. And, Mr. Kutey, you mentioned that was
9 submitted on November 20th. Is there any
10 information in the application that needs to be
11 updated?

12 A. Just one item, and it is on Exhibit A, which is
13 the site plan and topographical map. The
14 substation is identified in the wrong place on
15 that map. It is identified as being in Bureau
16 County. It is -- the substation is, indeed, in
17 Lee County.

18 Q. And that substation is north of the Village of
19 Ohio; is that correct?

20 A. That's correct.

21 Q. Okay.

22 A. We have also added another map to the Exhibit
23 A, and that map details, to the best of our
24 current knowledge, which of the 17 turbines will

1 be decommissioned and which of the 97 turbines
2 will be repowered.

3 Q. Okay. And we brought a blown-up map of the
4 project layout with us here tonight, correct?

5 A. Yes, we did. I believe that's in front of me,
6 and that's the same map that is in Exhibit A.

7 Q. Okay. And feel free to refer to that, if you
8 want to, at any point during your testimony.

9 So let's turn to the Big Sky repowering
10 that we're here to talk about. If you can just
11 take the Board through what the purpose of your
12 testimony is going to be this evening.

13 A. Sure. This evening I'll be discussing
14 fundamentally the petition for Special Use for
15 the Big Sky Project. I'll be providing a
16 general description and the rationale for the
17 project. I'll be discussing the entities that
18 are part of the development, the construction,
19 and the operation of the project. We'll talk
20 about other agreements that will be entered into
21 as part of the development and construction
22 process. We'll talk about the permitting
23 process that is taking place to date and that is
24 ongoing. We'll discuss the studies and the

1 agency consultations for the project to date,
2 and further describe how the project has
3 complied with all the applicable Lee County
4 Ordinance standards and requirements. And,
5 finally, we'll briefly discuss the repowering
6 process itself.

7 Q. All right. Mr. Kutey, you brought a
8 presentation here with you this evening?

9 A. Yes, I have, Mr. Streicker.

10 Q. And I'm going to mark that as Petitioner's
11 Exhibit 2.

12 (Petitioner's Exhibit Number 2
13 marked for identification.)

14 Q. And before I turn it over to you to talk about
15 that presentation, if you could, just talk a
16 little bit about the relationship between Third
17 Planet, Big Sky Wind, LLC, and the Applicant
18 here tonight, BSW DevCo. How does everything
19 fit together?

20 A. Certainly. Big Sky Wind, LLC, and the
21 Applicant, BSW DevCo, LLC, are both owned by
22 EverPower Wind Holdings, Incorporated.
23 EverPower Wind Holdings, Incorporated, owns a
24 portfolio of approximately 750 megawatts of wind

1 energy projects across the country.

2 Due to contractual limitations for Big Sky
3 Wind, Big Sky Wind being a typical financing
4 vehicle, the repower is being done under BSW
5 DevCo, LLC. Once the development process is
6 completed, we anticipate that BSW DevCo will
7 merge with Big Sky Wind, LLC.

8 Third Planet is working with BSW DevCo to
9 develop and eventually construct the project.
10 Third Planet is fundamentally acting as a
11 consultant to BSW DevCo.

12 And, finally, another player involved is
13 RWE Energy Service, and they're expected to
14 continue the operations and management of the
15 project during all of the construction process.
16 After the repowering is complete, we anticipate
17 that GE will provide ongoing O and M services
18 once their turbines are erected on the site.

19 Q. Okay. And just lastly, a couple more things
20 about Third Planet. How long has it been in
21 existence?

22 A. We founded that in 2007. So it's just a little
23 over 13, 13-and-a-half, years.

24 Q. Okay. And it's also an owner and operator of

1 wind projects?

2 A. Yes, we're the owner and operator of several
3 wind projects. We formed the company to
4 develop, construct, and manage renewable energy
5 projects in the U.S. We operate across the U.S.
6 with a focus on Texas, the ERCOT market, and the
7 Midwest.

8 Q. Okay. And is there anybody besides yourself at
9 Third Planet that's involved with the Big Sky
10 repowering?

11 A. Yes. At Third Planet, we developed several
12 hundred megawatts of renewable energy projects.
13 We have a very small but experienced team. We
14 currently are focused on operational
15 optimization and development consulting services
16 like we're talking about this evening.

17 The team supporting the Big Sky Project is
18 myself and my partner and CEO, Walter Kamp, each
19 of us with over 30 years of energy-related
20 experience. We're also working collaboratively
21 with both EverPower and RWE so that the project
22 timeline is maintained.

23 Q. Excellent.

24 Let's turn to the repowering, and I'm

1 going to turn it over to you to take the Board
2 members through your presentation, which is
3 marked as Petitioner Exhibit 2?

4 A. Perfect.

5 JUDGE SLAVIN: May I interrupt you? Does
6 Alice have an electronic version?

7 MR. STREICKER: No.

8 MS. HENKEL: To be screen-shared.

9 MR. STREICKER: No.

10 THE WITNESS: I can send you one from my
11 laptop.

12 JUDGE SLAVIN: Let's -- right now you can?
13 That would be great.

14 THE WITNESS: I don't think I can.

15 MR. STREICKER: I may be able to do it
16 from my phone.

17 JUDGE SLAVIN: We're due for a break.

18 THE WITNESS: Perfect. If we're going to
19 take a break, Judge, I can stick it on the thumb
20 drive and give it to Alice. Perfect time for a
21 break.

22 JUDGE SLAVIN: Yup.

23 (A recess was taken at 7:56 p.m.
24 and proceedings resumed at

1 8:05 p.m.)

2 JUDGE SLAVIN: Back on the record. We
3 took a short break.

4 And you may continue, Mr. Streicker. I
5 understand you now have the presentation on a
6 thumb drive so people on Zoom can see it?

7 MR. STREICKER: That's correct, Judge.

8 Q. (By Mr. Streicker:) Mr. Kutey, if you can take
9 us through your presentation.

10 A. Thanks again, Mr. Streicker.

11 Thank you, Judge, Mr. Boonstra, the ZBA
12 members. We have given you handouts of this
13 very short presentation that we'll go through
14 right now.

15 First of all, the Petitioner, as already
16 noted, is BSW DevCo. BSW DevCo did receive an
17 SUP on April 16th, 2019, for the repowering of
18 the Suzlon turbines with GE wind turbines that
19 year and a half ago. Since then, market and
20 economic factors have challenged that 2019
21 planned repowering, and it did not close.

22 BSW DevCo is now reapplying for a Lee
23 County SUP for an undated repowering project,
24 the highlights of which are:

1 The project will employ 97 GE turbines in
2 both Bureau and Lee County;

3 The project will permanently decommission
4 17 of those wind turbine generators;

5 The project will repower up to 58 wind
6 turbines in Lee County. As Mr. Streicker,
7 mentioned, we expect that to be 51;

8 The project will use GE 2.7-116 turbines,
9 which is a family of repowered turbines
10 developed by GE which will be de-rated to
11 2.5-megawatt 116, or 2.3-116 profiles, which are
12 the same configuration that was approved back in
13 2019;

14 And also different from 2019, the project
15 will reuse the -- it will use the existing
16 foundations, that was the plan in '19, but in
17 the current SUP application we intend to reuse
18 the towers.

19 In support, the activities that are
20 underway right now and mostly complete: noise
21 and shadow flicker study, communication studies,
22 environmental and wildlife studies, and
23 Agricultural Impact Mitigation Agreement. Those
24 are all complete at this point, and they are

1 reflected in the application.

2 Ongoing is the engineering, the
3 procurement, and the construction-related
4 permits and agreements, which will follow the
5 permitting hearings.

6 Next slide, I just included some
7 information on who we are, and it follows my
8 earlier testimony. BSW Wind, LLC, which is the
9 small box on the left-hand side on the bottom,
10 is -- and BSW DevCo -- owned by EverPower Wind
11 Holdings. Big Sky Wind, LLC, is that typical
12 financing special purpose entity, which has a
13 lot of restrictions on what they can do because
14 of the financing and the debt holders. It
15 can't, for instance, enter into
16 construction-related contracts and the like.

17 Hence, we use BSW DevCo, the Petitioner,
18 to facilitate the repowering activities. And
19 it's anticipated that those two entities will
20 merge following completion of the project, and
21 it is very typical of how special entities work.

22 On the operations side, as I mentioned,
23 RWE Energy Services, which is formerly E.ON
24 Energy Services, they continue to operate, do

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1 the maintenance, and manage the Big Sky Wind
2 Farm. That's the entity that's probably most
3 familiar with the locals and the landowners and
4 who interfaces with them routinely.

5 RWE Energy Services administers over 20
6 different wind projects across the country and
7 manages probably around 3500 megawatts of wind
8 energy.

9 Next I included a Big Sky Wind Project
10 map. The large map which we entered into --
11 which we showed earlier. This map shows the 97
12 turbines that are expected to be repowered and
13 the 17 that are expected to be decommissioned.
14 And a little later in this presentation I'll go
15 into the criteria that we used to select those
16 17.

17 But, first and on the next slide, we
18 listed the repowering benefits, and I'll go
19 through them and provide some details. The
20 repowering results, first of all, in a reduction
21 of the number of turbines, you know, from 114 to
22 97, while maintaining the same approximate
23 megawatt rating of the project.

24 The planned reuse of the towers

1 significantly reduces the overall impact of the
2 project relative to the 2019 plan that planned
3 to replace the towers. The impact is reduced by
4 less transportation, less large equipment, and
5 by less disruption and use of the local roads in
6 the project vicinity.

7 Next, no modifications are anticipated to
8 the transmission system, to the substation.
9 Minor change is possible on the collections
10 system, and no change is expected on the O and M
11 building. Minor changes in the collection
12 system will result when we remove a turbine from
13 a circuit. We'll need to put a splice in there
14 so that we can continue that circuit, obviously.

15 Also there's studies underway, the
16 electrical capacity studies, which will help us
17 determine how to best balance the new 97
18 turbines on the existing collection lines.

19 Next, the project will continue to pay
20 land and property tax payments to landowners and
21 the local taxing jurisdictions. It's
22 anticipated that the total land payments made by
23 the project will increase as a result of the
24 wind power. These are more energetic machines.

1 Additionally, they'll be higher on the
2 depreciate curve, and hence, their tax -- the
3 tax impact associated with those will be
4 greater.

5 The project will employ up to 150
6 well-paying jobs to be generated. Construction
7 jobs include trades like electricians, heavy
8 equipment operators, crane operators,
9 carpenters, and ironworkers.

10 We're working right now with a couple of
11 engineering procurement and construction
12 contractors. Both are very familiar with work
13 in both Lee and Bureau Counties, and they intend
14 and have a strong track record of employing
15 union labor.

16 A community benefits program will be
17 created which will provide funding to be used to
18 support local organizations and other programs
19 to be determined through coordination and
20 consultation with the nearby communities, such
21 as the Village of Ohio.

22 Next, the repower will result in a
23 reduction of noise levels for the wind turbine
24 generators at speeds below 8 meters per second

1 when the ambient noise, you know, from the
2 turbines is louder, or greater, if you will,
3 than the prevailing wind conditions at the time.
4 Greater than 8 meters per second, one tends to
5 hear only the noise created by the wind, the
6 rustling of trees and grasses and the like.
7 These new turbines from GE and new modern
8 turbines used for repower are a lot quieter than
9 these decade-old units that are up there.

10 And, finally, the repower will extend the
11 useful life of the project for many years to
12 come and it resets the timeline of the project
13 to an additional 20 years. So from a repower
14 commissioning, we expect that the project will
15 exist for another 20 years. That will benefit
16 both participating and nonparticipating
17 landowners, as well as the underlying taxing
18 authorities.

19 Next, I just included the slide which is a
20 simple schedule -- well, maybe not a schedule,
21 but a pre-repower and a post-repower look at the
22 project and telling you what the repower will
23 do. The repowering will replace the nacelle,
24 the rotor and blade set, the pad mount

1 transformer at the base of the turbine, and the
2 SCADA system, the SCADA system being the
3 computer control system that operates the park.

4 Mr. Streicker mentioned earlier that we'll
5 be reusing the towers. GE has developed a
6 transition adapter plate that mounts atop of an
7 existing non-GE tower to adapt it to accept a GE
8 nacelle. That's about a 3-foot-tall adapter,
9 and has been used successfully already in
10 repowering projects around the country.

11 Net effect from a wind park perspective.
12 We'll see a significant increase in what we call
13 capacity factor. The efficiency, we'll see a
14 cost reduction in operations and maintenance and
15 overall improvement in overall production.

16 Operations and construction, our plan is
17 to occur simultaneously. So payments to the
18 landowners and taxes will continue as the
19 project -- parts of it are decommissioned and
20 other parts of it are restored.

21 Of course, the construction will employ a
22 robust safety program. We are looking only at
23 those contractors who have demonstrated a
24 historically positive robust safety program.

1 And, finally, the project will utilize
2 federal tax credits which will be expiring at
3 the end of '21.

4 The chart I included looks at the pre- and
5 post-repower. As you can see, the overall size
6 of the project remains the same. That's
7 governed by our interconnection agreement with
8 the utilities, and that is not subject to change
9 our negotiation with them.

10 The original project achieved COD back in
11 2011. The new -- the repower project is
12 expected to achieve commercial operations in Q4
13 '21, in December of '21. We're replacing 118
14 S-88 2.1 machines and expect to use 91 2.7
15 turbines de-rated to 2.5 and six 2.5 units
16 de-rated to 2.3. That combination equals 240
17 megawatts, as Mr. Streicker told us before.

18 Q. (By Mr. Streicker:) Jim, let me ask you one
19 question there. The 2.7 unit and 2.5 unit,
20 those are all the same units, it's just a
21 computer control?

22 A. All the same. All the same. The 2 point --
23 the turbine itself is often called a 2.7-capable
24 machine. 2.7 is the largest output the machine

1 can make, then the machines have software
2 inserted that limit their output to either 2.5
3 or to 2.3.

4 Q. So they all come off the manufacturing line the
5 same?

6 A. And that's exactly why GE developed this, so
7 that they could produce one assembly line to
8 produce three different sizes, and the three
9 different sizes are typically used in this
10 capacity where a developer needs to meet an
11 interconnection capacity number by, you know,
12 choosing so many of A and so many of B to pull
13 your number.

14 Q. And that was -- you're talking about a puzzle
15 you have to put together, but you have to choose
16 the software packages to tell GE, I want a 2.5
17 output or 2.3, so you can put that puzzle
18 together to equal 240 megawatts?

19 A. That's correct. That is correct.

20 And, finally, the O and M is currently
21 done by RWE Energy Services, and we anticipate
22 that GE will be the operator and maintenance
23 responsible for their new turbines under a
24 long-term agreement, typically a 15- or 20-year

1 agreement.

2 Just looking at, on the next slide, the
3 decommissioning plans. As Mr. Streicker
4 mentioned earlier, we intend to decommission --
5 or we have committed to decommission Number 84
6 and Number 86. Those turbines have had an
7 impact -- an objectionable impact on the Ryan
8 Wetland up there north of Lee County.

9 And there's additionally five other
10 turbines that we anticipate we will decommission
11 in Lee County. How do we come up with those?
12 First of all, looked at local residences and
13 local objections, and the objective on our part
14 was to minimize both noise and shadow flicker.
15 Additionally, we want to minimize the impact on
16 participating landowners, as I mentioned
17 earlier, and limit the removal of any turbine
18 from a landowner who had only one turbine under
19 lease, that way all previous participating
20 landowners would continue to participate and
21 receive, you know, some form of compensation.

22 Another important factor was to balance
23 the wind turbine generators on each collection
24 circuit so that we didn't overload any circuits

1 and we minimized the collection system upgrades
2 that were necessary to be done, and that's
3 similar to plugging in everything in your house
4 in a single outlet circuit, which would quickly
5 overload it and trip the breaker. This is just
6 that same concept on a larger scale.

7 As I said earlier, feedback from Soil and
8 Water Conservation District regarding the
9 Turbines 84 and 86 near the Ryan Wetland and
10 Sand Prairie area were significant --
11 significantly objectionable.

12 Discussions and feedback from the folks at
13 the Village of Ohio for some turbines that were
14 close to them.

15 And overall turbine production and
16 elimination of adverse turbine wake effects.
17 And wake effects are the effect of one turbine
18 on its neighbors.

19 And the final slide just looks at our
20 early look at what the project schedule looks
21 like. You know, we'll use most of '20 for
22 development activities, most of which are
23 nearing completion; however, hearings and
24 engineering continue at this point. At the end

1 of this year, we're looking at, you know, as I
2 said, permit applications, design and
3 engineering.

4 Next year -- early next year we hope to
5 finish up with all the ZBA hearings. February
6 through May of '21 we think will be site
7 mobilization and preparation. That will follow
8 the frost-free time on the roads so that we can
9 put heavy-duty vehicles on the road for delivery
10 and removal of some equipment. The summer
11 months will see the beginning of construction,
12 and, again, commissioning and decommissioning
13 activities will happen in parallel, and that all
14 hopefully finishes up in December, when we
15 intend to complete construction and meet
16 commercial operations date.

17 Q. Thank you for taking us through that, Mr.
18 Kutey. Let me ask you a couple of related
19 follow-up questions.

20 I think you told the Board we're applying
21 to repower up to 58 turbines in Lee County but
22 we only plan to really repower 51?

23 A. That's correct.

24 Q. And I think you said that the map indicates the

1 turbines that we're looking at decommissioning
2 right now?

3 A. That's correct.

4 Q. And for clarity, we will agree to permanently
5 decommission Turbines 84 and 86 in Lee County?

6 A. Yes, sir.

7 Q. And while the other turbines indicated in
8 either Lee or Bureau are ones that we're looking
9 to decommission, we just can't be certain of
10 those right now but we're working towards that?

11 A. That's correct. And the missing ingredient
12 there is the advanced engineering analysis that
13 tells us any circuit issues, circuit overloads,
14 short circuit issues, et cetera.

15 Q. Okay.

16 A. Additionally, we're looking at foundations,
17 doing visual inspections of foundations, to
18 ensure ourselves that there's no limitations on
19 those foundations.

20 Q. In the interest of clarity, there will be no
21 new foundations poured as part of this
22 repowering, correct?

23 A. That is correct.

24 Q. So the only places in Lee County where you'll

1 see repowered turbines is where turbines are
2 occurring?

3 A. That is correct.

4 Q. And you took us through the reasons and what
5 you're looking at as you consider
6 decommissioning turbines, and I know you also
7 took us through the timeline. Can you talk
8 about how the repowering will be financed,
9 because I think you mentioned before that
10 financing concerns, along with equipment supply
11 lines, et cetera, led to the repowering going
12 off the rails in 2019?

13 A. Yes, sir. The project will be financed in a
14 very similar manner that most wind projects in
15 the U.S. and most energy projects are financed
16 today. The project itself will raise
17 construction loans, and we're in the process of
18 that now, which fund the equipment and the
19 construction of the project. That construction
20 loan typically is paid off at commercial
21 operation by equity from the equity owners of
22 the project.

23 Q. And the project has been in existence for ten
24 years now. How is the project output or the

1 power produced by the project currently being
2 sold? And will that change as a result of
3 repowering?

4 A. That's a great question. The project does not
5 have what we consider a classic power purchase
6 agreement for the energy. The energy is sold
7 alternately in the PJM market on a merchant-type
8 basis. The project does have a revenue contract
9 in the form of capacity sales agreements with
10 PJM and contracts for the renewable energy
11 credits which are generated by the project with
12 a private counterparty.

13 Q. Okay. So we're not looking for a new off-take
14 or power purchase agreement to make this
15 repowering?

16 A. We are not.

17 Q. Then let's talk a little bit about the
18 community outreach that you have been engaged
19 in. I think you mentioned that we had spoken
20 certainly with the Village of Ohio about
21 decommissioning certain turbines, but can you
22 talk about what type of contact you have had
23 with Ohio? Are there any community development
24 agreements that we're going to enter into with

1 the Village?

2 A. Sure. You mentioned earlier that Pattern, who
3 was the original developer of the repower
4 project back in 2019, we followed up on a lot of
5 work that they did in the repowering effort.
6 That project team and our project team has been
7 in contact with participating and
8 nonparticipating landowners, the
9 nonparticipating landowners being typically the
10 neighbors without a turbine on their property.
11 We have been in contact with the Village of
12 Ohio, did discuss the project, answered
13 questions, you know, with the Board members and
14 other members of the public.

15 Additionally, RWE, the operator and
16 maintenance folks for the project, have hosted
17 open houses, you know, for the public and
18 landowners, and they get a lot of visitors from
19 the landowners who stop by the O and M building
20 to ask, and we provide answers to their
21 questions and engage the community in a less
22 formal effort that way.

23 Q. Okay. I think you mentioned, obviously,
24 engagement with our participating landowners is

1 important for the project as well. Is it fair
2 to say that for those that will be losing or
3 that currently host turbines that will be
4 decommissioned, will those landowners typically
5 remain involved with the project in some way,
6 shape, or form?

7 A. Yeah, the project currently has wind leases,
8 certain access and transmission easements, and
9 waivers related to setbacks, to noise, and
10 other -- and shadow flicker, for example. You
11 know, each of those agreements represents a
12 negotiation with the landowners in the specific
13 communities to secure their rights in
14 addition -- you know, in exchange for
15 compensation. The existing leases, you know,
16 even take into account a repowering event like
17 we're on the verge of and describe payments and
18 how they will be adjusted as a result of this.

19 While we're removing 17 turbines, no
20 participating landowners, as I stated earlier,
21 will be losing all payments associates with the
22 project, even if that landowner loses their
23 only, single turbine. They will still have
24 underground collection on their property which

1 they will receive a royalty for.

2 Q. Okay. And talking further about the community
3 benefits, am I correct -- and I think that
4 probably the Board members remember from 2019
5 that the project had committed a \$50,000
6 community benefits payment to the Village of
7 Ohio for repowering forward. Would that be
8 something that we are still going to do, as we
9 sit here in 2020?

10 A. Yes, indeed. Should the repowering move
11 forward, the project has committed \$50,000 to
12 the Village of Ohio to set up a communities
13 benefits program, as I mentioned in the
14 presentation I made earlier.

15 You know, additionally the project has
16 committed \$10,000 to the Ryan Wetland and Sand
17 Prairie Land and Water Reserve to support the
18 work that the Soil and Water Conservation
19 District is doing in Bureau County.

20 Q. Okay.

21 A. We constantly look for and will continue to
22 look for other opportunities that come up, you
23 know, certainly to share in our successes.

24 Q. Okay. And, you know, sort of dovetailing with

1 our community engagement, I know we're out in
2 the field a lot talking about other key
3 agreements that we need to either -- or that we
4 either have entered into or need to secure, such
5 as waivers of the Agricultural Impact Mitigation
6 Agreement we're talking about, but could you
7 take the Board, you know, briefly through what
8 the scope of the agreements that we need to look
9 at as part of this development are?

10 A. Sure. Outside of waiver agreements, leases
11 with certain landowners that I previously
12 discussed, we'll be executing a few other
13 agreements as part of the development process.
14 We have executed, and it remains valid, an
15 Agricultural Impact Mitigation Agreement, the
16 AIMA agreement, that's with the Illinois
17 Department of Agriculture, wherein we commit to
18 certain measures to ensure that the project is
19 both constructed and eventually decommissioned
20 in such a way as to preserve the integrity of
21 the farmland for the future.

22 We're also in discussions with various
23 area road districts in the counties to prepare
24 and execute Road Use Agreements. Those

1 agreements will be executed by BSW DevCo, as the
2 developer, and the road districts to govern how
3 we use and modify roads needed for the purposes
4 of construction and particularly delivery of the
5 large equipment that's necessary.

6 We're also working with some
7 subcontractors, typically the technical folks,
8 like the electrical study agreements, that --
9 and we'll need to update our interconnection
10 service agreement to ensure that the parties
11 associated with that, you know, the operators of
12 the grid, are aware in the agreement of the new
13 turbines, their capabilities, and their
14 particular electrical concepts.

15 Finally, we'll assign various financing
16 documents at the point of construction and the,
17 you know, long-term, you know, equity in the
18 project.

19 Q. I know we'll touch on this later, but am I also
20 correct that we'll be following the existing
21 decommissioning agreement with the County for
22 the decommissioning of the 17 turbines?

23 A. Yes, indeed.

24 Q. Okay. And then we will be also having --

1 entering into a new decommissioning agreement
2 for the ultimate, at some point in the future,
3 decommissioning of the repower project.

4 A. Yes, sir.

5 Q. Okay. Mr. Kutey, let me transition a little
6 bit and talk about some of the zoning and
7 Ordinance requirements that Lee County has in
8 place and how we plan to make sure that we
9 adhere to those requirements.

10 One of the first requirements is that Lee
11 County and the Zoning Board of Appeals shall
12 hear evidence relating to matters pertaining to
13 public health, safety, and general welfare.

14 So let's talk about those topics. If you
15 could for the Board members, just speak to the
16 project's impact generally on health, safety,
17 and welfare, and how we intend to both preserve
18 and promote those aspects.

19 A. Sure. Since this is a repowering situation, we
20 recognize that Lee County has already, in prior,
21 determined that the project was in the public
22 interest and would not negatively affect public
23 health, safety, and general welfare.

24 We believe that the repower project will

1 even further mitigate any negative concerns in
2 the previous Big Sky Wind Project, as turbines
3 are quieter at lower wind speeds, there will be
4 fewer in number, and will be equipped with the
5 newest and latest technology.

6 The project has also committed to follow
7 all applicable laws and regulations to ensure
8 that the project is operated in the upmost,
9 safest manner. The project will also generate
10 approximately 30 percent more clean energy,
11 which could displace some of the less-clean
12 forms of electric generation locally, and
13 improve the air quality to promote the health
14 and welfare of the County and State residents.

15 And, finally, the project is going to
16 generate significant tax revenue and income to
17 both landowners and the local communities and
18 taxing authorities. This influx of capital
19 indeed promotes health, safety, and general
20 welfare by supporting programs that benefit Lee
21 County residents.

22 Q. And, you know, while we are in an agricultural
23 district, let's talk about what we see as the
24 project's impact or effect on the character of

1 the neighborhood.

2 A. Because, it's, again, you know, a repowering
3 situation, you know, we are reducing the number
4 of turbines on the project, we will be
5 returning, you know, 17 footprints, if you will,
6 back to an agricultural environment and don't
7 expect the project to have any negative effect
8 on neighborhood.

9 Q. Okay. And dovetailing on that, one of the next
10 criteria is, what is the impact on surrounding
11 properties?

12 A. Unlike a new project, again, the surrounding
13 properties are somewhat accustomed to wind
14 turbines, and as such, we don't anticipate
15 negative effect as a result of a repower.

16 And, of course, we have been in contact
17 with the surrounding property owners as
18 necessary, you know, to obtain, you know,
19 waivers of setback requirements and any project
20 noise exceedances above State Control Board
21 requirements.

22 Our sound consultant, Burns & McDonnell
23 will be here in the near future on one of the
24 dates we discussed earlier, and they'll go into

1 the detail in and around shadow flicker and the
2 noise requirements and any exceedances and how
3 we're going to deal with them.

4 But I believe the project is safe, you
5 know, from that perspective and will have no
6 negative impacts on the surrounding properties.

7 Q. And certainly the Board -- as you mentioned,
8 we're looking at -- we will enter into a Road
9 Use Agreement with all the road districts we're
10 touching, but the Board is interested in what
11 effect, if any, the project is going to have on
12 local traffic conditions. If you could talk
13 about that.

14 A. Sure. As previously discussed, we're currently
15 in discussions with, you know, the County on
16 Road Use Agreements to mitigate any negative
17 effects on traffic during the construction phase
18 of the program; however -- and then following
19 commercial operations, there will be no
20 noticeable increase, you know, to traffic at
21 all, as the current operational and maintenance
22 requirements and trips and staff are not
23 expected to materially change with the repower
24 facility.

1 Q. And I know the ultimate intent of this project
2 is, of course, to help the environment, but we
3 also have environmental concerns as we're going
4 forward with both the decommissioning and
5 repowering process. If you could talk about
6 what effect, if any, the project will have on
7 the local environment and in general how we plan
8 to deal with that?

9 A. Sure. As part of the application process, we
10 have undertaken numerous studies and employed
11 consultants to ensure that the project has a
12 minimal effect on any environmental concerns and
13 significantly promotes the protection of the
14 environment. We have worked with local
15 environmental organizations and jurisdictions to
16 ensure that we are constructing and operating
17 the repower project in accordance with their
18 recommendations and their guidance, using best
19 practices currently in the wind industry.

20 Q. Okay. And, finally, if you could just talk
21 about how the project intends to comply with
22 rules, regulations, and applicable standards?

23 A. Sure. As discussed really throughout the
24 application, which has been put now into the

1 record, this application complies with all Lee
2 County Ordinance standards and will continue to
3 be constructed and operated in compliance with
4 all applicable federal, State, local laws, and
5 all applicable regulations.

6 Q. Okay. And, Mr. Kutey, a couple of housekeeping
7 matters, if I could. I'm going to put in front
8 of you what I'm going to mark as Petitioner's
9 Exhibit 3.

10 (Petitioner's Exhibit Number 3
11 marked for identification.)

12 Q. If you could take a look at that document,
13 please.

14 A. Yes, this is a representative version of the
15 BSW DevCo Special Use hearing notice that was
16 mailed out for the purpose of notifying
17 residents within the project and within a half
18 mile of the project of this public hearing, and
19 I believe that went out to some 800 addresses.

20 Q. I think that is correct.

21 And if I could, sir, turn your attention
22 to what I'm going to mark as Petitioner's
23 Exhibit 4.

24 (Petitioner's Exhibit Number 4

1 marked for identification.)

2 Q. If you could describe for the Board what that
3 is?

4 A. Yeah, this Exhibit 4 is BSW DevCo's Special Use
5 hearing notice certificate of publication that
6 went out to Amboy newspaper back in November, I
7 believe it was November 25th -- yes, it was
8 November 25th, 2020, and that was for the
9 purpose of notifying residents of, again, this
10 public hearing.

11 Q. Right. And I know, sir, it says that this is
12 proof that publication was made in the Amboy
13 News. If I am correct, they have actually sent
14 an actual copy of what they did publish --

15 A. Yes.

16 Q. -- that's dated November 25th of 2020?

17 A. Correct.

18 Q. And this is an original, but it can be attached
19 to the certificate, correct?

20 A. Yes, sir.

21 Q. Sir, then if I could turn your attention to
22 what I'm going to mark as Petitioner's Exhibit
23 5.

24 (Petitioner's Exhibit Number 5

1 marked for identification.)

2 Q. If you could describe for the Board members
3 what that is, please?

4 A. Yes, indeed. Exhibit 5 is, again, BSW DevCo's
5 Special Use hearing permit -- hearing notice.
6 It's the certificate of publication, this one
7 from the Dixon newspaper, dated the 24th of
8 November, 2020 --

9 Q. Okay.

10 A. -- for the purposes of, again, notifying the
11 public of this hearing.

12 Q. Okay. Is it November 20- -- it was published
13 on the 28th; is that correct?

14 A. Published on the 28th. The agreement was done
15 on the 24th.

16 Q. And they have also provided us with an original
17 of what was published on the 28th?

18 A. Yes, correct.

19 Q. All right. Then turning back to the
20 application, I know, and as you have mentioned
21 throughout this, this application requires a
22 tremendous amount of coordination with a number
23 of agencies; is that correct?

24 A. That's correct.

1 Q. Okay. And I assume one of those agencies was
2 the Illinois Department of Natural Resources,
3 correct?

4 A. That is correct.

5 Q. Okay. And if you could tell the Board members,
6 what type of engagement has the project done
7 with the Department of Natural Resources, also
8 called the IDNR?

9 A. Yeah, IDNR or the Illinois Department of
10 Natural Resources, we engaged them and we
11 engaged them through an environmental
12 consultant. That environment consultant is
13 called Stantec Environmental. We have gone with
14 them through on what's called the EcoCAT
15 consultation process with the State. EcoCAT is
16 the Ecological Compliance Assessment Tool that
17 identifies endangered, threatened species,
18 sensitive wetlands, and sensitive environmental
19 areas, you know, at risk to wildlife and plants.

20 Further, we engaged with IDNR in seeking
21 an incidental take permit for potential impacts
22 during construction. Stantec is currently
23 working on finalizing the incidental take
24 permit. The incidental take permit is for two

1 threatened species, one is the blanding's turtle
2 and the second is the ornate box turtle, which
3 inhabits a small portion of the project area.

4 Q. And if you could just describe for the Board
5 what an incidental take permit is, or I have
6 heard you refer to it as an ITP?

7 A. Yeah, ITP, or incidental take permit, is
8 essentially permission from the environment --
9 or from the Illinois Department of Natural
10 Resources, you know, should we harm or kill, you
11 know, one of these threatened species during the
12 process.

13 As part of the incidental take permit, we
14 are required to work with a -- you know, a
15 qualified environmental consultant like Stantec
16 and to take appropriate precautions in the field
17 to prevent any takes. You know, for instance,
18 for these two species of turtles, we will --
19 when we're working in the area where they are
20 known to be, we will use silt fence and we will
21 basically block off, you know, those areas and
22 eliminate construction vehicles from entering
23 that area.

24 Further, we'll use certified biologists on

1 the ground during construction in those areas to
2 walk the field and ensure that we're taking all
3 the right precautions to prevent any incidental
4 takes.

5 Q. So while it's called an incidental take, it
6 doesn't mean that we plan to or intend to harm
7 any of these species?

8 A. Certainly by no means does it mean that.

9 Q. Really, I take it, is it fair to say that we at
10 least put a plan in place to protect them, and
11 the plan meets best practices, and if there's an
12 accident we know we have at least met those best
13 practices?

14 A. Well described. Well described. That's
15 exactly what it means.

16 Q. All right. Then along those lines, have you
17 been in touch with the appropriate Soil and
18 Water Conservation District?

19 A. Yup. The project has been reviewed by both the
20 Lee County and the Bureau County Soil and Water
21 Conservation Districts as part of the
22 application process. In addition, the presence
23 of the Ryan Wetland and Sand Prairie has
24 taken -- has been taken into consideration

1 through many of the components of the
2 application, including our ultimate decision to
3 decommission and remove the two nearby turbines,
4 Number 84 and Number 86.

5 Q. And also I know we have mentioned the Ryan
6 Wetland and Sand Prairie Conservation District,
7 I believe, a couple times. Have we also been in
8 contact with them?

9 A. Yes, indeed. Yes, sir.

10 Q. And then let's talk about the bird and bat
11 conservation strategy. What have we done with
12 regard to that?

13 A. Yes. And, again, using Stantec Environmental
14 as our environmental consultant, we intend to be
15 objective as to comply with all federal laws,
16 regulations, including the preparation of what's
17 called the bird and bat conservation strategy.
18 That's in accordance with U.S. Fish and Wildlife
19 guidelines.

20 This conservation strategy will include a
21 number of items, including dates when we can
22 clear trees, if that's necessary. Typically
23 only during the winter, during November and
24 March 31st, which is outside the breeding season

1 for most wildlife. The conservation strategy is
2 a living document. It will be updated
3 consistent with any changes and Illinois
4 Department of Natural Resources recommendation.
5 We have received recommendations from the IDNR,
6 and all of those have been included in the bird
7 and bat conservation strategy.

8 It also includes certain turbine cut-in
9 speeds from sunset to sunrise during certain
10 parts of the year. And what does that really
11 mean? That means that certain parts of the
12 year -- and this is for local bat populations --
13 the turbines will start up at a higher wind
14 speed than typically -- than they would
15 otherwise. In other words, instead of starting
16 at, say, 3 meters per second, they'll start up
17 at 5 meters per second, because the research
18 shows that those lower wind speeds are typically
19 harmful to bat populations during a specific
20 time of the year.

21 Q. Do you mean the bats are more active at lower
22 wind speeds?

23 A. Absolutely.

24 Q. Okay. That's why you wouldn't want the

1 turbines spinning at lower wind speeds when bats
2 are more active?

3 A. Absolutely, sir.

4 And, also, the bird and bat conservation
5 strategy requires environmental awareness
6 training for all the construction personnel and
7 reasonable speed limits to prevent any hazards
8 to the wildlife that may exist in the project
9 area.

10 Q. And, you know, we have had a lot of large rain
11 events recently. So certainly one of the
12 considerations when you're out in the field
13 doing a construction activity is stormwater
14 pollution prevention. Can you talk about what
15 we'll -- what steps we will be taking to address
16 that issue?

17 A. Yes. Sure. Stormwater prevention plans are
18 typically construction related, deliverables
19 wherein we'll ensure that we minimize any
20 stormwater runoff and ensure that the project
21 will have no negative impact to bodies of water
22 in or around the project area. This is
23 accomplished by a lot of silt fence, a lot of
24 special considerations and activities of the

1 like so that stormwater runoff doesn't get to
2 places where it typically doesn't go.

3 Further, there will be erosion mitigation
4 measures and noxious weed control
5 countermeasures immediately adjacent and within
6 the project area.

7 Q. Okay. And then, switching gears a little bit
8 to talk about some of the studies and
9 investigations that we have done, we talked
10 earlier about IDNR. Can you speak specifically
11 to the type of investigations that we have done
12 with regard to avian and wildlife?

13 A. Sure. The issue and the analysis comes from
14 mainly two sources. Initially, as part of the
15 application, we're required to engage with IDNR,
16 again, the Illinois Department of Natural
17 Resources, to undergo certain consultations as
18 to wildlife impact through the EcoCAT system, as
19 I mentioned before.

20 Additionally, for an even more
21 comprehensive analysis, we had Stantec perform a
22 site characterization study. This includes a
23 threatened and endangered species habitat
24 assessment within the project boundary. And

1 they'll speak more to this and their findings
2 when Stantec appears before the Board to give
3 very specific testimony on that.

4 But at the base level, they looked at the
5 project area with an eye to the specific number
6 of species that could be negatively impacted by
7 the project, including, as I mentioned before,
8 the ornate turtle and the blanding's turtle,
9 other species like the western hognose snake,
10 the regal fritillary butterfly, and the Indiana
11 and northern long-eared bats, which occupy the
12 project area.

13 (Petitioner's Exhibit Number 6
14 marked for identification.)

15 Q. And while we're on the topic of Stantec, I'm
16 going to present you with what's been marked as
17 Petitioner's Exhibit 6. If you could describe
18 for the Board what this is, please, and whether
19 or not it's dated and, to whom it's addressed.

20 A. Yes, indeed. This is a March 11th, 2019,
21 letter to Dee Duffy, as the Zoning and Plat
22 Officer in Lee County. And it's a letter from
23 Stantec Consulting as -- in response to the
24 comments and recommendations included in the

1 Illinois Department of Natural Resources
2 recommendations from March 11th pertaining to
3 the project.

4 Q. And, sir, while this is dated 2019, is it still
5 applicable as of today?

6 A. Yes, indeed. This was produced a year ago, and
7 I specifically reached out to Stantec and
8 verified that there were no changes and no
9 additional or any less recommendations from
10 IDNR.

11 Q. Okay. And I assume our Stantec witness can
12 elaborate on this document?

13 A. Absolutely he will.

14 Q. Okay. Then switching gears, we also performed
15 an updated shadow flicker for this application
16 in 2020, correct?

17 A. Yes, we did. And, again, we worked with the
18 experts in that field. Those are the folks from
19 Burns & McDonnell. They performed a shadow
20 flicker study, and they'll explain the dirty
21 details of that and how that's done, how they
22 perform such a study, how it's simulated, and
23 answer any questions that you folks may have on
24 that.

1 But fundamentally, a shadow flicker study
2 looks at residences, it looks at every size of a
3 residence, and looks to determine the maximum
4 amount of shadow flicker from a rotating wind
5 turbine.

6 They found approximately 26 of 273
7 receptors in the field that exceeded 30 hours of
8 shadow flicker per year. So when making the
9 decision as to which of the 17 turbines to
10 permanently decommission, the turbines that
11 produced the most shadow flicker were
12 specifically considered. The project committed
13 to operating, you know, in accordance with the
14 Illinois State recommendation guideline for
15 shadow flicker for all residences, unless we
16 obtain a landowner waiver of such
17 recommendation.

18 The study itself for shadow flicker is
19 very conservative. It assumes that the sun is
20 out, you know, on all days, and that the wind
21 turbines are operating, you know, at all times
22 when the sun is out. But, again, as
23 Mr. Streicker mentioned, the Burns & McDonnell
24 people will fill in all of the details

1 associated with that.

2 Q. And I know the Board members will look forward
3 to hearing from them.

4 Am I correct to say, one of the mitigating
5 factors for shadow flicker is, if it's impacting
6 a certain residence at a certain time, you
7 curtail that turbine?

8 A. Absolutely. There's certain things one can do.
9 Certainly, you know, planting trees, you know,
10 in front of windows that might be offensive or
11 curtailing the turbines are just two possible
12 solutions.

13 But we're in the process of identifying
14 and obtaining waivers from all -- from all
15 affected, you know, landowners, participating
16 and nonparticipating in the process.

17 Q. And one of the things that we really talked a
18 lot about here with the Board in 2019 was
19 potential impacts on signals, whether it's
20 television, first responder, AM, FM, et cetera.

21 Could you talk about whether or not we
22 have commissioned any similar studies this time
23 around for the application?

24 A. Yes, indeed. We used a firm well known in this

1 study area called Comsearch. They performed an
2 engineering analysis to determine if the
3 specific locations of the 97 turbines would
4 interfere with off-air television station
5 broadcast signals from land-based facilities
6 directly with television receivers, which are
7 typically line of sight, as these are the only
8 signals really with the potential to be
9 disrupted by the turbines.

10 Comsearch found that the potential for
11 disruptions exist for only 12 of the 65
12 currently-licensed stations operating in the
13 area. Further, in the unlikely event that
14 interference is observed on a station the
15 landowner desires to be able to watch, we're
16 committed to working with the affected landowner
17 to mitigate interference. This is simply, you
18 know, one of the parts of being a good neighbor
19 that we have committed to.

20 You know, and that often takes the form,
21 if a landowner has an antenna, they're no longer
22 able to receive a station because a turbine is
23 interfering with it, and we can, you know, look
24 at cable, we can look at satellite TV, we can

1 look at a variety of options.

2 Q. Okay. Sir, you mentioned that noise reduction,
3 or especially noise or sound reduction at lower
4 wind speeds, is going to be a key benefit of
5 this repowering. Did we commission a study to
6 confirm that?

7 A. Similarly, Burns & McDonnell again performed
8 comprehensive noise studies and modeling
9 analyses for the proposed GE turbines, you know,
10 based on Illinois Pollution Control Board noise
11 regulations and best practices in the industry.

12 We'll hear more about that from, again,
13 the Burns & McDonnell people when they come and
14 give their testimony, but my understanding with
15 these new turbines, in my experience, they'll
16 produce significantly less noise at lower wind
17 speeds than these Suzlon S88 units at the same
18 wind speeds, and we're committing -- we
19 certainly are committed to operate the project
20 in accordance with the Illinois Pollution
21 Control Board noise regulations at all
22 residences, unless we obtain, you know, a
23 waiver, as I mentioned before, from such -- of
24 such requirements.

1 Q. Following up on some of the work that you did
2 with regard to signal interference, obviously
3 television and radio reception is very important
4 to a residence and/or landowners, as well as the
5 rest of the county.

6 Perhaps of more significance is potential
7 interference with emergency or first responder
8 communication systems. Was that specifically
9 studied as part of this application?

10 A. Yes, it was, and the emergency services and
11 communications that are typically used, and used
12 specifically in this area, are not typically
13 what we consider line of sight transmissions.

14 So we had Comsearch do an assessment of
15 the emergency services on all of the turbines in
16 their specific locations, as well as E-911
17 operators, and as well as land, mobile, and
18 radio systems. As they will explain, you know,
19 again, in more detail, based on the way that
20 such emergency networks are set up, many of
21 these systems overlap and are designed to be
22 operated reliably in a non-line-of-sight
23 environment, meaning any signal blockage from a
24 wind turbine does not materially degrade the

1 reception of emergency responders.

2 Further, mobile phone coverage is
3 unaffected by the presence of wind turbines.
4 And based on the location of the project, no
5 impact on the licensed operations of either AM
6 or FM radio broadcast has been identified.

7 (Petitioner's Exhibit Number 7
8 marked for identification.)

9 Q. And, sir, I'm going to, along those lines,
10 present you with what's been marked as
11 Petitioner's Exhibit 7. Do you recognize this
12 document, sir?

13 A. Yes. Exhibit 7 here is a February 15th, 2019,
14 letter from the U.S. Department of Commerce, an
15 office called National Telecommunications and
16 Information Administration, wherein they state
17 that the agencies did not identify any concerns
18 regarding radio frequency blockage.

19 Q. Okay. And is this a letter that you would
20 typically obtain as part of a wind farm?

21 A. Yes, it is. And because it was dated a year
22 ago, I reached out to the folks of Comsearch and
23 verified that this is still valid.

24 Q. All right. Moving on, Mr. Kutey, one of the

1 things that is always important in the siting
2 process is talking about not only the locations
3 but what's around those locations and
4 appropriate setbacks, et cetera. I believe that
5 one of the County requirements in the Code is
6 that no turbine be constructed closer than 350
7 feet from any property lines, roadways, railroad
8 right-of-way, right-of-way from overhead
9 transmission or distribution lines.

10 How will we work to satisfy that
11 requirement?

12 A. Sure. The project has chosen to reuse the same
13 wind turbine generator locations in order to
14 limit any construction impacts on landowner
15 properties and on the environment, reduce
16 construction traffic and heavy loads on County
17 roads, reduce the materials used in the project
18 construction, and to shorten the construction
19 duration as much as possible.

20 Since the current turbine locations are
21 existing and not able to be relocated, that is
22 the specific reason that we're seeking to obtain
23 setback waivers from the landowners to allow the
24 turbine to be set back less than 350 feet, as

1 outlined within the Ordinances.

2 If we were to remove foundations and
3 relocate foundations, the project itself would
4 be uneconomical, and we would likely not do
5 that.

6 At a very high level, the current layout
7 is anticipated -- it is anticipated that there
8 are going to be 11 waivers sought from 10
9 turbines which are currently encroaching on
10 setbacks. The reason for this is that Turbine
11 106 currently encroaches on the setback on two
12 different properties. Of these 11 waivers, 10
13 are with landowners with whom leases are in
14 place and one is with a landowner with a
15 collection line easement. As participating
16 landowners, these waivers are mere formalities
17 stemming from obligations contained in their
18 lease structures.

19 Q. So all of the setback waivers we will be
20 seeking are from what we define as participating
21 landowners, meaning they have arm's length
22 leases in place with the project?

23 A. That is correct.

24 Q. All right. Then, Mr. Kutey, Lee County

1 requires that all wind turbines comply with
2 Federal Aviation Administration recommendations.

3 -- or, excuse me, regulations.

4 Can you describe how we intend to comply
5 with that?

6 A. Yes. The project will comply with all FAA
7 regulations on wind turbines. The project has
8 filed, back on February 18th, and has received
9 the determination of no hazards for the intended
10 97 turbines. Currently they have, you know,
11 determinations of no hazards for all 114. So
12 they'll tell us which turbines needed -- in the
13 new array of 97, which need to be lit with red
14 lights at night, white lights during the day,
15 and in the current array that we're expecting
16 from them.

17 And then there's a part two application
18 where we'll need to file a new form with the FAA
19 within a few days, I'm not sure whether it's
20 five or ten, of that turbine reaching its
21 maximum new height, and that new height will be
22 still 80-meter towers but the height will be
23 larger because the 116-meter rotor diameter
24 is -- will be greater than the 88-meter rotor

1 diameter of the Suzlon S88 machine.

2 MR. STREICKER: All right. Judge, I'm
3 about to switch gears. I know we are two hours
4 into this now. How long do you plan to go
5 tonight?

6 JUDGE SLAVIN: Well, I mean, part of that
7 question is, how much more do you think you
8 have?

9 MR. STREICKER: I think we are probably 70
10 to 80 percent of the way through. I know we're
11 going to have Mr. Kutey back again --

12 JUDGE SLAVIN: Okay.

13 MR. STREICKER: -- and throughout this
14 hearing. We're happy to keep going, but I just
15 want -- for the member's comfort and for the
16 staff, just --

17 JUDGE SLAVIN: Well, if you're suggesting
18 you think you're going to go beyond 9:30, which
19 is the theoretical witching hour, and you're
20 offering to say, That's it for tonight, that's
21 fine with me.

22 MR. STREICKER: Okay. I think it will --
23 there's a small chance we get done by 9:30,
24 but --

1 JUDGE SLAVIN: Okay. All right.

2 MR. STREICKER: -- it will probably be 45
3 minutes more.

4 JUDGE SLAVIN: Some housekeeping
5 matters -- first, off the record, Callie.

6 (A discussion was held off the
7 record.)

8 JUDGE SLAVIN: We were talking about the
9 map that shows where the substation is that
10 Mr. Kutey testified is not accurate. It appears
11 that in the application it is not an accurate
12 map, but I had an offer from the Petitioner to
13 substitute, I presume at the next hearing, a map
14 with the correct location of that substation.

15 MR. STREICKER: That's correct, Judge, as
16 part of the second part of Mr. Kutey's
17 testimony.

18 JUDGE SLAVIN: I also don't think the
19 record is clear, but I marked Mr. Kutey's
20 summary of his -- the summary of his initial
21 testimony as Petitioner's 2. I'm going to
22 reserve ruling on -- well, I'll admit
23 Petitioner's 1, 2, 3, 4, 5, 6, and 7, so we can
24 clean that up tonight.

1 (Petitioner's Exhibits Number 1
2 through 7 admitted into
3 evidence.)

4 JUDGE SLAVIN: And then when we went off
5 the record and were on break, I had a request
6 from a necessary not to include December 30th.

7 So I'm going backwards. The next
8 available date is the 21st, and then after that
9 the available dates go -- now they go Monday,
10 the 4th of January; Tuesday, the 5th of January;
11 and Tuesday, the 19th of January. So at this
12 point I am recessing these proceedings until
13 this coming Monday, the 21st, beginning at
14 6 o'clock here on the third floor --

15 MR. STREICKER: Judge, I thought Monday
16 was out, the 21st.

17 JUDGE SLAVIN: No.

18 MR. STREICKER: Sorry, that one we can't
19 do. Can we recess until the 4th?

20 JUDGE SLAVIN: Okay. All that happened on
21 the 21st was Mr. Hughes said no, but that
22 doesn't -- there's still a quorum. And the
23 advantage to having this on YouTube and having a
24 court reporter is that Mr. Hughes can always see

1 the testimony, you know, on YouTube or read the
2 transcript.

3 And it was in the interest of -- I thought
4 it was the interest of everybody to keep going,
5 but if you can't be here on the 21st, okay.

6 MR. STREICKER: Yeah.

7 JUDGE SLAVIN: Okay. So we'll recess the
8 next session until the Monday, the 4th,
9 6 o'clock.

10 MR. STREICKER: Thank you. We'll be here
11 the whole week, so that will be good.

12 JUDGE SLAVIN: Okay. And I don't know if
13 we're going to do four days that week -- two
14 here and two in -- but we'll get --

15 MR. STREICKER: I think the 6th --

16 JUDGE SLAVIN: They are available dates,
17 let's just leave it at that.

18 So Monday, the 4th, 6 o'clock, after all
19 that.

20 (The hearing was recessed at
21 9:11 p.m.)

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On this 16th day of December, A.D., 2020, I do signify that the foregoing testimony was given before the Lee County Zoning Board of Appeals.

Bruce Forster, Chairman

Dee Duffy,
Zoning Enforcement Officer

Callie S. Bodmer

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