

STATE OF ILLINOIS  
PIATT COUNTY ZONING BOARD

**SPECIAL USE PERMIT APPLICATION  
FOR  
PROSPERITY WIND**

8/28/2023  
5:30 P.M. - 8:53 P.M.

PIATT COUNTY ZONING OFFICER:  
Keri Nusbaum

HEARING FACILITATOR:  
Scott Kains, Esq.

PIATT COUNTY ZONING BOARD MEMBERS:  
Loyd Wax - Chairman  
William Chambers  
Jim Harrington

PIATT COUNTY BOARD MEMBERS:  
Jerry Edwards  
Gail Jones  
Paul Foran  
Michael Beem  
Todd Henricks  
Kathleen Piatt

COUNSEL FOR THE PIATT COUNTY BOARD:  
Andrew J. Keyt, Esq.

COUNSEL FOR THE APPLICANT:  
Amy Antonioli, Esq.  
Ryan Granholm, Esq.  
Jerald "J." Hess, Esq.

PIATT COUNTY STATE'S ATTORNEY:  
Sarah Perry, Esq.

APPLICANT - APEX CLEAN ENERGY:  
Alan Moore, Senior Project Manager

COURT REPORTER: Holly Wingstrom, CSR, RPR, CRR

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1 HEARING OFFICER: Time to call the meeting

2 to order. Do we have a rollcall?

3 MS. NUSBAUM: Mr. Larson?

4 Mr. Harrington?

5 Mr. Lovin?

6 Mr. Wax?

7 MR. WAX: Here.

8 MS. NUSBAUM: Mr. Chambers?

9 MR. CHAMBERS: Here.

10 MS. NUSBAUM: State's Attorney Perry?

11 MR. WAX: Do you want to call the County

12 Board, please, before we come to order?

13 MS. NUSBAUM: Henricks?

14 Edwards?

15 MR. EDWARDS: Here.

16 MS. NUSBAUM: Beem?

17 MR. BEEM: Here.

18 MS. NUSBAUM: Jones?

19 MS. JONES: Here.

20 MS. NUSBAUM: Piatt?

21 MS. PIATT: Here.

22 MS. NUSBAUM: Foran?

23 MR. FORAN: Here.

24 MS. NUSBAUM: Thank you.

1 (TODD HENRICKS AND  
2 SARAH PERRY JOINED AFTER ROLLCALL.)

3 HEARING OFFICER: Thank you. Keri, could  
4 you do an identification of the application and  
5 provide an overview?

6 MS. NUSBAUM: On July 24, 2023, an  
7 application was filed by Prosperity Wind, LLC, an  
8 indirect subsidiary of Apex Clean Energy Holdings,  
9 LLC, for a special lease permit for a 300 megawatt  
10 wind energy conversion system consisting of up to 53  
11 wind turbine generators that are up to 610.2 feet in  
12 height, along with any access roads, transformers,  
13 power lines, communication lines, overhead  
14 transmission lines, underground interconnection  
15 lines, substation, construction lay-down yards, an  
16 aircraft detection lighting system, and other  
17 ancillary facilities or structures on approximately  
18 23,900 acres of agricultural land.

19 Apex Clean Energy Holdings, LLC, is the  
20 sole member and manager of Prosperity Wind, LLC.  
21 The corporate address is 120 Garrett Street, Suite  
22 700 Charlottesville, Virginia, 22902.

23 The WEC system is proposed to be generally  
24 located in Blue Ridge and Goose Creek Townships.

1 The project is roughly bounded by the Piatt-McLean  
2 County Line to the North, the Piatt-DeWitt County  
3 line to the west, Goose Creek to the south, the  
4 Norfolk Southern railroad between Monticello and  
5 Mansfield to the east, and the Piatt-Champaign  
6 County Line to the east, north of Interstate 74.

7 The \$250,000 Wind Energy Special Use  
8 application fee was paid, all adjacent property  
9 owners were given notice pursuant to statute, and  
10 the legal notice was published in the Piatt County  
11 Journal pursuant to statute.

12 Any questions?

13 MR. WAX: Welcome to this evening's  
14 meeting for the Piatt County Zoning Board of  
15 Appeals. My name is Loyd Wax. I am the Chair of  
16 the Piatt County Zoning Board of Appeals.

17 Tonight is the first night of what likely  
18 will be several meetings of a public hearing  
19 regarding the application for a special use permit.  
20 The applicant has paid the application fees required  
21 by county ordinance.

22 Notice of this public hearing has been  
23 published and mailed in accordance of applicable  
24 law.

1           For the record, this public hearing is  
2 taking place at the Monticello Community Building,  
3 and the purpose of this hearing is for the Piatt  
4 County Zoning Board of Appeals to hear evidence,  
5 make findings of facts, and then make a  
6 recommendation on the proposed project to the Piatt  
7 County Board which will have a final say on the  
8 proposed project.

9           This hearing is currently scheduled to  
10 occur over nine nights during the months of August  
11 and September.

12           I would like to introduce the people  
13 seated at the table.

14           To my far left is Will Chambers, Board  
15 Member.

16           Then we have Keri Nusbaum, our Zoning  
17 Administrator, who does an outstanding job of  
18 overseeing and keeps us on track.

19           There are other board members who are  
20 either not able to be here right now or who are on  
21 the way and will join us here a little bit later.

22           Seated on either side of me are attorneys  
23 who will be assisting the Zoning Board of Appeals  
24 during this public hearing.

1           To my right, Andy Keyt will be assisting  
2 the ZBA in answering legal questions the board may  
3 have concerning the course of the hearing and will  
4 assist the board in preparing its finding of fact  
5 that will be transmitted to the county board.

6           On my left, Scott Kains will serve as  
7 Public Hearing Facilitator. In that role he will  
8 assist in resolving evidentiary issues, including  
9 the admission of evidence and ruling on any  
10 objections to questions from attorneys for the  
11 parties.

12           Mr. Kains, would you please provide your  
13 rules and your procedures that will be followed  
14 during this public hearing?

15           HEARING OFFICER: Yes, sir. Thank you,  
16 Mr. Wax.

17           There are several pages of  
18 rules/procedures. We have to do this legally and do  
19 this right.

20           All witnesses, including those of the  
21 applicant and any other interested party wishing to  
22 address the ZBA, shall be sworn. All witnesses  
23 shall testify under oath.

24           About witness who can testify: There are

1 sign-in sheets near the entrance, and you must sign  
2 in, name, address, and county in which you live, or  
3 you will not be allowed to testify.

4           When we get to that point in this hearing,  
5 I will go down the list and call witnesses as their  
6 names appear on the list. If a person signs in to  
7 testify and is not present when his or her name is  
8 called, then that person will miss the opportunity  
9 to present oral testimony. We are not going back or  
10 skipping ahead on the list.

11           In the event the person misses his or her  
12 turn to testify, he or she will be allowed to submit  
13 a written statement to the Zoning Administrator,  
14 Ms. Nusbaum, and that written statement will be  
15 considered as evidence in this hearing, photocopied  
16 for each zoning board member and for the attorneys  
17 and will be considered as part of the record of this  
18 hearing and submitted to each county board member  
19 for consideration.

20           The applicant shall present testimony and  
21 evidence. Each of the applicant's witnesses shall  
22 remain present for questioning by the ZBA or any  
23 other interested parties, until such time as the  
24 witness is excused by the chairperson or by myself.



1           Members of the ZBA shall have the  
2 opportunity to question the applicant's witnesses  
3 providing testimony. ZBA members may, in the  
4 discretion of the chairman, ask questions at any  
5 time during the hearing.

6           Other interested parties shall have the  
7 opportunity to question the applicant's witnesses  
8 and evidence. Interested parties wishing to address  
9 the ZBA shall identify themselves by name and  
10 address on the record at this hearing. Interested  
11 parties shall be invited to address the ZBA in  
12 following order:

13           First, members of the units of local  
14 government, including school districts; interested  
15 parties represented by licensed attorneys; other  
16 interested parties; and Piatt County staff and  
17 consultants.

18           Once the applicant concludes its case,  
19 persons in favor of the application shall testify.  
20 Questioning of these witnesses shall occur in the  
21 order specified above.

22           Once all in favor of the application have  
23 testified, those opposed shall testify, beginning  
24 with witnesses called by counsel. Questioning of

1 those witnesses shall occur in the order specified  
2 above.

3           Once all opposed to the application have  
4 testified, those who are neutral on the application  
5 shall testify. Questioning of these witnesses shall  
6 occur in the order specified above.

7           Then there will be acceptance of written  
8 comments by the ZBA.

9           There will be a presentation of any Piatt  
10 County staff reports or comments.

11           And that will be followed by closing  
12 statements by the applicant. The applicant shall  
13 not introduced new information in the closing  
14 statement.

15           Then there will be public comment by  
16 interested parties in the same order listed above;  
17 three minutes per person for public comment.

18           Then there will a rebuttal of closing  
19 statement presented by the applicant.

20           The ZBA shall close the evidence.

21           The ZBA will then deliberate and vote on  
22 the application. The ZBA may, in its discretion,  
23 set a future hearing date for deliberations and  
24 voting on the application.

1           The vote of the ZBA is not a final  
2 decision. It is a recommendation to the Piatt  
3 County Board. The ZBA shall transmit its findings  
4 and recommendation to the County Board.

5           Now, procedures governing the public  
6 hearing:

7           The Piatt County Zoning Board of Appeals  
8 will receive evidence regarding a wind farm  
9 application during the public hearing. Evidence may  
10 be presented in two forms:

11           Oral testimony, which may also include  
12 documentary evidence presented at the public  
13 hearing.

14           Expert witnesses will be given one hour to  
15 present their direct testimony.

16           Non-expert witnesses, if you are a Piatt  
17 County resident, you have 30 minutes for your  
18 presentation.

19           Non-expert witnesses, non-Piatt County  
20 resident, will be afforded ten minutes to present  
21 their testimony.

22           Written comments also may be submitted to  
23 the Zoning Administrator either prior to the public  
24 hearing or during the course of this public hearing.

1           Speakers may not grant time to other  
2 speakers. Testimony is limited to one time per  
3 person unless that witness is recalled by counsel or  
4 recalled at the request of the ZBA.

5           This wasn't a problem with the hearing we  
6 had last November, December, January with respect to  
7 the Goose Creek application, but I need to have this  
8 -- I need to read this because we've had this in  
9 other hearings I've conducted.

10           Note that audience members must be seated  
11 and quiet. And, obviously, if there is not enough  
12 chairs, you don't have to be seated, but we ask that  
13 you be quiet. Loitering in the hearing room is  
14 prohibited. Any person who is unruly, disrupts or  
15 attempts to disrupt the hearing or otherwise engages  
16 in inappropriate behavior will be expelled.  
17 Excessive applause, jeering, or other commotion  
18 shall be considered disruptive.

19           Again, this wasn't a problem at the least  
20 hearing; although, hearings I've conducted in the  
21 past, we've had a room full of yelling people, and  
22 we are not going to have that here.

23           Now, Piatt County Zoning Board of Appeals  
24 Public Hearing Guidelines for the Siting of Wind

1 Energy Conversion Systems:

2           These rules are supplementary to the  
3 provisions of the Piatt County Code and ordinance's  
4 zoning chapter that in part regulates the siting of  
5 wind energy conversion systems in Piatt County.

6           These provisions shall govern procedures  
7 of public hearings before the Piatt County Zoning  
8 Board of Appeals concerning wind energy conversion  
9 systems. The chairperson and the ZBA may modify  
10 these procedures in their reasonable discretion.

11           A court reporter shall be present at every  
12 hearing and voting meeting in order to provide a  
13 transcript of the proceedings. Transcripts will be  
14 prepared by the court reporter and sent to the ZBA.  
15 Costs for all transcripts of hearings or voting  
16 meetings before the ZBA shall be borne by the  
17 applicant, and the cost of the transcript shall be  
18 paid directly to the court reporting service.

19           The hearing shall occur on the dates and  
20 time set forth in the public notice. All necessary  
21 additional hearing dates shall be scheduled at the  
22 discretion of the ZBA.

23           The chairperson or acting chairperson of  
24 the ZBA shall preside at the public hearings of the

1 ZBA. The Chairperson shall have the authority to  
2 control the hearing proceedings and may set time  
3 limits, schedule the appearance of witnesses and  
4 require their appearance on dates set forth in the  
5 scheduling order, restrict witnesses from testifying  
6 for failure to appear on the date scheduled for that  
7 witness's testimony, adopt reasonable time limits  
8 upon the questioning of witnesses by the applicant  
9 and interested parties, and take other action deemed  
10 reasonably necessary by the chairperson in order to  
11 conduct the hearing in an ordinarily, efficient, and  
12 professional manner.

13 The hearing before the ZBA shall not be  
14 governed by, and the ZBA shall not be bound by the  
15 strict rules of evidence. The ZBA may exclude  
16 irrelevant material and unduly repetitious testimony  
17 and any other testimony or evidence that, in the  
18 discretion of the chairperson and the ZBA, is not  
19 pertinent to these proceedings.

20 At the discretion of the chairperson, ZBA  
21 members shall be permitted to question witnesses at  
22 any time during the hearing, and ZBA members may  
23 request additional evidence be presented to them  
24 during the hearing.

1           Public hearings may be held by less than a  
2 quorum of the ZBA.

3           The discretion to admit documents into  
4 evidence lies solely with the hearing facilitator.

5           Documents and recordings obtained or  
6 printed from the internet or elsewhere will be  
7 admissible at the discretion of the hearing  
8 facilitator, who may ask the witness to lay a  
9 foundation for the documents or recordings based on  
10 personal knowledge. More on this in a minute.

11           And the ZBA or hearing facilitator will  
12 determine if a person qualifies as an expert witness  
13 and will state its finding on the record. Expert  
14 witnesses shall identify their area of expertise and  
15 limit their testimony thereto. Experts shall  
16 clearly identify and provide any studies they  
17 completed on the subject matter of the hearing. An  
18 expert may rely on studies not in the record used to  
19 form their opinions but shall not testify about the  
20 results of those studies except on cross-examination  
21 or upon leave from the ZBA chair or hearing  
22 facilitator. All studies relied upon and experts'  
23 written submissions must be disclosed and written  
24 credentials provided for expert witnesses.

1           All right. I have had occasion to review  
2 several prehearing motions filed by Prosperity Wind,  
3 LLC. Prosperity has filed a motion to exclude  
4 irrelevant, repetitious, and unreliable information  
5 and a motion to prohibit ex parte communications.

6           After reviewing these motions, I have the  
7 following rulings and instructions:

8           Evidence and questioning that is not  
9 relevant to the Prosperity Wind Supplemental Use  
10 Application will not be permitted. Unduly  
11 repetitious testimony and questioning will not be  
12 permitted.

13           With respect to the issue of laying a  
14 proper legal foundation for evidence, this is a  
15 public hearing, and I tend to relax the foundation  
16 requirement that is set forth in a courtroom;  
17 however, I am going to be very cautious about  
18 admitting irrelevant material from the internet and  
19 other sources. I will direct questioners that they  
20 are not to offer their own comments or opinions when  
21 questioning a testifying witness. I will instruct  
22 the ZBA regarding the reduced weight that should be  
23 given to information offered into the record that  
24 does not meet basic evidentiary standards.



1           Now, concerning Prosperity Wind, LLC's,  
2 motion to prohibit ex parte communication, I would  
3 like everyone to understand that an ex parte  
4 communication is one in which an individual on the  
5 applicant's team or the general public has a  
6 discussion about the merits of the special use  
7 application with any member of the Piatt County  
8 Zoning Board.

9           ZBA Members, if anyone approaches you  
10 wishing to discuss the application, you must tell  
11 them that you cannot have such a discussion until  
12 after the deliberations and vote have concluded.

13           There shall be no e-mails, writings,  
14 verbal discussions with any members of the ZBA  
15 because they have to be fair and impartial.

16           Again, ZBA Members, you are directed to  
17 refrain from and disregard any ex parte  
18 communications you may receive regarding the  
19 Prosperity Wind SUP application when making your  
20 findings of fact and recommendations to the county  
21 board regarding the application.

22           Now, Ms. Antoniolli, I believe you have an  
23 issue to present, before we get started, with the  
24 testimony concerning natural resource information,

1 the NRI reports, and land evaluation and site  
2 assessment reports, LESA reports.

3 MS. ANTONIOLLI: Thank you, Mr. Kains. My  
4 associate, Ryan Granholm, will introduce you to  
5 that.

6 HEARING OFFICER: Very good. Thank you.  
7 Mr. Granholm, you may proceed.

8 MR. GRANHOLM: Thank you, Mr. Kains.

9 Good evening. My name is Ryan Granholm.  
10 I am one of the attorneys who will be representing  
11 the applicant, Prosperity Wind, during the  
12 proceedings this week.

13 While we are on the topic of procedural  
14 and other legal matters before we begin the  
15 presentation of evidence, there is one legal issue  
16 that the ZBA should be aware of regarding the Piatt  
17 County WECS Ordinance.

18 Roman Number VBX of the Piatt County WECS  
19 Ordinance requires applicants to submit, "Any other  
20 information that is normally required by the county  
21 as part of its zoning ordinance, including NRI/LESA  
22 reports for each affected parcel."

23 Prosperity Wind understands these  
24 requirements to refer to natural resource

1 information reports and land evaluation and site  
2 assessment reports, both of which are types of  
3 reports that are typically prepared by a county's  
4 soil and conservation water district.

5 Prosperity Wind has provided to the  
6 hearing facilitator, Mr. Kains, and will be entering  
7 into the record tonight a legal objection to that  
8 requirement of the Piatt County WECS Ordinance.

9 We encourage the members of the ZBA and  
10 the County Board to read that written objection, but  
11 we also wanted to provide a brief overview this  
12 evening.

13 There are just two legal issues that I  
14 want to highlight for the ZBA regarding this  
15 requirement.

16 The first is that the NRI/LESA requirement  
17 is contrary to state law. The portion of the  
18 Illinois Counties Code that governs the siting of  
19 wind energy facilities states that counties may not  
20 adopt requirements that are "more restrictive" than  
21 the state standards that are required in the  
22 Illinois County Code.

23 That statute includes requirements  
24 specifically for the protection of agricultural

1 land. Any additional requirements such as a  
2 requirement to supply an NRI/LESA report would be  
3 more restricted than those state requirements and  
4 would be invalid. Denying a special use permit  
5 because NRI/LESA reports were not obtained or due to  
6 the contents of any reports that are obtained would  
7 be grounds for appeal and potential reversal of the  
8 county's decision.

9 The second issue I want to highlight is  
10 that there is simply no need for an NRI/LESA report  
11 here and no basis for the ZBA to require it.

12 The purposes of an NRI/LESA are not served  
13 in this instance. The project is not publically  
14 funded and will not be constructed by any state or  
15 federal agency.

16 Furthermore, the project will not  
17 permanently convert any agricultural land in Piatt  
18 County to nonagricultural purposes.

19 Moreover, Piatt County has not previously  
20 required this sort of a report for other wind energy  
21 or other projects. Requiring it here would,  
22 therefore, would be arbitrary and capricious.

23 I would ask the hearing facilitator to  
24 please include Prosperity Wind's legal objection in

1 the record for this proceeding.

2 HEARING OFFICER: Thank you, Mr. Granholm.  
3 Yes. It will be included in the record. I have  
4 received a copy of your objection and memorandum of  
5 law with respect to this issue dated August 23,  
6 2023.

7 And, Mr. Keyt, have you received this as  
8 well?

9 MR. KEYT: Yes. We have that copy.

10 HEARING OFFICER: Okay. And then it will  
11 be made part of the record.

12 MR. KEYT: Yes. With the -- if I could  
13 ask that we have our response to that reserved until  
14 such time as may be necessary.

15 My understanding, in our discussion with  
16 the applicants, is they will provide the information  
17 or will it be provided from the necessary group that  
18 would provide that but reserved their objection.

19 HEARING OFFICER: We'll allow you to  
20 reserve argument on that should we get to that.

21 So very good, Mr. Granholm, that is part  
22 of the record now.

23 MR. GRANHOLM: Thank you.

24 HEARING OFFICER: Thank you, sir.

1                   Are there any other preliminary matters,  
2 Ms. Antoniolli?

3                   MS. ANTONIOLLI: I would like to offer an  
4 opening statement, but before we do that can we talk  
5 about entering a couple of items into the record in  
6 addition to the objection?

7                   HEARING OFFICER: Yes. What do you have?

8                   MS. ANTONIOLLI: We would like to start  
9 with maybe moving a copy of the application into the  
10 record. You can let me know your preferred  
11 numeration. I would offer it as A1, Applicant's  
12 Exhibit A1. And that is on file already with the  
13 Zoning Administrator.

14                   There are several hardcopies in the  
15 office, and I would like to let the public know,  
16 too, that that is available for inspection.

17                   Would you like to rule on that then?

18                   MR. KEYT: What I would suggest is that  
19 that be Applicant's Group Exhibit Number 1.

20                   HEARING OFFICER: Applicant's Group  
21 Exhibit Number 1. Mr. Keyt will note the exhibits.  
22 And I will allow that exhibit in evidence. It would  
23 be kind of silly if we had a hearing without an  
24 application in the record, so that has to be in.

1 Thank you, Ms. Antoniulli, for that.

2 (APPLICANT'S EXHIBIT 1 - APPLICATION.)

3 MS. ANTONIOLLI: Thank you.

4 The next one we would like to move into  
5 the record, and Ryan is going to be circulating  
6 copies of this to all also, it's a Certificate of  
7 Publication, the newspaper notice, the Affidavit of  
8 Publication -- is that correct? -- and that includes  
9 the map that was published in the newspaper as well  
10 as all the landowner addresses.

11 HEARING OFFICER: Mr. Keyt, what number  
12 was that?

13 MR. KEYT: That will be Applicant's  
14 Exhibit Number 2.

15 HEARING OFFICER: Applicant's Exhibit 2 is  
16 admitted into the record, the publication notice.

17 (APPLICANT'S EXHIBIT 2 - PUBLICATION  
18 NOTICE.)

19 MS. ANTONIOLLI: The next one we would  
20 like to move into the record is a copy of the notice  
21 that Apex provided to the Mahomet Valley Aquifer  
22 Authority, and that is required by the ordinance.

23 HEARING OFFICER: Mr. Keyt, number?

24 MR. KEYT: Applicant's Exhibit 3.

1 HEARING OFFICER: Applicant's 3 will be  
2 admitted into the record.

3 (APPLICANT'S EXHIBIT 3 - NOTICE TO MVWAA.)

4 MS. ANTONIOLLI: We also would like to  
5 move into the record copies, for your ease of  
6 reference, of the two posters that you see at the  
7 side of the room. There is a site plan, and the  
8 other one is a one-page or one-poster board of  
9 economic impacts to the community, economic benefits  
10 to the community.

11 HEARING OFFICER: And you have 8.5" x 11"  
12 copies of those?

13 MS. ANTONIOLLI: Yes. That is what we  
14 brought with us today, one of each. So I think that  
15 would be Group Exhibit 4 and Group Exhibit 5.

16 HEARING OFFICER: Applicant's Exhibits 4  
17 and 5 will be admitted into the record.

18 (APPLICANT'S EXHIBIT 4 - SITE PLAN.)

19 (APPLICANT'S EXHIBIT 5 - ECONOMIC IMPACT  
20 ANALYSIS.)

21 MS. ANTONIOLLI: Thank you.

22 And then, in preparation for our first  
23 witness, we would also like to move copies of  
24 Mr. Alan Moore's presentation into the record, and



1 then I'm ready to provide an opening.

2 HEARING OFFICER: Is that 6, Andy?

3 MR. KEYT: Correct.

4 HEARING OFFICER: Applicant's Exhibit 6,  
5 Mr. Moore's presentation, will be admitted into the  
6 record.

7 (APPLICANT'S EXHIBIT 6 - ALAN MOORE'S  
8 PRESENTATION.)

9 MS. ANTONIOLLI: Thank you. And to  
10 formally introduce myself, my name is Amy  
11 Antoniolli. I am with ArentFox Schiff, here with  
12 Ryan Granholm, who you already met also from  
13 ArentFox Schiff.

14 Also representing Apex Clean Energy is  
15 Jerald Hess, who is Associate General Counsel with  
16 Apex.

17 We are here also joined by several Apex  
18 witnesses you'll hear from throughout the course of  
19 the hearing as well as subject matter experts, all  
20 of which provided their expertise and reports and  
21 studies that support the application. You'll hear  
22 from them each in time.

23 Apex Clean Energy is among the most  
24 respected and experienced wind energy and renewable

1 energy developers in the US. Apex owns Prosperity  
2 Wind, which in turns will own and operate Prosperity  
3 Wind Farm.

4 The team that you'll see and hear from  
5 throughout the course of the hearings has been  
6 working and investing in Piatt County for over  
7 four years now.

8 During Apex's presentation, you'll hear  
9 how this application is new and improved. We've  
10 worked hard to keep this presentation organized and  
11 efficient and moving forward.

12 Our first witness will be Alan Moore,  
13 Senior Development Manager, who will walk through  
14 the application and the Prosperity Wind project,  
15 including the site plan and the benefits to the  
16 community, and he'll been introducing you to the  
17 other witnesses who will be presenting after him.

18 For you, the Zoning Board of Appeals, that  
19 are here tonight, you're tasked withholding this  
20 hearing and issuing a recommendation on whether to  
21 approve Apex's application for a special use permit  
22 for the Prosperity Wind Farm.

23 The only thing that I ask of the board  
24 members here tonight is to listen to all of the

1 evidence before you make a decision on whether to  
2 recommend approving the permit.

3           There are gradations of how people view  
4 data and information and the reliability of that  
5 data and information, and we ask you to please  
6 consider the weight of evidence that is given to all  
7 of the information that you hear tonight and  
8 throughout this week.

9           The LaSalle Factors, which are included in  
10 Piatt County's WECS Ordinance, they are called  
11 hearing factors in the ordinance. They are given a  
12 very -- they play a very different role now than  
13 they ever did before after the amendment of the  
14 Illinois Counties Code, which took effect in January  
15 of this year.

16           The Illinois Counties Code states, as set  
17 forth in those most recent statutory amendments,  
18 that a county shall approve a special use permit  
19 request if that request is in compliance with those  
20 wind specific provisions of the county's code, if  
21 the county's ordinance that is adopted is consistent  
22 with that code, and all other applicable state and  
23 federal statutes and regulations.

24           Now, the LaSalle Factors after this recent

1 statutory change really only come into play if the  
2 information you hear shows the application fails to  
3 satisfy the factors. This is not a subjective  
4 standard that can be based on opinion. This is an  
5 objective factor but an objective standard that must  
6 be based on factual evidence.

7 The information included in the  
8 application and the evidence that we'll present  
9 shows that the Prosperity Wind application meets all  
10 of these criteria.

11 And with that, we can turn it over to  
12 Mr. Alan Moore. He'll start us out on our  
13 presentation.

14 HEARING OFFICER: Very good. Thank you,  
15 Ms. Antoniolli.

16 Mr. Moore, while you have the right hand  
17 free, would you please raise your right hand to be  
18 sworn.

19 **ALAN MOORE,**  
20 a witness herein, called by the Applicant, after having  
21 been first duly sworn, testified as follows:

22 HEARING OFFICER: Mr. Moore, you may  
23 proceed.

24 MR. MOORE: Can everybody hear me? All

1 right. Good.

2 HEARING OFFICER: Yes. First of all,  
3 would you state your name, spelling first and last  
4 name for the record?

5 MR. MOORE: Absolutely. My name is Alan  
6 Moore, A-l-a-n M-o-o-r-e, and I am a senior  
7 development manager with Apex.

8 HEARING OFFICER: Good. Go right ahead.

9 MR. MOORE: Thank you, sir.

10 Thank you, Mr. Chairman.

11 Thank you, rest of the board, those who  
12 are here, and those who are not here.

13 Big thanks to the County Board members who  
14 are here in the room, county staff who have spent  
15 many hours working through this process for Piatt  
16 County, as well as the state's attorney who is here  
17 this evening, and thanks to everyone in the  
18 audience. It's important to have participation in  
19 these events, and I am glad to see the turnout this  
20 evening.

21 Before we get going, I would like to set  
22 some expectations for our efforts here this evening  
23 and over the coming days. I think we can all  
24 recognize that we spent many nights sitting in these

1 rooms. I am glad to see that we did not invest in  
2 padded chairs for this time through, but very  
3 thankful for that time. But I think what I can say  
4 as we move through it this time, we want to have  
5 this move forward smoothly and efficiently.

6           You'll hear from myself this evening and  
7 my colleague, Adam Carlson, on our project  
8 management team, our colleague Jason Conley on our  
9 health and safety team, and our colleague Brie  
10 Anderson on our permitting team.

11           We should work through our process  
12 presenting our project, and that should take roughly  
13 about 90 minutes, outside of questions.

14           Next slide, please.

15           We have a number of subject matter experts  
16 here in room seated behind us both internal and  
17 internal to Apex. They have done exhaustive amounts  
18 of work working for the project for Prosperity Wind  
19 and are here to answer your questions both as a  
20 board and as a community.

21           Next slide.

22           As I said, my name is Alan Moore. I am a  
23 Senior Development Manager with Apex. I moved to  
24 Apex a little over five years ago, coming from a

1 background of working in the agricultural community.  
2 Personally, I grew up in a rural community. I've  
3 had number of jobs in my career. I've worked in the  
4 wine industry, I've run a produce company, and I've  
5 worked in the dairy and seed corn business. I was  
6 driven to those career choices, and my career choice  
7 in Apex because of my passion for agricultural and  
8 working in communities like Apex.

9 Rural communities are critical to our  
10 country. Agriculture in these communities is what  
11 makes their way of life and what ties counties like  
12 Piatt County together.

13 Agricultural is a tough industry. I think  
14 everyone in this room can recognize that. Weather,  
15 markets, forces out of the control of farmers make  
16 or break a year or make or break more than a year.

17 Projects like Prosperity adds certainty to  
18 Piatt County, and they add certainty to landowners  
19 and those who are participating in projects like  
20 Prosperity Wind. They help landowners make it  
21 through challenging years, and they help build for  
22 the future in good years.

23 Next slide, please.

24 As I've mentioned, my colleagues all work

1 for Apex. We are but a part of a larger  
2 organization. Apex has over 400 employees across  
3 the company and spread across the country. Our  
4 headquarters are in Charlottesville, Virginia, and  
5 we do have another office in Minneapolis, Minnesota.

6 But what you can see from this slide is  
7 that our work and our projects are in rural  
8 communities. That is where we work, and that is  
9 what is important to us.

10 Next slide, please.

11 Prosperity Wind, you can see a picture of  
12 it here. You can see a map of it in the back of the  
13 room. I think it would be remiss if I didn't  
14 acknowledge our efforts in Piatt County previously  
15 with our project Goose Creek Wind. There were a lot  
16 of questions that came out of our 17 nights here  
17 over the course of a number of months, and what I  
18 can say and what I would like to start with is  
19 calling out three really important differences  
20 between Prosperity Wind and Goose Creek Wind.

21 First, it's a much smaller footprint. If  
22 you look at the map, you can see. We heard during  
23 the hearing there was a lot of questions about why  
24 was the project area so big, where are the impacts



1 going to be, what roads were we going to use, how  
2 was it going to affect drainage. We listened to the  
3 folks in the community, we listened to you all as  
4 board members, and we worked to really shrink the  
5 project area and refine it to be just the impact  
6 that we intend to have across the project area.

7           Second, there is less turbines. With  
8 Goose Creek Wind, we asked to permit 60 locations,  
9 while we only planned to construct 50, so that is 10  
10 spare locations.

11           We did studies on more than seven. That  
12 led to confusion to folks in the room, folks across  
13 the county, and folks on the board, both the zoning  
14 board and the county board, and about which turbines  
15 were to be built and which ones were spare  
16 locations, so we refined that.

17           As I said, we plan to construct 50 wind  
18 turbines. We are asking for 53 permits because we  
19 want to have three locations as spare locations  
20 should anything come up during the construction  
21 process.

22           If you want to know which ones are spared,  
23 you can look on the map back there, and you can look  
24 on our permit application, and you can look up

1 there. The yellow locations are the spare  
2 locations.

3 Lastly is, there were many questions about  
4 the total impact and overall impact we would have to  
5 roads and to drainage across the project area.

6 What I can say is that we have a fully  
7 crafted, drafted, and approved road use agreement  
8 outlining all of the impacts to our project across  
9 all of the road districts, the county, and the  
10 townships. You'll hear much more about that from my  
11 colleague Adam and others in the room tonight, but  
12 those have been drafted and we've worked hard and  
13 closely with the road districts, the county  
14 engineer, and the township road commissioners to put  
15 those together.

16 Additionally, included in your application  
17 is a 73-page exhaustive drainage study or drainage  
18 agreement. It outlines every impact that we will  
19 have to both public and private drainage across the  
20 project area. There are a number of overlapping  
21 drainage districts that overlap our project area.  
22 We have mapped every impact we would have across  
23 those drainage districts and the public tile there.

24 We've also looked at the impact we would

1 have to private drain tile across the fields that we  
2 would cross, and those are included, as well as a  
3 hydrology study and many other things that we've  
4 looked at for the project.

5 So, again, you don't have to take my word  
6 for this. It is included in our application, and we  
7 are happy to discuss that and answer questions.

8 Next slide, please.

9 So why Piatt County? That is probably the  
10 first question we get every time we start a project,  
11 and certainly I've fielded that many times here in  
12 Piatt County. Why have I spent many nights here in  
13 this room, why have I spent many nights meeting with  
14 people in the community, visiting their farms,  
15 talking to them, talking to their attorneys.

16 First and foremost is the wind resource.  
17 There is great wind in Piatt County. There is great  
18 wind in this part of the country, across the region.

19 Second, is a receptive community. I know  
20 not everyone in this room is here in support of the  
21 project, but what I can say is that Apex has no  
22 eminent domain. Every acre of the 35,000-plus acres  
23 that we have participating in this project has  
24 chosen to participate in the project. We view that

1 as a very receptive community.

2 Last is transmission capacity. Without  
3 transmission capacity, without the ability to  
4 project your electricity onto the grid you have  
5 don't have a project.

6 What I can say again is that Piatt County  
7 is blessed to have all three of these. It has a  
8 great opportunity to host a world-class project in  
9 Piatt County.

10 Next slide, please.

11 Apex plans to own and operate Prosperity  
12 Wind for the life of the project. We don't take  
13 that obligation lightly. We've worked hard over the  
14 last five years and will continue to work hard over  
15 the life of the project to be a great member of the  
16 community.

17 We've developed relationships with many  
18 local organizations and nonprofits. Early in the  
19 development of the project we formed a community  
20 grant program that to date has donated over \$140,000  
21 to nonprofits and other organizations across the  
22 county. We have been active in the local community.  
23 We sponsored Mansfield Homecoming, Farmer City  
24 Heritage Festival. We are members of the Monticello

1 Chamber of Commerce, the Rotary Club, the Chamber of  
2 Commerce in Farmer City. We've hosted volunteer  
3 days for our staff to volunteer their time at  
4 organizations here in Piatt County. We view  
5 ourselves as a very important and a contributing  
6 member and don't take that lightly and very much  
7 thank you and spread thanks to the whole community  
8 for the welcoming.

9 Next slide, please.

10 Before I talk about the specifics of  
11 Prosperity Wind, I would like to talk a little bit  
12 about the demographics and economics of Piatt  
13 County.

14 This is a lot to read, and I understand  
15 that. And it's -- depending where you are sitting,  
16 you might have a pillar in the way, so I'll kind of  
17 talk through it a little bit.

18 This information, first and foremost, what  
19 I'll say is it's not my data. We did not put this  
20 information together. This is US census data that  
21 was aggregated by Dr. Davis Loomis, who is here in  
22 the room. He is a Professor Emeritus at Illinois  
23 State University. He has done a lot of work for  
24 projects like Prosperity but other industries as

1 well.

2 What this shows is, if you look at  
3 figure 5 and figure 6, are some alarming population  
4 trends that you can see in Piatt.

5 Figure 5 is the population of under the  
6 age of 18. Figure 6 is those of working age, 18 to  
7 64. So what that shows is that Piatt County has the  
8 younger folks, students, and the workforce that are  
9 moving away from the county.

10 As you look at figure 7, on the right side  
11 of the screen, what you see is the population of  
12 folks over the age of 65. So that line, obviously,  
13 is converse to the other two graphs. So this shows  
14 an ageing population in Piatt County.

15 Next slide, please.

16 Many people in this room, folks on the  
17 board included, have sat through a number of  
18 budget-related meetings for Piatt County over the  
19 years. They are important conversations to have as  
20 a community. One of the things that we have seen  
21 over the last few years is we looked at the historic  
22 personal property replacement tax, PPRT.

23 Piatt County has traditionally been in the  
24 1 to 2 million dollar range. Over the last few

1 years that number has gone up. It's averaged closer  
2 to 5 to 6 million dollars. Just recently, in early  
3 August, Illinois Department of Revenue released its  
4 estimates for 2024, and what that does is it shows a  
5 decrease in those funds moving forward for Piatt  
6 County. That number is expected to drop by almost  
7 30 percent next year, or roughly \$2 million. It  
8 will decrease to just under \$4.3 million, and signs  
9 are pointing that this number is likely to continue  
10 to drop in the future years.

11 Next slide, please.

12 So what does that mean? What does all of  
13 that mean as we start to think about it?

14 1.) The county's population is ageing.  
15 There's a net loss of people under the age of 18 and  
16 a steady increase in retirees.

17 2.) The county as traditionally relied on  
18 PPRT to help county services. In future years, the  
19 Department of Revenue has indicated that  
20 increasingly these revenues may flow through  
21 personal income tax disbursements instead of the  
22 PPRT. So not only can the county expect to see a  
23 decrease of \$2 million next year, but that number  
24 can drop in the future years, and reliance on PPRT

1 to balance the county's budget exposes the county to  
2 risk. That risk can only be mitigated by increasing  
3 the property tax bases in the county.

4 So I know not everyone in this room likes  
5 wind, but that's not really the question that we are  
6 here to talk about tonight. What we are really here  
7 to think about is:

8 1.) Piatt County is facing some tough  
9 choices. In my experience, counties like Piatt want  
10 to maintain their independence. They want to not be  
11 dependent upon the state or the federal government  
12 for funds to help balance their budget or to provide  
13 for critical services across the community.

14 So Piatt County is facing a loss of  
15 \$2 million looking at next year and maybe more in  
16 the future.

17 So how is Piatt County going to handle  
18 this loss in revenue?

19 There is economic development in the form  
20 of Prosperity Wind and other projects that may come  
21 in the future.

22 Or does Piatt County want to raise the  
23 taxes on every individual in the county? So those  
24 are tough choices, and I am happy to talk about it.



1           Next slide.

2           Prosperity Wind. Again, you've seen the  
3 map, but I think it's important to talk about what  
4 goes into that and what makes up our project.

5           Across our project area, which spans Blue  
6 Ridge Township and Goose Creek Township, we have 92  
7 landowner agreements. Those represent 19,100 acres  
8 or 211 parcels. We have a lot of acreage outside of  
9 the project area, roughly 14,225 acres. Those acres  
10 are not included in the special use permit because  
11 they are not -- we are not requesting a special use  
12 for them.

13           So what does that mean? What is our  
14 impact going to be? We are asking to build 50  
15 turbines. We are permitting 53. We have done a  
16 detailed study, down to the hundredth of an acre  
17 looking at the impact of our facilities on farm  
18 ground in Piatt County. Those 53 turbines in total  
19 take up just 3.21 acres. Again, 3.21 acres. All of  
20 our other aboveground facilities make up just over  
21 35 acres. So our total impact across the entirety  
22 of the project area will be less than 40 acres,  
23 right around 39 acres. That is .04 percent. So, if  
24 you take all of the participating acres and then you

1 narrow that down to just the acres that have  
2 aboveground facilities, .04 percent of those acres  
3 with aboveground facilities are impacted. All of  
4 those parcels and all of those acres will be  
5 maintained an ag zone. They will be in the  
6 agricultural district. That shows that wind  
7 turbines and farming are compatible.

8           Next slide, please.

9           Prosperity Wind will bring certainty in  
10 revenue to Piatt County. Again, this is not my  
11 information, and this is not a guess. Illinois, the  
12 State of Illinois, mandates the valuation of every  
13 wind and solar project in the state to the  
14 geographic area in which they are located.

15           We know exactly where the turbines are  
16 going to go. We know where we are going to build  
17 them, and we know when we want to build them.

18           What does that mean for Piatt County? It  
19 means roughly -- not roughly -- exactly  
20 \$93.5 million in property taxes to all of the  
21 different taxing districts in Piatt County. That  
22 averages to be about \$3.1 million annually.

23           Over \$58.5 million in total school  
24 district revenue will go to the school districts

1 over the life of the project.

2 And I want flag this as well because I  
3 know it came up last time. We talked about this.  
4 This revenue will not impact existing or future  
5 school funding.

6 And last, there will be over \$13.3 million  
7 in total county property taxes paid to Piatt County  
8 over the life of the project.

9 Again, go back one more time. Yeah.  
10 Thank you.

11 This is not -- again, I am not making  
12 these numbers up. These numbers were done and  
13 produced by Dr. David Loomis. He's here. If there  
14 are detailed questions at some point in the future,  
15 he will be happy to answer them, but the details are  
16 all included in our Special Use Permit Application.

17 Next slide, please.

18 Prosperity Wind will bring certainty to  
19 the future for the future of the county. As I  
20 mentioned earlier, the Road Use Agreement is ready  
21 to be approved by the Piatt County Board. In total,  
22 those payments will total roughly \$18.4 million that  
23 will go to Piatt County road districts, the county,  
24 and the two districts, Blue Ridge and Goose Creek

1 Townships. \$3 million of that will be road permit  
2 fees, and \$15.4 million will be in surface repair  
3 payments. I am not an expert in these agreements.  
4 There will be others speaking tonight and in future  
5 nights that you can ask specific questions on those.

6 Prosperity Wind will increase the land's  
7 annual budget by roughly 20 percent.

8 Prosperity Wind will have no negative  
9 impact to residential or agricultural property  
10 values in or around the project area. Again, there  
11 is a study included in our Special Use Application,  
12 and Mr. MaRous is here, who can answer specific  
13 questions about it.

14 Prosperity Wind will create hundreds of  
15 jobs during construction here in Piatt County.

16 Prosperity Wind's decommissioning plan and  
17 the decommissioning security will provide security  
18 to the county and to participating landowners now  
19 and into the future.

20 And last, and I think this is important to  
21 flag, because it's work that we have and has been  
22 figured out recently, Prosperity Winds in Piatt  
23 County have already led to an increase in broadband  
24 internet access; and in the future, when the project

1 is completed, it will expand that dramatically.

2 So what does that mean? How can that be  
3 if we haven't actually started construction yet in  
4 Piatt County?

5 So, I want to unpack that a little bit for  
6 all of you in the room.

7 Prosperity Wind has contracted with Pavlov  
8 Media, who is a broadband internet supplier in the  
9 region. They have done a lot of work in Piatt  
10 County. They know exactly where our facilities are  
11 going to go. As part of the construction process,  
12 we lay fiber in our collection line that runs from  
13 every turbine back to the O&M building, substation,  
14 and the ADLS lighting system. So that allows us to  
15 turn the lights on and off; and when the ADLS system  
16 is working, it allows us to control the turbines.

17 Knowing where we are going to be  
18 installing these facilities, Pavlov has taken the  
19 proactive step of installing broadband in the county  
20 in some of those areas.

21 So, currently, 44 households in Piatt  
22 County that did not have broadband access already  
23 have access to broadband. When we are done with  
24 construction, an additional two hundred and roughly

1     fifteen or so households will have access to  
2     broadband in the county.

3             You know, I won't pretend to be an expert  
4     in broadband internet access. I know it's critical  
5     to my life. I couldn't exist without it. I know it  
6     is critical to rural communities in Illinois and  
7     across the county. There are efforts to expand  
8     access. We are working to identify ways to expand  
9     access not only in our project area but across the  
10    entirety of Piatt County to the extent that we can.

11            Next slide, please.

12            Prosperity Wind is committed to be here in  
13    Piatt County. Our investment to date nearly exceeds  
14    \$160 million. We plan to own and operate this  
15    project for the long-term. We are committed to  
16    building a world-class project in Piatt County and  
17    being a good partner to Piatt County, its residents,  
18    our participating landowners, and other  
19    organizations across the region for the life of the  
20    project.

21            Next slide, please.

22            So what does that mean in community  
23    benefits?

24            Our project will bring nearly \$370 million

1 in direct economic benefits to Piatt County. So, in  
2 lease payments to participating landowners, that  
3 will be over \$210 million for the life of the  
4 project. As I mentioned earlier, \$93.5 million in  
5 payments to the county. As far as jobs during  
6 operations in the O&M building, that is about  
7 \$1.2 million annually. During construction that is  
8 another \$32.7 million. And just our building permit  
9 fees alone to Piatt County will be over \$430,000.

10 Next slide.

11 So, in summary, and I think what I really  
12 want to drive in to the end of this conversation is  
13 that there is certainty that was not there before.  
14 We understand where our project is located. We  
15 understand the impact that it will have for the life  
16 of the project. This project is roughly a \$550  
17 million capital investment in Piatt County, \$370  
18 million in direct impact to the county.

19 There is significant landowner support.  
20 92 agreements, 19,000 acres in the project area have  
21 chosen to participate in the project, over 211  
22 parcels. 14,200 acres are chosen to participate  
23 that are outside the main body of the project area.

24 When you look at that total amount of

1 participating acres, we are only going to impact 39  
2 acres of property. Again, 39 acres.

3 All of this will remain zoned ag, and all  
4 of this will be restored at the end of the project.  
5 Our project complies with the WECS ordinance and all  
6 of its requirements in Piatt County. And under  
7 state law and Piatt County law, if an application  
8 satisfies all the requirements of a state law and  
9 local ordinance, the application shall be approved.

10 Thank you for your time this evening.

11 Thank you, board, for the opportunity to  
12 speak.

13 I'm happy to address any questions you may  
14 have.

15 HEARING OFFICER: Very good. Thank you,  
16 Mr. Moore.

17 It is 6:21. The board is going to take a  
18 five-minute recess during which time Mr. Wax and  
19 Mr. Chambers, the only board members present this  
20 evening, at least to this point, will have the  
21 opportunity to just consider Mr. Moore's testimony  
22 and determine if they have any questions for  
23 Mr. Moore. After the ZBA asks questions of this  
24 witness, then we'll open it up to other folks who



1 may have questions for this gentleman.

2 So the board is going to be in recess for  
3 five minutes. It is 6:22. Be back in five minutes.

4 (IN RECESS.)

5 (JIM HARRINGTON JOINED DURING BREAK.)

6 HEARING OFFICER: Mr. Moore, do you  
7 understand that you remain under oath?

8 MR. MOORE: Yes, I do.

9 HEARING OFFICER: Very good.

10 It is time for questions of Mr. Alan  
11 Moore.

12 First, members of the Zoning Board of  
13 Appeals, Mr. Wax, Mr. Chambers, Mr. Harrington, do  
14 you have questions for this witness?

15 MR. WAX: Will, do you have any?

16 MR. CHAMBERS: The downside of a shorter  
17 break is not enough prep time. Some of my questions  
18 would be more on the revenue side, which I believe  
19 is mostly or primarily Dr. Loomis's report.

20 Is that something where we can have  
21 Dr. Loomis testify to separately, or would I be  
22 better off just asking those questions directly to  
23 you?

24 HEARING OFFICER: Ms. Antonioli?

1 MS. ANTONIOLLI: You are welcome to ask.  
2 Feel free to ask the questions, and then Mr. Moore  
3 will answer to the extent that he can. If not,  
4 we'll take good notes and make sure that when  
5 Dr. Loomis comes up, at a later point, he can answer  
6 those questions.

7 EXAMINATION

8 BY MR. CHAMBERS:

9 Q. Very good. So my first question would be,  
10 for example, your side on the certainty of revenue  
11 to Piatt County. The charts there, that breaks  
12 everything out into some different categories a  
13 little bit.

14 Some of the discussions we had last time  
15 around, there is/was a little bit of confusion and  
16 back and forth on the modeling and the numbers, how  
17 we promulgate in all those numbers for the tax  
18 revenue and all that.

19 So my question would be: Is the modeling  
20 for these numbers, is that the same formula that we  
21 became familiar with from last time?

22 Is everything basically the same framework  
23 with the new project input?

24 **A. So I think my answer would be that there**

1 is no uncertainty there. The state, as I said, it  
2 mandates the valuation per megawatt of installed  
3 facility. So, there is a number that is assessed at  
4 the county level. We know exactly where every  
5 turbine is going to be located, so there is a dollar  
6 per megawatt that is applied based on where those  
7 turbines are located geographically. We know the 50  
8 turbines that we are building; therefore, it's very  
9 easy to get to a total assessed value.

10 The county has defined taxing districts.  
11 So we have a total revenue -- right? -- divided by  
12 taxing districts, which is the tax rate in Piatt  
13 County. So, it's no uncertainty there.

14 Again, I am not an expert. Dr. Loomis is  
15 here. He can talk more broadly about that.

16 But from my standing, again, what we've  
17 tried to do in this process is drive back to  
18 certainty, right?

19 We know the turbines we want to build. We  
20 know the assessed value of those turbines. We know  
21 that the tax value for Piatt County, and we were --  
22 again, we know the taxing districts, right? So, we  
23 know the tax rate, the taxing districts and the  
24 value, and that gives us a total.



1 is that no comprehensive tax payment was actually  
2 calculated. These calculations are only to be used  
3 to illustrate the economic impact of the project.

4 And I guess what I am saying is: Can this  
5 pie chart or thing show where various monies are?

6 I get the impression that they are  
7 probably not exactly correct, but it's close. Would  
8 that be correct?

9 **A. To my understanding, it is exactly**  
10 **correct. Again, the state -- there is no person in**  
11 **-- for renewable energy projects in Illinois, there**  
12 **is not an assessor that goes out and assesses the**  
13 **value, so there is no uncertainty as it relates to**  
14 **the assessed value of every megawatt of wind turbine**  
15 **or solar project installed in the state.**

16 **We know specifically where the turbines**  
17 **will be located, so we know assessed value. We know**  
18 **where the turbines are located. We know the tax**  
19 **rate in Piatt County. All of that breaks down to**  
20 **equate to what the total tax implications would be**  
21 **for Piatt County.**

22 **Q.** I was referring more to the pie chart in  
23 terms of a certain parentage goes to schools, a  
24 certain parentage goes here and goes there.

1           It's my understanding that this is a  
2 fairly dynamic process that changes within the  
3 county, from county to county, from year to year,  
4 and the numbers might not be exactly right. Is that  
5 correct?

6           I get the impression it is probably close,  
7 but I'll accept what you have there.

8           **A. Well, what I can say is that, you know,**  
9 **again, we don't control the taxing districts or**  
10 **their boundaries in Piatt County. So, the county**  
11 **has decided and divided up by taxing districts, and**  
12 **so that is how we've divvied up the taxing**  
13 **districts.**

14          Q. Thank you. I did have a question from the  
15 past, and it seems like there has been two or three  
16 different views and a couple different views at  
17 one point in time.

18           If the school -- if a school gets extra  
19 outside money, in certain circumstances, then they  
20 would not receive as much state money.

21           But the last meeting we had it was  
22 absolutely that is not the case versus others  
23 thinking it is.

24           Now, in the same report, the report on

1 page 17, it indicated that out of this tax for a  
2 school district is more complicated and it goes  
3 through a slightly different version of this sort of  
4 thing.

5 Do you have any idea of what that was all  
6 about?

7 **A. Again, I am not an expert in this. That**  
8 **is why we have Dr. Loomis here. What I can say is**  
9 **that every school district -- so it's Blue Ridge and**  
10 **DeLand-Weldon that will receive tax revenue from**  
11 **this project and are both Tier III or Level III**  
12 **schools, so neither school district will see a**  
13 **reduction in state financing based on our projects**  
14 **being constructed and operated.**

15 Q. My interpretation of the reading of this  
16 thing was that there will probably be some  
17 reductions but the added revenue that will come in  
18 will more than offset that. So I've read different  
19 words as I read through the leases, and this  
20 template at least, I got the impression that, okay,  
21 this is -- the payments start out a certain way, and  
22 they decrease by a percent until they get down to  
23 30 percent of what they started with for 30 years,  
24 but most of the leases -- I believe the leases give

1 you the option of having two ten-year additional  
2 periods if you wish to have them, two exemptions.

3 I am curious, what happens at that point  
4 in terms of taxes? Do you know that?

5 **A. I guess I am not really sure of the**  
6 **question. I mean you are talking about several**  
7 **different, very different things. So one is our**  
8 **relationship and lease agreement that we would have**  
9 **with a landowner, right?**

10 Q. Yes.

11 **A. That has nothing to do with tax payments**  
12 **that go to the county.**

13 Q. I am not talking about the growth. I am  
14 talking about taxes coming in generally.

15 **A. Sure.**

16 Q. In any case, taxes will come in to the  
17 county and will last for 30 years. It does not say  
18 anything about what happens should you decide to  
19 enact your option of two 10-year periods, so you  
20 could run these things for 20 years.

21 Do you know what is typically done when  
22 there have been other experiences? The company, in  
23 terms of taxes, are you taxed for the additional  
24 20 years?



1           **A.    Yes.**

2           Q.    Okay.  At what do they roughly continue  
3 at?  The 30 percent level?

4           **A.    I can't speak to the 30 percent level.**

5           Q.    Okay.  But you anticipate there would be  
6 some additional taxes coming in?

7           **A.    Absolutely.**

8           MR. WAX:  Okay.  Jim, do you have  
9 anything?

10          MR. HARRINGTON:  No.

11          HEARING OFFICER:  Any other questions from  
12 the ZBA for Mr. Moore?

13          All right.  We will now open it up to  
14 questions from members of units of local government,  
15 including school districts.

16          Any questions for Mr. Moore including  
17 units of local government, including school  
18 districts?

19          Questions for Mr. Moore from interested  
20 parties represented by licensed attorneys?

21          Just for my information, do we have any  
22 other licensed attorneys besides the three seated at  
23 this table, Mr. Keyt and myself?

24          Very good.

1                   Questions from other interested parties?

2                   This is the time for questions from the  
3 general public, those who are opposed to the  
4 application or those who are neutral on the  
5 application?

6                   Ms. Coil, I see your hand in the air. You  
7 may step forward.

8                   This time, since Mr. Luetkehans isn't  
9 here, you may have a seat here or, if you would  
10 like, you can stand and adjust the microphone.

11                  Before you start, I am just going to read  
12 something with respect to the questioning of  
13 witnesses by the general public:

14                  This questioning of a witness is called  
15 cross-examination.

16                  We are only going to allow persons who are  
17 neutral on the issue or those opposed to the  
18 position to be a witness.

19                  They will be allowed to conduct  
20 cross-examination. So, in other words, if you are  
21 on the same side of the issue as the witness, you  
22 won't be allowed to question them. This type of  
23 questioning is known, in legal terms, as bolstering.  
24 It is not truly adversary testimony of a witness's

1 testimony. So, therefore, only persons who are  
2 neutral on the issue, or persons on the opposite  
3 side of the particular witness will be allowed to  
4 question that witness.

5 So basic rules concerning asking witnesses  
6 questions:

7 First and foremost, please allow the  
8 person speaking to finish his or her statement or  
9 question.

10 We have a court reporter, Holly,  
11 transcribing everything that is said. She cannot  
12 possibly do her job if two people are talking at the  
13 same time. Therefore, just one person can speak at  
14 a time.

15 Another thing, if you are questioning a  
16 witness, please stick to just asking questions. I  
17 know it's very tempting to start telling your side  
18 on a particular point; but when it's time for  
19 questioning, just ask questions. You'll be allowed  
20 the opportunity to testify when it's your turn.

21 Also, making a prolonged statement and  
22 then asking a witness "does that sound about right"  
23 is not really a question. Those type of statements  
24 or testimony while you are asking questions will

1 also not be allowed.

2 Now, Ms. Coil, you know the rules from  
3 last time, and I recall you very well and your  
4 questions. Before you ask questions of Mr. Moore, I  
5 would like for you to please state your name and  
6 spell your first and last name for the record.

7 MS. COIL: Claudia Coil, C-l-a-u-d-i-a  
8 C-o-i-l, from Mansfield, Illinois.

9 HEARING OFFICER: Mansfield is in Piatt  
10 County, correct?

11 MS. COIL: It is.

12 HEARING OFFICER: Very good, Ms. Coil.  
13 You may ask questions, and the questions of  
14 Mr. Moore have to relate to his testimony in his  
15 presentation and then his testimony upon questioning  
16 from the ZBA. You may go right ahead now.

17 EXAMINATION

18 BY MS. COIL:

19 Q. I have two questions. First question of  
20 the location of the turbines: How many are on  
21 residence's land? And how many are absentee owners?

22 **A. Off the top of my head, I don't have that**  
23 **number with me, but we can certainly find that out.**

24 Q. I would appreciate that.

1           **A.     But what I can say, to reiterate, is that**  
2 **every acre that is included in our Special Use**  
3 **Permit Application that will host facilities has a**  
4 **landowner, landowners or family, that has chosen to**  
5 **participate in the project.**

6           **Q.     My second question: What happens to the**  
7 **leases that a turbine will not be on that land?**

8                   Are those held for you to use at another  
9 time, possibly?

10                   Are they potentially sold?

11                   What happens?

12           **A.     Our commitment to every participating acre**  
13 **doesn't change whether or not, like, they receive a**  
14 **turbine or don't receive a turbine. Many factors,**  
15 **as I said, go into designing a wind project,**  
16 **transmission capacity, wind resource, participating**  
17 **acreage. As I said, this process is highlighting**  
18 **the parcels and the acreage that are receiving**  
19 **facilities, but long-term our commitment to the**  
20 **landowners who don't receive those facilities**  
21 **doesn't change.**

22           **Q.     So could you potentially have another**  
23 **project where those leases are located?**

24           **A.     I guess my answer would be there is a lot,**

1 as I said, that goes into the design of a project,  
2 much of which is tied to the resource and location  
3 of a parcel near an existing facility.

4 What I can say is this is our project in  
5 Piatt County. There's no surprises there. We are  
6 not trying to sneak anything in or plan anything  
7 long-term. So our commitment to those landowners  
8 stands, and we are excited for their participation.  
9 They are excited about the project, and we are  
10 excited to get this project constructed and  
11 operating.

12 MS. COIL: Okay. Thank you.

13 HEARING OFFICER: Thank you, Ms. Coil.

14 Are there any other questions for  
15 Mr. Moore from members of the audience?

16 Yes, sir. Please step forward.

17 Good evening, sir. Could you please state  
18 your name, spelling first and last name for the  
19 record?

20 MR. SRUD: Sure. Bruce Paulsrud,  
21 P-a-u-l-s-r-u-d.

22 HEARING OFFICER: You may go ahead and  
23 question Mr. Moore.

24

EXAMINATION

1 BY MR. PAULSRUD:

2 Q. Three questions, actually, Mr. Moore. I  
3 didn't -- I was a little bit late, and I didn't  
4 hear. Will this system, like, when we discussed  
5 these back in November, will this have an automatic  
6 system when it detects lights that are approaching  
7 the field, the lights will then go on? Is that  
8 accurate?

9 **A. Correct.**

10 Q. Okay. So, long question. Get ready.  
11 Based on the current flight volume and the current  
12 flight patterns, what percentage of the time will  
13 the red blinking lights be on during the timeframe  
14 two hours before dusk and four hours after?

15 MR. HESS: I am going to object. First of  
16 all, that is beyond the scope of his direct. He is  
17 not an expert.

18 Second of all, I think it calls for  
19 speculation. I don't think he knows flight  
20 patterns.

21 I don't mean to be disrespectful, but any  
22 of the information that was premise to that  
23 information -- third -- I don't see how it's  
24 relevant to this application because it's not one of

1 the requirements of the WECS Ordinance of Piatt  
2 County. That is information that is not required.  
3 Information about an ADLS certainly is. That is why  
4 I didn't object to the first question, but flight  
5 pattern and flight traffic is not relevant to this  
6 application.

7 HEARING OFFICER: Mr. Hess, do you have a  
8 witness who can speak to the question?

9 I understand that Mr. Moore is not an  
10 expert on ALD -- ADLS. If I want to call it ALDS,  
11 that is the American League Division Series in  
12 baseball. It's just like the FAA, sometimes it gets  
13 called the FFA in hearings.

14 Now, Mr. Hess, do you have a witness who  
15 would be able to speak to that issue that  
16 Mr. Paulsrud just addressed?

17 MR. HESS: We do not have a witness, an  
18 expert witness, on ADLS or flight info because that  
19 was not -- flight info was not required in the WECS  
20 Ordinance, so it's not addressed in our permit,  
21 which is why we don't have an expert here tonight.

22 HEARING OFFICER: Okay. Very good.

23 I am going to, at this time, sustain the  
24 objection. 1.) It's beyond the scope of his



1 knowledge. And 2.) The question may not be  
2 entirely -- I understand what you are getting at.  
3 It is relevant about the flashing lights. I am not  
4 so sure that it's relevant with respect to the  
5 percentage of the time.

6 So, if you could, either rephrase or ask  
7 another question.

8 MR. PAULSRUD: Sure.

9 HEARING OFFICER: Thank you.

10 BY MR. PAULSRUD:

11 Q. One point I meant to lead with: There  
12 will be two turbines within a half mile of my  
13 residence. There will be five within one mile, and  
14 it looks like about thirteen within two miles of my  
15 residence, so that question is very relevant to me,  
16 but I understand.

17 Second question: So, there is a lay-down  
18 yard. In my experience, in what I have seen from  
19 other lay-down yards, it's a concrete plant. There  
20 are stadium lights. It's a central hub for getting  
21 everything built, and I get that. We need that.  
22 Lots of traffic 24/7.

23 How many acres are involved?

24 And how much light pollution will come

1 from that?

2 That is two miles directly north of my  
3 residence, by the way.

4 UNIDENTIFIED VOICE: We can't hear back  
5 here.

6 HEARING OFFICER: Mr. Hess, you if you  
7 can, use the microphone. It extends up.

8 MR. HESS: I would respectfully object to  
9 the second part of the question. I believe, if I  
10 understood the first part of the question, it had to  
11 do with the location of the lay-down yard, and  
12 Mr. Moore spoke to the map and the overall layout.  
13 I think that is a perfectly appropriate question,  
14 but asking about light pollution or asking about  
15 construction are beyond the scope of Mr. Moore's  
16 direct examination here today.

17 I will note Mr. Carlson is up next to talk  
18 about project construction.

19 But, in any event, those types of  
20 questions would be beyond the scope of Mr. Moore's  
21 testimony, so I would object to the second half of  
22 that question.

23 HEARING OFFICER: All right. Your  
24 objection with respect to the second half of the

1 question is sustained.

2 What we are going to do is, Mr. Paulsrud,  
3 if you could, ask that question of Mr. Carlson when  
4 it's his term.

5 Now, the first part of the question, do  
6 you remember the first part of the question, or do  
7 you want Holly to read it back?

8 BY MR. PAULSRUD:

9 Q. So describe for me what a lay-down yard  
10 is.

11 **A. Sure. Yeah. And, again, I'll reiterate**  
12 **that Adam will be up next. He is the project**  
13 **manager.**

14 Q. Tonight?

15 **A. Tonight, yes. And he can give you all the**  
16 **details.**

17 Q. Sure.

18 **A. The lay-down yard is the location where**  
19 **the trailers are to be based out of, where materials**  
20 **will be held, and will be adjacent to the concrete**  
21 **batch plant, and so that is a location where the**  
22 **effort, the local effort, leaves out.**

23 Q. It looks like that is just north of  
24 Route 150?

1           **A.    Yes.**

2           Q.    Based on the map?

3           **A.    Yes.**

4           Q.    Okay.  Okay.  Sorry.  One more.

5           **A.    Sure.**

6           Q.    Mr. Wax already addressed this question,  
7    but -- so, from the poster, there is 58.5 million in  
8    total revenue over the life of the project.  The  
9    projected life project I think is around 30 years.

10          **A.    (Nodding.)**

11          Q.    Okay.

12                   HEARING OFFICER:  Is that a yes,  
13    Mr. Moore?

14                   MR. MOORE:  Yes.

15                   HEARING OFFICER:  Proceed.

16    BY MR. PAULSRUD:

17          Q.    If the school district's budget is X --  
18    and I am making up a percentage here -- but if the  
19    revenue that comes in from this to the school  
20    district makes up 20 percent of the school  
21    district's budget -- again, making up a  
22    percentage -- why would the State of Illinois -- and  
23    this may be best for Dr. Loomis -- why would the  
24    State of Illinois continue to then overfund the

1 school districts?

2           Because that is what it would be doing.  
3 Whatever percentage comes in from this puts them  
4 above the current level of funding, and I am not a  
5 great fan of the budgetary processes of Illinois,  
6 but I can't believe they would continue to overfund.  
7 So, I really wonder about this.

8           **A. Sure. Again, this is a better question**  
9 **for Dr. Loomis. He can speak ad nauseam about very**  
10 **detailed specifics of it. I am not an economics or**  
11 **economic professor --**

12           Q. Either am I.

13           **A. -- obviously.**

14                   **But from my understanding, again, my**  
15 **understanding is the state applies different tiers**  
16 **across where school districts are located. The**  
17 **population, etc., etc.**

18                   **The two school districts, Blue Ridge and**  
19 **DeLand-Weldon, are in the Tier III level, and so**  
20 **what that means is that this incoming tax revenue**  
21 **will not impact their future state fall.**

22                   **So, again, I am not an expert in it. I**  
23 **can turn over the specific questions to him.**

24                   **I guess I would go back on one point I**

1     **made earlier, in relationship to looking at the**  
2     **future tax revenue for Piatt County, the future tax**  
3     **revenue for school districts, would the tax revenue**  
4     **-- should the school district not prefer having**  
5     **revenue coming from economic development within the**  
6     **school district as opposed to the state level? So**  
7     **that would be a question I would ask of you.**

8           Q.     For 30 years?

9           A.     But, again, your specific answer to your  
10    **question, I can't speak to that, but after we get**  
11    **through our presentations Dr. Loomis can answer any**  
12    **of those questions.**

13           MR. PAULSRUD: Thank you.

14           Can I just make a request, that those two  
15    that cannot be answered, as those experts come up,  
16    can you reiterate those for me on my behalf?

17           HEARING OFFICER: I have lay-down yard  
18    light pollution issues, and the other was school  
19    funding; is that correct?

20           MR. PAULSRUD: Yes. I still would like  
21    the red light question answered because that is very  
22    germane to my life.

23           HEARING OFFICER: Sure. And,  
24    Mr. Paulsrud, when we discuss the relevance of

1 testimony or evidence, it may be very relevant to  
2 you and to others in the room; however, the  
3 relevance has to go to the standards that the board  
4 has to vote on.

5 It's very relevant to you. Yes, sir,  
6 absolutely, we understand; but whether it's relevant  
7 to the issue that the board has to decide, that is  
8 another question.

9 But we will have, when other witnesses  
10 testify, you will be able to come up and ask those  
11 questions.

12 MR. PAULSRUD: Thank you.

13 HEARING OFFICER: Thank you, sir.

14 Are there other questions for Mr. Moore at  
15 this time?

16 Questions for Mr. Moore from Piatt County  
17 staff and consultants?

18 Redirect, Ms. Antoniolli?

19 MS. ANTONIOLLI: Nothing from me, from us.

20 HEARING OFFICER: Okay. Very good.

21 Final questions come from the ZBA based  
22 upon the questions that were asked and Mr. Moore's  
23 answers to the questions from the general public.

24 Does the board have any questions, further

1 questions, for Mr. Moore?

2 All right. Very good, Mr. Moore. Thank  
3 you for your presentation and your testimony. I  
4 know you will be here throughout the hearing. In  
5 case we need information from you, you will be  
6 subject to recall by the board. Thank you.

7 MR. MOORE: Absolutely. Thank you.

8 HEARING OFFICER: Ms. Antoniolli, call  
9 your next witness, please.

10 MS. ANTONIOLLI: Yes. Thank you. Next I  
11 would like to call Adam Carlson, Project Manager for  
12 Apex. He is going to explain to us tonight how  
13 project construction will take place, including road  
14 improvements and repairs and the timeline for all of  
15 that.

16 HEARING OFFICER: Very good. Thank you.

17 MS. ANTONIOLLI: We'll also take  
18 one minute to distribute copies of his presentation  
19 just for the convenience of the folks here.

20 HEARING OFFICER: And are you moving for  
21 their admission into the record?

22 MS. ANTONIOLLI: Yes.

23 HEARING OFFICER: Or do you want to do  
24 that after he testifies?



1 MS. ANTONIOLLI: No. Let's do that now  
2 while we have a moment and while we are having those  
3 distributed.

4 I would like to move copies of Adam's  
5 presentation into the record, and that would be as  
6 Applicant's Group Exhibit 7.

7 HEARING OFFICER: Applicant's 7 is  
8 admitted into evidence.

9 And, Mr. Carlson, if you could, please  
10 raise your right hand to be sworn by the court  
11 reporter.

12 (APPLICANT'S EXHIBIT 7 - CARLSON  
13 PRESENTATION.)

14 **ADAM CARLSON,**  
15 a witness herein, called by the applicant, after having  
16 been first duly sworn, was examined, and testified as  
17 follows:

18 HEARING OFFICER: Sir, could you please  
19 state your name, spelling first and last name for  
20 the record?

21 MR. CARLSON: Adam Carlson, A-d-a-m  
22 C-a-r-l-s-o-n.

23 HEARING OFFICER: And you may proceed with  
24 your presentation.

1                   MR. CARLSON: Good evening everyone, Piatt  
2 County Zoning Board, Piatt County. Thank you for  
3 the opportunity for me to come up here and speak on  
4 project construction.

5                   I am Adam Carlson, Project Manager for  
6 Apex Clean Energy, Project Manager for Construction  
7 of Wind Farms in Illinois.

8                   I want to start off and talk about how  
9 small a world it is, and some people might remember  
10 this from the last set of hearings. I grew up east  
11 of Paxton, so not far away. My dad's side of the  
12 family is from Paxton. Even smaller world, my mom's  
13 side of the family is from Monticello. Even smaller  
14 world than that, my mom recently told me, hey, my  
15 first boyfriend in high school was from DeLand.  
16 Like, how do you explain that?

17                   With all my family being out here, why am  
18 I in Virginia? What brought me to Virginia was the  
19 Navy. I have a few steppingstones here to explain  
20 how I made it out there, but first and foremost, I  
21 left the area after high school, went to the United  
22 States Naval Academy.

23                   Normally I am very proud to say I went  
24 there, but we had a terrible football game against

1 Notre Dame the other day, 42 to 3, a blowout, and a  
2 lot of people probably saw it because there wasn't  
3 much football on. I am going to quickly move on  
4 from that.

5 I served in the Navy eight years after the  
6 Naval Academy as a submarine officer. Several  
7 Western Pacific deployments. I went out to Pearl  
8 Harbor and then was stationed in Virginia after  
9 that.

10 When I got out of the Navy, I worked in  
11 nuclear power. That was a natural progression after  
12 being a nuclear submarine officer, and in that I  
13 worked at a nuclear power plant doing switchyard  
14 improvement, so I got very interested in  
15 transmission and distribution.

16 And while I am working at that company, I  
17 looked up Apex Clean Energy, and it's run by a  
18 service academy graduate. So at the time, our CEO  
19 was a Naval Academy Graduate, our COO was a West  
20 Point graduate, and I worked with many other service  
21 academy graduates and veterans. I definitely want  
22 to put that out there to show the type of people  
23 that this industry draws from.

24 Once I got into the renewal energy sector,

1 the first project I worked on -- you can't explain  
2 this -- but was Ford County Wind Farm. That is  
3 where I grew up. It was an amazing opportunity. I  
4 worked that project from 2021 to 2022 and then moved  
5 on to Goose Creek Wind, we which had all talked  
6 about at the end of 2022 and into 2023, and recently  
7 I've been working on Lotus Wind, which is near  
8 Springfield.

9           It's a huge blessing for me to come back  
10 here when we work project construction, and I want  
11 to conclude this slide in saying that I think it's a  
12 huge benefit not only for my company but for the  
13 county that someone understands both sides of the  
14 coin here.

15           I am a landowner in Ford County. I am a  
16 farm manager for a corn and soybean farm and a  
17 member of the Illinois Farm Bureau, so I understand  
18 the agricultural piece, and I understand where a lot  
19 of the questions come from, and I also understand  
20 the project management piece of building a wind  
21 farm.

22           My goal is always to put all the right  
23 people together to talk to make sure this project  
24 runs as efficiently as possible.

1           Next slide, please.

2           Last time I was here there was a lot of  
3 questions from this ZBA about where are you with  
4 this, where are you with road agreements, where are  
5 you with drainage agreements, where are you with  
6 foundation, well drawdown.

7           I am pleased to present that we have been  
8 hard at work since the Goose Creek public hearings.  
9 We have all of these things I have listed here that  
10 are complete.

11           Our civil design, that is all of our  
12 private access roads out to all of our foundations;  
13 all of that is complete, issued for construction.

14           Our foundation design is issued for  
15 construction.

16           We completed a well drawdown analysis  
17 where the batch plant will be located.

18           We have a project layout and  
19 transportation plan as part of our road use  
20 agreements, and that is included in the application.

21           We have a 73-page farmland drainage plan  
22 also included in the application.

23           We have a lot of reports that we have  
24 included in the application that were complete since

1 the Goose Creek public hearings.

2 Next slide, please.

3 Construction sequence. So the reality is  
4 we need to get to work, and we want to put people to  
5 work, and I want to do that as quickly as possible.  
6 The earliest we could do that is the end of this  
7 year. That would be public road upgrades and  
8 crossroad culvert replacements through the winter.  
9 I know that seems like an odd time, but I am also  
10 considerate of the impact to the farming community.  
11 We want to try to fit work in, in different windows,  
12 around planting and harvest as best we can. So that  
13 work would run over the winter, and we would be set  
14 up for success come springtime, come planting.

15 Once we build out all of our public roads,  
16 and that work is out far enough ahead, then we can  
17 start building out our private access roads to then  
18 get to pouring concrete for our foundations.

19 And that is when all the activities start  
20 happening in parallel. You have the collection  
21 system runs that are being trenched in through the  
22 fields, you have the substation work and  
23 transmission line work.

24 Next summer we intend to deliver the

1 turbines. It's not ideal to be delivering them so  
2 early. We need to have our pads ready.

3 There is an example. There is a picture  
4 you have there. This is a V162 job that I went up  
5 to in Michigan that is the exact turbine that we  
6 installed here in Piatt County.

7 So we need to have adequate lay-down space  
8 for each turbine site. So that would run over the  
9 summer, and then turbine installation usually  
10 follows two weeks to a month after that.

11 And then, to wrap up our project  
12 construction, it would be wind turbine mechanical  
13 completion, which is a large series of checklists  
14 and single commissioning. So that would be November  
15 and December of 2024. This job needs to be a 2024  
16 build.

17 Road use agreements, we touched on this a  
18 little bit tonight. A quick recap of the last time  
19 I was here: We didn't have any road use agreements  
20 agreed to. They weren't substantially complete.  
21 But after the zoning board hearings and before the  
22 Piatt County Board hearing, we had met with Eric  
23 Seibring, we met with Blue Ridge County Road  
24 Commissioner, Goose Creek Township Road

1 Commissioner, and attorneys, we had met with  
2 engineers as well on both sides, and we went through  
3 a marathon, day-long negotiation at Mr. Seibring's  
4 office. This was a very productive day for both  
5 parties, and by the time the Piatt County Board  
6 voted on the project, the road use agreements had  
7 already been -- were also voted on that night, and  
8 they were unanimously approved.

9 I am pleased to say that the road  
10 agreements from Goose Creek Wind are the same road  
11 agreements that we have for Prosperity Wind.

12 And here are a few stats up there that  
13 have road permit fees listed, service repair  
14 payments, and annual fees. The road permit fees and  
15 service repair -- actually, all three of these, they  
16 are split out based on how many miles of road are in  
17 each jurisdiction.

18 Blue Ridge is the largest, has the largest  
19 roads in the project. I would say it's -- there's  
20 more miles of road in this project than there are  
21 turbines. So it is a very costly upgrade, but it  
22 will be a fantastic improvement for the local  
23 community.

24 Here recently, just two weeks ago, I was



1 out here on vacation and held a meeting with Piatt  
2 County officials and with Champaign Asphalt, and I  
3 am pleased to present publicly we would be working  
4 with them via direct contract for all of the road  
5 upgrades. They have done great work for us in the  
6 past. They have done great work here in Piatt  
7 County.

8 If you guys have driven down State Route  
9 10 coming off of I72, they did that public road this  
10 last summer. They do a phenomenal job.

11 This picture up here is from Ford County  
12 Wind Farm. That is after they did their  
13 chip-and-seal work. I drove through that project  
14 after, several months after it was built to come  
15 down here for hearings and took that picture. We  
16 have full faith in them. They are going to do a  
17 great job for us and for the community for the  
18 long-term.

19 This slide, I wanted to finish by saying  
20 that --

21 These pillars. Man, they are getting -- I  
22 don't even know if I can see everything.

23 So the county and township road  
24 improvements are made by the project. Taxpayers pay

1 zero dollars.

2 I will say a few more things here. So,  
3 the service repair payment piece, that's just all of  
4 the chip and seal that will happen after the  
5 project, so that could happen even in 2025, or any  
6 asphalt paving that needs to happen on county roads.

7 This doesn't even encompass the amount of  
8 money it will take to upgrade all of the roads just  
9 to get the heavier equipment onsite. That is a  
10 whole different set of work and scope of work, but  
11 that is what that meeting was for a few weeks ago,  
12 and we have finalized that scope of work. I am  
13 pleased to present that. We are way ahead of the  
14 game here.

15 Next slide.

16 Okay. Another theme that was asked of me  
17 a lot during the Goose Creek public hearings was  
18 about drainage, public drainage, private drainage.

19 Since the Goose Creek hearings, we have  
20 developed a farmland drainage plan. There is a  
21 picture here on the right. It shows an example of  
22 us crossing a drainage ditch in the DeLand Special  
23 Drainage District.

24 All ditches, all of the public tile, that

1 will be bored under. Using our collection system,  
2 we will bore underneath that.

3 I have a -- you really can't see it, but  
4 there is another snip here that shows how deep that  
5 -- how deep under we'll bore, under a drainage ditch  
6 or like a wetland area -- sorry -- not wetland, a  
7 ditch, a drainage ditch. It will be five feet at a  
8 minimum, and any district drainage tile will be at  
9 two feet at a minimum.

10 We also have many other reports that we  
11 compiled as part of a natural resource impact  
12 assessment. One of those is a hydrology study  
13 prepared by Westwood. This hydrology study shows  
14 the impact of our wind farm construction from all of  
15 our permanent facilities, so where all the access  
16 roads are, all the turbines, substation, and it  
17 shows and proves that we will maintain adequate  
18 water and adequate drainage around our turbine  
19 foundations, around our access roads. That is just  
20 one piece of this.

21 Another piece is a study prepared by HLR  
22 Engineering. They have been helping significantly  
23 with all the public road upgrades in engineering.  
24 They prepared a crossroad study. They looked at

1 every single culvert in the project area and have  
2 recommended how to either upsize or what should be  
3 replaced in, like, an older culvert's place. All  
4 the culverts will be replaced with concrete  
5 culverts.

6 We also have included foundation and civil  
7 design construction standards.

8 I don't want to go to the next slide until  
9 I mention that we have been working with a local  
10 consultant to compile all of this information about  
11 where all of our crossings will be. That group is  
12 KCoe Isom. We have been working with Quint  
13 Shambaugh who has been extremely helpful. We have  
14 been able to take all of these locations, put them  
15 in our designs, and then share that via the farmland  
16 drainage plan to the community.

17 Next slide, please.

18 So I mainly just focused on public drain  
19 tile the last slide. We get a lot of questions  
20 about private land drain tile.

21 So during installation of the collection  
22 system, we will cut a trench to a field, and it will  
23 be using a trenching machine. We would be plowing  
24 the field because you can pull drain tile that way.

1 It is much easier to just trench through. We'll cut  
2 through drain tile, private drain tile. Usually  
3 repaired within one business day. Could be even  
4 quicker than that, and all of these locations will  
5 be documented via GPS.

6 We are committed to life-of-project  
7 repairs for any drain tile strikes, and this exceeds  
8 the requirements of AIMA.

9 I have one picture there in the middle,  
10 down at the bottom, that shows what a trench would  
11 look like. And then, on the left, is drain tile.  
12 It shows the coupler. We would repair anywhere from  
13 five to ten feet either side of the centerline of  
14 the trench. And it could be -- we would have to  
15 estimate. It could be 1 to 2000 drain strikes, but  
16 all of our landowners know this, and they know that  
17 we are committed to repairing.

18 Let's see. I think that is all I have on  
19 the private land drainage.

20 Next slide.

21 Another topic I had a lot of questions  
22 asked of me, it was about the Mahomet Aquifer. This  
23 picture here shows the extent of the Mahomet  
24 Aquifer. That is in teal color on the edge of

1 Mansfield, and then you'll see a purple rectangle  
2 that shows where our lay-down yard batch plant will  
3 be.

4 The batch plant, to make the concrete,  
5 will need to draw water. So, to do that, we need to  
6 install a well. We have been working with a local  
7 drilling company out of Downs, that is Kickapoo  
8 Drilling Company, and we talked about it here  
9 briefly before. The location of that batch plant is  
10 going to be near the intersection of US 150 around  
11 900 East.

12 We've also, in the meantime, done a well  
13 drawdown analysis of how we might have impacted the  
14 Mahomet Aquifer. This comes straight out of that  
15 report. The project can be expected to have minimal  
16 impact on the Mahomet Aquifer.

17 I have the engineer's, just a snip of the  
18 front page of this report and the licensed Illinois  
19 engineer and their stamp on it.

20 One important thing to note about this  
21 well, it's temporary. Just like a lay-down yard.  
22 It's a temporary installation, and then we move or  
23 abandon that well in place.

24 Next slide, please.

1           So, our construction contractor, this is  
2 another thing that we haven't changed since Goose  
3 Creek. We are still going to be working with White  
4 Construction, a subsidiary of IEA. They are a union  
5 contractor in the state of Illinois and have already  
6 built 27 wind farms in the last 10 or 15 years. We  
7 know that they are the best choice for this due to  
8 their experience in Illinois but also building  
9 projects of similar size and output. White and  
10 their subcontractors will complete pretty much all  
11 of the work with the exception of the public road  
12 improvements.

13           Next slide.

14           And this is my last slide here. You might  
15 have been surprised. Well, there could have been  
16 other things I could have talked about, but I am  
17 trying to address a lot of the concerns and  
18 questions that were brought up in the last ZBA  
19 hearing about road use agreements, drainage, and  
20 Mahomet Aquifer impacts.

21           I definitely am just one of those people;  
22 I definitely pride myself on communicating with  
23 people, with the community. You can expect us as a  
24 company to communicate frequently, timely, and

1     openly.

2                   This shows very little on, like, how many  
3     meetings we will have on any given day, week or  
4     month, but the ones in which will bring the  
5     community in and involve them could be  
6     plan-of-the-day calls of meetings, weekly road use  
7     meetings. We'll have status of roadwork distributed  
8     to the community and impacted landowners via e-mail  
9     and the website or even talk to them. We have  
10    learned it's very important to have an open line of  
11    communication with the local school bus garage and  
12    also with the farmers who will be out on the road  
13    just like us as they are working through planting  
14    and harvest.

15                   We have a dedicated site team that is here  
16    throughout the entire project. We'll have a  
17    construction manager, assistant site manager,  
18    electrical inspector, and safety professional, at a  
19    minimum, on site all the time, along with our  
20    contractors and subcontractors.

21                   They will all be at the lay-down yard,  
22    which is off US 150. Our office will be clearly  
23    identified. You will be able to -- anyone can come  
24    in and ask questions or if they have a concern.



1           If our site can't address or I can't  
2 address it, we have a great public engagement team  
3 that will do a fantastic job of addressing any  
4 questions or concerns.

5           I want to finish my presentation, in  
6 saying that Piatt County, central Illinois, it is a  
7 very special place that is a very special place in  
8 my heart. I love coming back here.

9           The land not only produces for  
10 agricultural reasons, but you can also farm the  
11 wind. You are also sitting on a massive aquifer.  
12 This is a very special place, and I think it's very  
13 important to note and try to look at it this way,  
14 that this wind farm can produce so much power for  
15 the greater good for the local communities around  
16 here, for your own community and for the state of  
17 Illinois.

18           I am one of those people that I am going  
19 to give it 110 percent no matter what I do. I hope  
20 to demonstrate that and hopefully already have, but  
21 I am really excited to work with everybody, and I am  
22 ready to put people to work. I really want us to  
23 get moving. We've got to start this project at the  
24 end of this year. Thank you.

1 HEARING OFFICER: Very good. Thank you,  
2 Mr. Carlson.

3 The board is going to take a recess for  
4 about ten minutes. It's 7:20 p.m. We'll come back  
5 around 7:30 give or take. The board is in recess  
6 right now.

7 (HEARING IN RECESS.)

8 HEARING OFFICER: Back on the record.

9 Mr. Carlson has made his presentation. It  
10 is now time for questions.

11 Mr. Carlson, do you understand that you  
12 remain under oath?

13 MR. CARLSON: Yes, sir.

14 HEARING OFFICER: Very good. Thank you.

15 The first questions for Adam Carlson come  
16 from members of the Piatt County ZBA, the Zoning  
17 Board of Appeals.

18 Any questions?

19 EXAMINATION

20 BY MR. WAX:

21 Q. I have one from the well that you are  
22 putting in. Did you do some studies?

23 You mentioned the not much drawdown from  
24 the Mahomet Aquifer because you are not really in

1 it; but from the surrounding area, do you have some  
2 studies that indicate how much drawdown or how it  
3 affects wells of people that live within, one, two  
4 or three hundred miles?

5 **A. Yes, sir. That is all included in the**  
6 **well drawdown report. It's a pretty short report.**  
7 **It shows impact to our adjacent landowners and**  
8 **that's the intent of the report even above and**  
9 **beyond what we were trying to convey showing the**  
10 **potential impact of the Mahomet Aquifer.**

11 **But I want to clear something up that I**  
12 **said earlier. I mentioned about abandoning the well**  
13 **in place; that is not accurate. We would be**  
14 **removing the well at the end of construction.**  
15 **Again, it's a temporary well only used for the batch**  
16 **plant and water trucks. There would be very minimal**  
17 **impact for adjacent wells.**

18 **If we looked at that slide in the picture,**  
19 **you could see where the adjacent wells are that they**  
20 **ran the study off of.**

21 **Q. So there is some drawdown, but it's**  
22 **recoverable?**

23 **A. It's recoverable. Yes. The report even**  
24 **goes into that detail, the recovery of the adjacent**

1 **landowner wells.**

2 Q. From your well site, did you find that you  
3 could get ample or adequate water supply for what  
4 you need?

5 **A. Yes, sir. Yep. Yep.**

6 Q. Okay. Thank you.

7 **A. You're welcome.**

8 MR. WAX: That's all.

9 EXAMINATION

10 BY MR. CHAMBERS:

11 Q. I have another question for you. So you  
12 talk a little about it being a small world with  
13 Paxton and everything, so I'll go small world on you  
14 a little bit here. So the wind farm around Paxton,  
15 Pioneer Trail, which was built by White  
16 Construction, that was built in 2012. Here in  
17 February there was a turbine there that fell over  
18 without explanation. They have been doing some  
19 investigating to see if they can figure out the  
20 cause of that.

21 My question would be on the engineering  
22 side, what your opinion is on that and what, if any  
23 you have, cause and concerns surrounding that.

24 MR. HESS: Are you finished, Mr. Chambers?

1 MR. CHAMBERS: Yes.

2 MR. HESS: I would respectfully object to  
3 part of Mr. Chambers' question. I would object to  
4 part of Mr. Chambers' question. With all due  
5 respect, a question about safety or what the  
6 construction designs are as they relate to safety  
7 is, of course, appropriate and we would have no  
8 objection.

9 But a question about a Pioneer Wind  
10 project violates Mr. Kains' instruction at the  
11 outset, "Questions not related to the Prosperity  
12 Wind Application will not be permitted." So any  
13 reference to the Pioneer Wind project, we would  
14 respectfully object to.

15 HEARING OFFICER: Mr. Hess, is Pioneer an  
16 Apex project?

17 MR. HESS: To my knowledge, no, sir.

18 MR. CHAMBERS: It was constructed by White  
19 Construction, the contractor.

20 HEARING OFFICER: Yeah. Uh-huh. I am  
21 going to overrule the objection and caution  
22 Mr. Carlson.

23 You may answer the question with respect  
24 to safety with respect to this project. And if you

1 have knowledge of the Pioneer project referenced in  
2 Mr. Chambers' questions, I am going to ask that you  
3 do respond to that part of the question as well.

4 So, first, the overall safety question.

5 MR. CARLSON: Yes, sir. To answer on the  
6 safety piece, we have a first-rate foundation design  
7 included in our application by RRC Engineering, and  
8 these designs are issued for construction, so that  
9 is the design.

10 We have been out here several times to do  
11 geo tech and backed those results up with further  
12 geo tech, so I am 100 percent confident in our  
13 foundation design here.

14 That goes into what I think might have  
15 happened at the Pioneer project. I am aware of the  
16 Pioneer project. I am aware of what happened there.  
17 Very close to home. Very close to the line that we  
18 have in my family. I don't know exactly what  
19 happened, though; but we could only assume it's  
20 something foundation failure related. That won't  
21 happen here.

22 HEARING OFFICER: Any other questions for  
23 Mr. Carlson?

24 Mr. Harrington?

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EXAMINATION

BY MR. HARRINGTON:

Q. So, back to the aquifer -- not aquifer -- well, for the batch plant.

A. Yes, sir.

Q. Out of curiosity, is there any intent for performance to local residents if there is a loss of water?

A. Can you repeat the question?

Q. I said, in reference to the batch plant, that area, or surrounding it, the local residents, I understand your study. But what I am saying is, if there were to be local residents who lost water, is there any intent to make performance for them?

A. We will have to look at this on a case-by-case basis because any impact will be temporary. It depends on the time of day. It depends on -- and we are going to be talking to all these landowners that are adjacent, and people might come to us.

I agree with you. I think what you are trying to get at is, like, a report is a report, but like when we actually get out there and do the work --

1 Q. Yeah.

2 A. -- it could be a different drawdown than  
3 we would normally see in the report. Yeah.

4 Q. All I was going to say is the report  
5 states multiple times simulated, right?

6 A. Simulated, correct.

7 Q. What I am saying in my capacity is the  
8 folks that it affects, is there any intent to solve  
9 it if it becomes a problem?

10 A. I would say we address every landowner's  
11 concern seriously.

12 Q. That's good. I think those local  
13 residents that could be affected should be  
14 considered in this matter.

15 A. Yes, sir.

16 MR. HARRINGTON: That's all on the water,  
17 but can I ask some other questions?

18 HEARING OFFICER: Absolutely.

19 BY MR. HARRINGTON:

20 Q. So you may or may not have this; I  
21 understand. But just, since we were talking water,  
22 do you know the gallons per hour outtake when you  
23 are up and running with your batch plant?

24 A. Not per hour, not off the top of my head.



1 Q. That's fine. Can you let us know?

2 A. Yes. Yes. I think it's in the report. I  
3 just don't remember the number.

4 Q. Okay.

5 A. It actually might reference gallons per  
6 minute instead of hour.

7 Q. Okay. In regards to -- so, we were  
8 talking water. Maybe shift gears a little bit and  
9 go to drainage. You mentioned -- correct me if I am  
10 wrong. Make sure I got this right. Your intent in  
11 regards to your collection lines, if I heard that  
12 right --

13 A. Yes, sir.

14 Q. -- was to trench versus a wheel-style  
15 tiling machine; is that correct?

16 A. That is correct. Yes, trenching.

17 Q. So, in addition to that, if and when you  
18 find a tile you have crossed, damaged, and/or heaved  
19 up --

20 A. Uh-huh.

21 Q. -- you intend to repair it five to  
22 ten feet on either side?

23 A. Yes, sir.

24 Q. Okay. So how is this going to work

1 physically if you are trenching?

2 How are you going to know what you did or  
3 did not contact?

4 **A. So, most of the parcels -- we have all the**  
5 **private landowner tile. That is the biggest help.**  
6 **That is what we need to see, and so then we work**  
7 **with the landowner.**

8 Q. Uh-huh.

9 **A. And we'll know what to expect and where.**  
10 **There have been times when you see pooling of water**  
11 **in a different area of the field or something. We**  
12 **always address all of those issues as well because,**  
13 **if there is a drainage issue, it might not be**  
14 **exactly where we trench. Like, it could be further**  
15 **out in the field. So we look at all of those, all**  
16 **of those incidences.**

17 Q. Right. So, maybe to dig into this a  
18 little deeper, my concern is -- and correct me here  
19 if I am wrong, but in your trenching design, you  
20 will essentially have a large shank either being  
21 pulled or pushed through the field; is that correct?

22 **A. Yes, sir. Like a big wheel that is**  
23 **trenching through the field. Yes, sir.**

24 Q. So you are not trenching; you are going to

1 go back to a wheel design you think maybe. So, in  
2 regards to your collection line --

3 **A. To retrieve -- yeah, a trenching machine.**

4 Q. I guess maybe let's simplify it. Will the  
5 trench be open, or will it always be closed?

6 **A. It will be open, so then we can see where  
7 we need to make our repairs.**

8 Q. So, good. So who is going to manage that  
9 part of it? Is it one of your subcontractors or  
10 in-house?

11 **A. Subcontractors, yes, that are specifically  
12 there just for drain tile repairs. That is their  
13 expertise.**

14 Q. I gotcha. So is that the -- I think you  
15 listed some of them, right? KCoe Iso; is that them?

16 **A. KCoe Isom.**

17 Q. So that is them?

18 **A. It's not them. They are the consultant  
19 for the engineering side of it to locate all the  
20 crossings.**

21 Q. Can you identify who that would be?

22 **A. I can't.**

23 Q. Can you let us know?

24 **A. I can let you know. Yes.**

1           Q.     Very good.  So, I guess, in regards to  
2 drainage, have you gained agreement from the  
3 effected drainage districts with your plan?

4           **A.     We have not -- we are not required to.**

5           MR. HESS:  I am sorry to interrupt.  I am  
6 going to object to that because under the new law,  
7 the new law is explicit --

8           UNIDENTIFIED VOICE:  We can't hear you.

9           MR. HESS:  Respectfully, Mr. Harrington, I  
10 am going to object.  The new law is explicit.  
11 Subsection T of Public Act 102-1123 passed on  
12 January 27 of this year says, "Notwithstanding any  
13 other provision of law, a facility owner when siting  
14 approval of a county to construct commercial wind  
15 energy facility is authorized to cross or impact a  
16 drainage system, including but not limited to  
17 drainage tiles, open drainage districts, culverts,  
18 the water gathering vaults owned or under the  
19 control of the drainage district, under the Illinois  
20 Drainage Code, without obtaining prior agreement or  
21 approval from the drainage district."

22           So it's a new law, Mr. Harrington.  You  
23 probably did not know that.  Under the old law we  
24 were certainly required to get such an agreement.

1 Under the new law, we are not. So it's not  
2 relevant. Respectfully, I think it's a misleading  
3 question.

4 HEARING OFFICER: Thank you, Mr. Hess.

5 Mr. Harrington, what was your question?

6 MR. HARRINGTON: Yeah. I asked if he had  
7 gained agreement from the applicable drainage  
8 districts.

9 HEARING OFFICER: Okay. That objection is  
10 sustained, so ask another question if you want.

11 MR. CARLSON: I would like to speak on  
12 that, though. Though we don't need an agreement, we  
13 are still honoring our commitment of what we  
14 presented to the drainage districts and what the  
15 requirements of construction standards would be  
16 under that agreement.

17 So, I think that is good news. I know  
18 it's not required, but we were going to be doing the  
19 same style and type of construction under all  
20 district drainage tile, all the district ditches.

21 BY MR. HARRINGTON:

22 Q. Okay.

23 **A. And that's been from a coordinated effort**  
24 **using consulting efforts from KCoe, and it will be**

1       **just in the best interest of the drainage**  
2       **commissioners and of the public that when we get out**  
3       **there that we have everyone involved. That is what**  
4       **we need. We need to have everyone involved to**  
5       **locate these drain tiles precisely, like, down to**  
6       **the inch so that there is no damage.**

7           Q.     I agree. I agree. Have you had contact  
8       with the drainage districts?

9           A.     **Yes, sir. We have been trying to reach**  
10       **them for over a year now.**

11          Q.     Are you getting any response?

12          A.     **Here recently we have only been going**  
13       **through KCoe to reach out to the drainage**  
14       **commissioners.**

15          Q.     Okay. Very good.

16          A.     **But we have everything we need right now**  
17       **for the engineering side of it.**

18          Q.     Okay. I hear ya.

19                Okay. On your last slide, I think you  
20       mentioned about site team construction site  
21       managers, dedicated site managers, public engagement  
22       team. I guess, could you maybe delineate a little  
23       bit in a hypothetical situation: You're up and  
24       running of a day, a local resident has a complaint.

1 I don't know what it is. Dusty road, too much  
2 traffic. How would they ever navigate that? How do  
3 they know who to get ahold of? How does that work?

4 **A. So, first and foremost, easy access to our**  
5 **website, so people would know, like, first and**  
6 **foremost who to contact; but I like to put it out in**  
7 **this setting that anyone can go to the land, to the**  
8 **lay-down yard, they will see the Apex trailer, and**  
9 **go in and ask a question. Every time I've been**  
10 **onsite at a farm, there are people in and out, in**  
11 **and out all day long, touching base, asking**  
12 **questions.**

13 Q. Right.

14 **A. And a lot of people end up, like, they**  
15 **like being involved in the whole process and seeing**  
16 **the wind farm built, too.**

17 Q. I gotcha. I guess you talk about the  
18 website. Is there any intent to provide that  
19 information through a mailer or something to the  
20 local residents? How do you expect to proceed  
21 there? I understand you can go to the lay-down  
22 yard.

23 **A. I personally can't answer that. Yeah. I**  
24 **don't know that. Yeah. I don't want to put**

1     **anything on the record --**

2           Q.     Okay.

3           **A.     There is going to be an avenue to get**  
4     **ahold of everybody, and probably multiple avenues I**  
5     **would say.**

6           Q.     Okay.  And I would assume the same  
7     situation, if a problem or, God forbid, an accident  
8     occurred, same recourse?

9           **A.     Yes, sir.  Yep.**

10          Q.     Okay.  All right.  I guess, if we think  
11     about this, it's going to be a busy area, a lot of  
12     traffic, and you are going to have a lot of roads in  
13     transition, to put it mildly, right?

14          **A.     (Nodding.)**

15          Q.     How is the traffic controlled?  Who is  
16     going to be in charge of that?

17          **A.     So traffic is -- traffic control is**  
18     **initially run by the company doing all the road**  
19     **upgrades, so Open Roads, Champaign Asphalt.  And**  
20     **then, when turbine deliveries come in, so our**  
21     **largest components, traffic control would shift to**  
22     **the contractor, White Construction.**

23          Q.     White?

24          **A.     Yep.  We also have a traffic impact**



1 **analysis that is part of the engineering for the**  
2 **road use agreements that is critical in any wind**  
3 **farm development.**

4 MR. HARRINGTON: Okay. That's all I got.

5 HEARING OFFICER: Any other questions for  
6 Mr. Carlson from the board?

7 Mr. Chambers?

8 EXAMINATION

9 BY MR. CHAMBERS:

10 Q. One quick one from the last time we  
11 discussed the road improvements. I can't remember  
12 exactly how this came up, but power line clearance,  
13 so some of the road improvements to upgrade things  
14 to a higher rate rating, if it would include for the  
15 applicant's -- a significant amount of material for  
16 the farmers in the area -- clearance for power lines  
17 can be an issue with some equipment. Is there  
18 anything that you have planned out sufficiently so  
19 that the power lines are accurately measured and  
20 raised to the appropriate levels before that road  
21 service is actually changed and raised up to a  
22 different level?

23 **A. Yes, sir. Yeah. That is a major**  
24 **consideration of the contractor. Whether they have**





1 specifications and rules for work within their  
2 district. And both Goose Creek -- both Trenkle  
3 Slough and DeLand Special have court-approved  
4 requirements for construction within their  
5 boundaries on their district facility. But in your  
6 73-page report, do you comply with those plans that  
7 the districts have previously had court approval on?

8 HEARING OFFICER: Mr. Hess, do you have an  
9 objection?

10 MR. HESS: Yes, sir, I do. It's basically  
11 the same objection I had before. Under Public Act  
12 102-1123 subsection T -- perhaps Mr. Reed just  
13 misunderstood me or I misspoke, so let me clear up  
14 the record: "Notwithstanding any other provision of  
15 law, a commercial wind energy facility is authorized  
16 to cross or impact a drainage system, including but  
17 not limited to drainage tiles, open drainage  
18 districts, culverts and water gathering vaults owned  
19 or under the control of a drainage district under  
20 the Illinois Drainage Code without obtaining prior  
21 agreement or approval from the drainage  
22 commissioner."

23 So I would make the same objection that  
24 I've made before.

1                   HEARING OFFICER: Mr. Reed, the new law  
2 has kind of hamstrung your question, is what I am  
3 going to have to rule. The objection is sustained,  
4 so you may ask another question.

5           BY MR. REED:

6           Q.       Could you please describe your efforts to  
7 contact the commissioners of the drainage district  
8 you said you had tried?

9           MR. HESS: Again, I would object. First  
10 of all, it has been asked and answered. The  
11 question was asked, and he answered it. I think it  
12 has been asked and answered.

13                   Second, what the WECS County Ordinance  
14 requires is that we include a copy of our  
15 application. We have given that notice to the  
16 drainage district. That notice is in our  
17 application. So we have complied with that notice.  
18 Asking Mr. Carlson what he's done personally I don't  
19 think is relevant.

20                   HEARING OFFICER: Well, I get your point.  
21 I am going to overrule the objection.

22                   If Mr. Carlson can testify as to what he's  
23 done with talking to the drainage district, I think  
24 that is okay.

1           Go ahead and answer the question.

2           MR. CARLSON: Yes, sir. All the  
3 communication had been done through Quint Shambaugh  
4 at KCoe Isom to reach out to the various drainage  
5 districts and compile the information from those  
6 drainage commissioners.

7           We have a whole log from earlier in the  
8 year last year as well showing all of his efforts,  
9 when contact was made, how many times he tried to  
10 reach out, in instances dozens and dozens of times  
11 with no replies.

12           I talked to Ms. Rupiper, who represents  
13 DeLand Special and Trenkle Slough and didn't get  
14 very far in those conversations either. I think the  
15 only districts that were helpful and cooperative  
16 were Goose Creek III and Goose Creek IV.

17           DeWitt Special, we have one crossing. I  
18 have been in contact with their attorney, and we  
19 were very close to an agreement at the time of the  
20 Goose Creek County Board hearing.

21       BY MR. REED:

22           Q.     So if I may follow up, you are saying all  
23 that contact that was prior was under the previous  
24 application not under this application?

1           **A.    Yes, sir.**

2           Q.    Okay.

3           **A.    There is nothing that has changed, just to**  
4 **be clear.**

5                   **And would you be interested in talking,**  
6 **sir?**

7           Q.    I am a public-elected drainage  
8 commissioner. It is my right and my job to  
9 represent our clients and have discussions with  
10 anyone doing work within our district; although, the  
11 attorney seems to say to me that we are not allowed.

12                   HEARING OFFICER: All right. Mr. Reed, do  
13 you have any other questions for Mr. Carlson?

14           BY MR. REED:

15           Q.    Concerning the road use agreements, many  
16 if not most of the roads within the area you are  
17 going to be working are easements upon private  
18 property.

19                   And as I understand it, those are only to  
20 build and maintain roads in a legal manner. Many of  
21 the roads in some windmill areas have ditches that  
22 are so steep that some rules may require them to  
23 have guardrails applied because a side slope that  
24 goes from making it 2 to 1 to much steeper.

1           Have you identified any areas where the  
2 road may get that steep that they would require a  
3 guardrail and maybe be kind of on the border of  
4 whether or not they are maintaining a legal road?

5           **A.     Yes, sir. All of that would be included**  
6 **in the ensuring of the road use agreement. And**  
7 **earlier on we were doing everything we could to**  
8 **avoid some of the deep ditch drop-offs. There were**  
9 **a few turbines in the old application where we**  
10 **actually went a different way because we knew if we**  
11 **expanded that road there was no way. We would need**  
12 **to put a guardrail there. So it's things like that,**  
13 **creatively thinking about solutions and going a**  
14 **different route.**

15           **I can't tell you specifically which roads**  
16 **where this might occur, but I can't think of any off**  
17 **the top of my head, any locations, under the new**  
18 **project.**

19           MR. REED: Thank you.

20           HEARING OFFICER: Thank you, Mr. Reed.

21           Mr. Hartke?

22           MS. ANTONIOLLI: And I will add for the  
23 record, just because there has been some changes to  
24 the ordinance and the state law since we had the



1 Goose Creek hearings, on the issue of drainage,  
2 there is -- Piatt County did update the ordinance,  
3 and there is no longer the requirement to enter into  
4 agreements with the drainage districts, but what  
5 remains in the ordinance is the requirement to  
6 notify the drainage districts, and that is all of  
7 them. And we did send, certified mail, a copy of  
8 the application to each one of the drainage  
9 districts or their attorney, and that has been  
10 complied with.

11 HEARING OFFICER: So you are stating that  
12 you are in compliance with that specific requirement  
13 of the ordinance?

14 MS. ANTONIOLLI: Yes.

15 HEARING OFFICER: Okay. Very good. Thank  
16 you for the clarification, counsel.

17 Mr. Hartke, good to see you again, too,  
18 sir. Could you please state your name, spelling  
19 first and last for the record?

20 MR. HARTKE: My name is Ted Hartke, T-e-d  
21 H-a-r-t-k-e.

22 HEARING OFFICER: Very good. Mr. Hartke,  
23 go ahead with questions for Mr. Carlson, please.

24

EXAMINATION

1 BY MR. HARTKE:

2 Q. Earlier in your testimony you mentioned  
3 underdrains for the turbine footings. Did I hear  
4 that correctly? There's underdrains for the turbine  
5 footings?

6 **A. Underdrains?**

7 Q. Underdrain, like a tile drain around the  
8 footing of the turbine. Did I mishear that?

9 **A. You misheard that, sir.**

10 Q. Okay. Thank you.

11 Have you ever considered underdrains  
12 around a wind turbine footing to perhaps avoid any  
13 foundation weakness or a problem with saturated  
14 soils underneath the foundation?

15 **A. No, sir. Any drain tile that is existing**  
16 **there, we reroute it around the footing of the**  
17 **turbine. That's one of the first activities for**  
18 **digging for a foundation.**

19 MS. ANTONIOLLI: And it would help to  
20 clarify, what do you mean by underdrain?

21 MR. HARTKE: It would be like a footing  
22 drain that would drain the soil from being saturated  
23 underneath of a foundation of a turbine.

24 The reason for the question is there is

1 some speculation that the turbine that was in Ford  
2 County toppled over due to saturated soil under the  
3 footing. That is the only reason for the question.

4 HEARING OFFICER: Mr. Hess, it looks like  
5 you have something to say.

6 MR. HESS: Yes, sir. I would respectfully  
7 object again I think on several bases for my  
8 objection.

9 First, your instruction at the outset of  
10 this hearing was, "Evidence and questions not  
11 relevant to the Prosperity Wind application will not  
12 be permitted.

13 Second, I think Mr. Hartke was quite  
14 candid that his question was based on speculation,  
15 so I don't think it's an appropriate question.

16 And third, I don't think it meets the  
17 personal knowledge requirement in this board's  
18 hearing guidelines, specifically here in guideline  
19 number 10 that requires the personal knowledge.

20 HEARING OFFICER: Your objection is  
21 sustained for all of those reasons.

22 The board has already heard Mr. Hartke's  
23 statement, but I will instruct the board to give it  
24 the weight that it should be afforded considering a

1 previous ruling about relevance to this particular  
2 supplemental use permit application and, also,  
3 personal knowledge.

4 What happened up in Pioneer, I don't know,  
5 but it has -- unless one can state with specificity  
6 how something there that occurred is going to likely  
7 happen here, Pioneer is not particularly relevant.

8 With that said, Mr. Hartke, I do  
9 appreciate the question, and go ahead and ask  
10 another question if you have more of Mr. Carlson,  
11 please.

12 MR. HARTKE: I simply responded to this  
13 stated attorney asking me why/where that question  
14 came from.

15 HEARING OFFICER: I understand.

16 MR. HARTKE: And that's the only reason I  
17 said it, and that's why. I was trying to please the  
18 applicant there, and I am being judged for that.

19 HEARING OFFICER: Mr. Hartke, as always,  
20 you are fine. Go ahead and ask another question.

21 BY MR. HARTKE:

22 Q. Okay. Would you guys consider putting  
23 some underdrains beneath wind turbine foundations?

24 A. No, sir.

1 Q. Okay. Do you think they are better  
2 without them?

3 **A. I rely on the expertise of RRC Engineering**  
4 **for the foundation design.**

5 Q. Okay. So you are not a licensed engineer?  
6 You don't have an engineering license or degree; is  
7 that right?

8 **A. I have a background in nuclear engineering**  
9 **and master's degree in systems engineering, a degree**  
10 **in mathematics and Chinese, sir.**

11 Q. Okay. What's the name of the licensed  
12 engineer who certified or stamped the letter for the  
13 drawdown document?

14 I know that is in the document. What is  
15 the name of that individual?

16 **A. Barr Engineering.**

17 Q. Barr Engineering. What is the name of the  
18 actual engineer who did that?

19 **A. I can look at the front page of the**  
20 **drawdown study. I don't have his name.**

21 Q. So that name is in there, that he has  
22 stamped off? And that is in the documents, his name  
23 or her name?

24 **A. Yes, sir.**

1           Q.     Thank you.  Earlier you testified that  
2     this wind farm was -- you said these exact words,  
3     "for the greater good."  Do you remember saying  
4     that?

5           **A.     Yes, sir.**

6           Q.     And is this wind farm, you know, community  
7     minded and for the benefit of the community in  
8     general?

9           **A.     Yes.  I think that has been demonstrated**  
10    **many times tonight.**

11          Q.     So if a wind farm is, indeed, for the  
12    greater good, and they are community minded, doesn't  
13    that reach out and include all of the elected boards  
14    that, even if it's not the state law, and even if  
15    you are not required to do something, wouldn't a  
16    company that is in it for the good of all  
17    voluntarily include and meet with local drainage  
18    districts, rules, and guidelines and have some  
19    working relationship with an elected board such as a  
20    drainage district board?

21                   HEARING OFFICER:  Mr. Hess?

22                   MR. HESS:  Thank you, Mr. Kains.  I  
23    respectfully object.  That has been asked and  
24    answered several times now.  We stated that we

1 provided this application to every drainage  
2 district, and Mr. Carlson has already discussed at  
3 length the steps he has taken to reach and  
4 communicate with those boards.

5 HEARING OFFICER: The objection is  
6 sustained. Ask another question.

7 BY MR. HARTKE:

8 Q. Okay. Let's leave it out of the drainage  
9 specific item.

10 Wouldn't a wind company that was in it for  
11 the greater good, whether for the individual who  
12 lives near a wind farm or just the general public  
13 throughout the county or the state or whatever,  
14 wouldn't it be more community minded if they would  
15 voluntarily meet and go beyond the minimum basics of  
16 the state law?

17 MR. HESS: Mr. Kains, I respectfully  
18 object. I think that is a hypothetical that calls  
19 for speculation. I am not sure how any one witness  
20 could answer sort of an exponential question, so I  
21 would object that it calls for speculation.

22 HEARING OFFICER: I am going to overrule  
23 -- or I am going to sustain the objection because I  
24 wouldn't know that that can even be answered.

1           So, Mr. Hartke, go ahead and ask another.

2           MR. HARTKE: Last question.

3           HEARING OFFICER: Absolutely.

4           BY MR. HARTKE:

5           Q. This is maybe not a gotcha. Perhaps would  
6           it be better to start at the beginning and say,  
7           except for the drainage districts and except for any  
8           other reasons, except for these reasons, it is for  
9           the greater good?

10                    I mean that comes with the general claim  
11           that a wind company is going to be good for a  
12           community, and then we get a lawyer that responds.

13                    Which is it?

14                    Is it for our good or not?

15                    That is my last question.

16                    HEARING OFFICER: I think he said that it  
17           was for the greater good.

18                    MR. CARLSON: That is.

19                    HEARING OFFICER: That is Mr. Carlson's  
20           opinion. You may testify later that it is not your  
21           opinion.

22                    MR. HARTKE: Okay. Thank you, everybody.  
23           Have a good evening.

24                    HEARING OFFICER: Mr. Hartke, thank you so



1 much.

2 Are there any other questions from the  
3 public for Mr. Carlson?

4 Questions from Piatt County staff and  
5 consultants?

6 MR. PAULSRUD: Yes. Are you going to ask  
7 my earlier question about the lay-down yard?

8 HEARING OFFICER: Oh, come on up,  
9 Mr. Paulsrud. I don't get to ask questions. I am  
10 just the referee. I can't play in the game. Thank  
11 you for speaking up, Mr. Paulsrud.

12 Holly, you have this is Bruce Paulsrud?

13 COURT REPORTER: I do.

14 EXAMINATION

15 BY MR. PAULSRUD:

16 Q. Mr. Carlson, thank you for your  
17 participation this evening.

18 So the lay-down yard, like I said earlier,  
19 is directly north of my property two miles  
20 approximately.

21 So can you describe for me what -- how  
22 many acres is that? What type of lightning? Is it  
23 24/7? Let's start there.

24 **A. Yes, sir. Yeah. So it's about 20 acres,**

1 roughly 5 acres for the batch plants, and the other  
2 15 would have a lot of the equipment stored there on  
3 trailers, material stored there. It wouldn't be  
4 24/7 lightning. No, sir. Not the types of lights  
5 that you are thinking.

6 Q. So, in the evening, I'm -- I am trying to  
7 remember the slide that you had on earlier. When  
8 the -- what are the months the bulk of that plant  
9 are going to be active?

10 A. It would be -- it would be from -- I mean  
11 roughly from planting to harvest. So, you are going  
12 to have longer daylight hours during that time  
13 anyway, so that would be for the benefit of  
14 everyone.

15 Q. So is it safe to say they would be done by  
16 8:00 at night or 10:00 or midnight?

17 A. 8:00 would be, like, the latest on the  
18 normal workday. There are instances. Let's say  
19 something happens and we end up having to work at  
20 night. There are turbine installations that happen  
21 at night, and that would be -- that could be a  
22 complete overnight shift, and it's just focused at  
23 that one turbine, to install one turbine.

24 Q. That is not the yard itself?

1           **A.     That is not the yard itself. So, it could**  
2 **be anywhere around the project boundary. And the**  
3 **reason for that is we need a little wind to hoist**  
4 **all of the components to install them. So some of**  
5 **those windows happen to be at night depending on the**  
6 **season.**

7           **Q.     Yeah. That's -- how many does it take --**  
8 **once the foundation is done -- well, let's start**  
9 **with, to build a foundation, until it's ready to**  
10 **generate power, what is typical? Is that a two-week**  
11 **or three-week process for each turbine?**

12           **A.     For a single turbine?**

13           **Q.     Yeah.**

14           **A.     It could be over a month for a single**  
15 **turbine.**

16           **Q.     Okay.**

17           **A.     For the entire process. That's pouring**  
18 **concrete, getting the strength, all the QA/QC.**

19                   **And then we install the turbine. That**  
20 **part is actually the quickest.**

21                   **If we have wind, a little wind in our**  
22 **favor, we could erect a turbine in one to two days.**

23                   **But after that, a lot of people have asked**  
24 **us, well, why aren't the turbines spinning.**

1           **There's a lot of checks that go into**  
2 **getting the turbine mechanically complete and**  
3 **commissioned, which that could take -- that's what**  
4 **adds up to that whole month, and there is a lot of**  
5 **internal wiring that is completed that no one on the**  
6 **outside sees. That's why it takes longer.**

7           Q.     One other question: Talking about roads  
8 and getting the roads ready, but then also repairing  
9 the damage from the heavy use --

10          **A.     Yes, sir.**

11          Q.     If a road today is -- I grew up way in the  
12 north, so I call it chip and tar.

13          **A.     Chip and seal.**

14          Q.     Chip and seal?

15          **A.     Yeah.**

16          Q.     Or however it is said. If that's the way  
17 the road is today, is it going to be put back that  
18 way or is it going to be gravel?

19          **A.     It will be repaired at the end of the**  
20 **project with the oil and chip. All township roads**  
21 **will be that. County roads would be, more than**  
22 **likely, paved, asphalt paved.**

23          Q.     So I think that answered it. We are not  
24 going to be swapped out with a lesser quality road?

1           **A.     Exactly.  You will have fantastic roads in**  
2 **Piatt County.  They will be improved.  Every mile**  
3 **that we go down will be improved.**

4           Q.     Thank you.

5           **A.     Yes, sir.**

6           HEARING OFFICER:  Thank you, Mr. Paulsrud.

7           Any other questions for Mr. Carlson from  
8 the public?

9           I think I already asked from Piatt County  
10 Staff and Consultants.

11          Any redirect, counsel?

12          MS. ANTONIOLLI:  Yes.

13                                 REDIRECT EXAMINATION

14          BY MS. ANTONIOLLI:

15          Q.     Just one.  You mentioned the name of the  
16 company that designed the foundations for Prosperity  
17 Wind as RRC?

18          **A.     Yes, sir.**

19          Q.     Is that the same company that designed the  
20 foundations for Pioneer Wind?

21          **A.     That is not the same company.**

22          MS. ANTONIOLLI:  Okay.  Thank you.

23          HEARING OFFICER:  Mr. Hess, you didn't  
24 want to object to relevance on counsel's question?

1 MR. HESS: No.

2 HEARING OFFICER: I am sorry. I couldn't  
3 resist.

4 Time for questions for Mr. Carlson from  
5 members of the Zoning Board of Appeals. Any other  
6 questions for this gentleman?

7 Mr. Carlson, thank you.

8 MR. CARLSON: Thank you, Your Honor.

9 HEARING OFFICER: Mr. Hess,  
10 Ms. Antonioli, call your next witness.

11 MR. HESS: Assuming he's in the room with  
12 us, we would next like to call Mr. Eric Seibring.

13 MR. SEIBRING: I am here.

14 HEARING OFFICER: Mr. Seibring is here.  
15 All right.

16 **ERIC SEIBRING,**  
17 a witness herein, called by the applicant, after having  
18 been first duly sworn, was examined, and testified as  
19 follows:

20 HEARING OFFICER: Could you please state  
21 your name, spelling first and last name for the  
22 record?

23 MR. SEIBRING: My name is Eric Seibring,  
24 E-r-i-c S-e-i-b-r-i-n-g.

1 HEARING OFFICER: Very good. Thank you.

2 Mr. Hess, does he have a presentation, or  
3 do you have direct questions?

4 MR. HESS: I have direct questions.

5 HEARING OFFICER: You may proceed,  
6 counsel.

7 DIRECT EXAMINATION

8 BY MR. HESS:

9 Q. Good evening, Mr. Seibring.

10 Mr. Seibring, I am pretty sure you are  
11 well known to everyone in this room, but we need to  
12 make a record here within the transcript, so could  
13 you state what your name, your job title is and your  
14 primary responsibilities in your job?

15 **A. My name is Eric Seibring. I am the Piatt**  
16 **County Engineer. I am in charge of the county road**  
17 **system, roads/bridges, and I assist the highway**  
18 **commissioners in Piatt County in the road and bridge**  
19 **process.**

20 MR. HESS: And I am sorry. Did I miss it?  
21 Did Mr. Seibring get sworn in?

22 COURT REPORTER: He did.

23 HEARING OFFICER: Yes, he did.

24 BY MR. HESS:

1           Q.     And, Mr. Seibring, what are your job  
2     responsibilities specifically as it relates to the  
3     Blue Ridge Township Road Authority and the Goose  
4     Creek Township Road Authority?

5           **A.     In terms of this project or --**

6           Q.     Just in general.

7           **A.     -- just in general?**

8           Q.     Yes.

9           **A.     So, monitoring their motor fuel tax,**  
10    **assisting them with construction of road/bridge, a**  
11    **road culvert design, hydrology works, part-time**  
12    **lawyer among other things. Just kind of there to**  
13    **help guide them through the process of maintaining**  
14    **their roads.**

15          Q.     And, Mr. Seibring, just so that there is  
16     full disclosure for the record, you and me and the  
17     county's attorney with respect to the roads,  
18     Ms. Cheryl Churney, we have had several negotiations  
19     over the last week related to road agreements  
20     related to Prosperity Wind?

21          **A.     That is correct, sir.**

22          Q.     All right. And not only does Piatt County  
23     have you and Cheryl Churney as a higher attorney,  
24     but also am I correct that Terry Cummins of Cummins



1 Engineering is working with Piatt County on the  
2 road?

3 **A. That is correct.**

4 Q. All right. And let's sort of give away  
5 the ending to the story here, Mr. Seibring. So you  
6 are here tonight to explain to the ZBA that we have  
7 fully negotiated, ready-to-be-executed road use  
8 agreements; is that right?

9 **A. That is correct.**

10 Q. All right. And you are ready to present  
11 the Piatt County Prosperity Wind Road Use Agreement  
12 to the Piatt County Board for approval at an  
13 upcoming meeting?

14 **A. I have to go through my process to go**  
15 **through the Road and Bridge Committee first because**  
16 **that is who I answer to. I'll make a recommendation**  
17 **to the Road and Bridge Committee that they forward**  
18 **it to the full County Board for their approval. At**  
19 **that time I will also recommend that the full County**  
20 **Board approve that document.**

21 Q. And you will be making a similar  
22 recommendation to the Blue Ridge Township Road  
23 Authority and the Goose Creek Township Road  
24 Authority regarding road use agreements with

1 Prosperity Wind?

2           **A. I will make my opinion known that the**  
3 **county is moving forward with it. I don't -- they**  
4 **are elected persons, so they get to make their own**  
5 **decision. They were involved in the negotiation**  
6 **process for this road use agreement. They were in**  
7 **agreement last time I spoke with them. I cannot**  
8 **speak for them now, but they are still in agreement**  
9 **with what was originally agreed to.**

10           Q. Okay.

11           **A. I will be -- to sum it up, yes, I will be**  
12 **saying that the county is moving forward with the**  
13 **road use agreement, here it is, if you don't like**  
14 **this, you are kind of on your own at this point.**

15           Q. Yes, sir. All right. And, Mr. Seibring,  
16 during the Goose Creek Wind ZBA hearings, there were  
17 a lot of questions and concerns about uncertainty  
18 because we did not have a negotiated road use  
19 agreement.

20                   Is it fair to say we have certainty with  
21 regards to a road use agreement with Prosperity?

22           **A. I would say yes.**

23           Q. All right. Let's back up and explain for  
24 the record how we got here. The Goose Creek Wind

1 ZBA hearings lasted many nights through last fall  
2 and early into this year. I could not tell from the  
3 transcript; I don't think you ever testified.

4 **A. I was luckily enough to avoid it.**

5 Q. Sorry this time around, Mr. Seibring.

6 Were you present for those hearings or  
7 otherwise generally aware of the Goose Creek Wind  
8 ZBA hearings?

9 **A. I was aware. I think I was present for**  
10 **one, maybe two meetings.**

11 Q. Okay. At the same time, though, in late  
12 2022 and into early 2023, did you start having  
13 meetings about terms or major issues related to a  
14 Goose Creek Wind road use agreement?

15 **A. Yes, sir.**

16 Q. All right. And those conversations  
17 culminated in what Mr. Carlson described earlier as  
18 a marathon session, an all-day negotiation on  
19 March 2, 2023. Does that sound about right to you?

20 **A. That sounds about correct.**

21 Q. And I wasn't there, but my understanding  
22 -- please tell me if this is correct -- Mr. Carlson  
23 and several others from Apex were there, along with  
24 Ben Bland from HLR, our attorneys, you were present,

1 the road district commissioners were present,  
2 Ms. Churney, your attorney, was present, as well as  
3 Mr. Terry Fountain, your consultant?

4 **A. That sounds right. Yes.**

5 Q. All right. And I am told that Ms. Churney  
6 and all the other attorneys sort of kept everyone  
7 there all day, and by the end of it you had an  
8 agreement in principle?

9 **A. Yes.**

10 Q. What was left was for the lawyers to write  
11 it up?

12 **A. Correct.**

13 Q. All right. And then I want to make sure  
14 the record is clear here. What the lawyers had to  
15 write up were three different road use agreements,  
16 the Road Use Agreement for Goose Creek Wind with  
17 Piatt County, Goose Creek Wind in Blue Ridge  
18 Township, and Goose Creek Wind in Goose Creek  
19 Township; is that right?

20 **A. That's correct.**

21 Q. The latter causing all kind of confusion?

22 **A. That's correct.**

23 Q. Just because of the names.

24 **A. That is right.**

1 Q. All right. And although there were three  
2 separate agreements, those agreements, is it fair to  
3 say, were mostly identical?

4 We'll talk about the differences in a  
5 second, but for the most part they were identical?

6 **A. General overall principles were the same.**  
7 **Yes. Mostly identical. Other than dollar amounts**  
8 **because of roads being used for different entities.**

9 Q. So, just to give an example, the terms  
10 about the standards for repair of roads, those would  
11 have been identical to Prosperity roads?

12 **A. Identical, correct.**

13 Q. That is correct. And what was different  
14 is, you just said, were the three different payment  
15 amounts?

16 **A. Correct.**

17 Q. So that all led to the March 16, 2023,  
18 Piatt County Board meeting. You were there. I was  
19 there. I think most of the people in this room were  
20 probably there. But for the record, let's talk  
21 about what happened that night.

22 Would you agree that the Goose Creek Wind  
23 Road Use Agreement with Piatt County was on the  
24 board's agenda for that night's meeting?

1           **A.     That's correct.**

2           Q.     And separately, after that, the Goose  
3     Creek Wind Special Use Permit Application was also  
4     on the agenda?

5           **A.     I am sorry. I zoned out.**

6           Q.     Okay. Is it your recollection from the  
7     March 16 Piatt County Board meeting that the road  
8     use agreement was on the agenda, which is what you  
9     just said, but also separately the permit  
10    application was on the agenda?

11          **A.     Yes, sir.**

12          Q.     And the road use agreement was taken up  
13    first; isn't that right?

14          **A.     I don't remember if it was taken up first  
15    or after the revenue sharing agreement, but it was  
16    prior to the special use permit. Yes.**

17          Q.     You made a presentation to the Piatt  
18    County Board in that meeting about the road use  
19    agreement?

20          **A.     That's correct.**

21          Q.     And the Piatt County Board asked you  
22    several questions about the road use agreement?

23          **A.     Yes.**

24          Q.     And this is from my recollection, so tell

1 me if I don't have this right. In response to a  
2 question about the payment provisions, you said that  
3 in the course of negotiating this road use agreement  
4 you had collected just about all of the road use  
5 agreements that a county in Illinois has ever done  
6 with a wind developer and you were generally  
7 familiar with them all; is that right?

8 **A. That is correct.**

9 Q. All right. And based on all of that work,  
10 I believe your phrase was, "I am satisfied with the  
11 payment provisions in these road use agreements"?

12 **A. Okay. Yes. Something to that. But yes**  
13 **that is correct. Yes.**

14 Q. Generally speaking, your presentation to  
15 the Piatt County Board was you were recommending  
16 approval of the Goose Creek Wind Road Use Agreement?

17 **A. I believe I stated that. Yes.**

18 Q. Is it your memory that the Piatt County  
19 Board unanimously approved those agreements?

20 **A. I believe it was 5/0.**

21 Q. And then, after that, the Piatt County  
22 Board then voted 3 to 2 to deny the permit  
23 application?

24 **A. Yes, sir.**

1 Q. All right. While all of that was going  
2 on, the Illinois General Assembly passed the new law  
3 Public Act 102-1123. Are you familiar with that  
4 law?

5 **A. Vaguely.**

6 Q. Okay. I am not going to question you on  
7 it. I am not going to ask you for a legal opinion  
8 on it, but are you aware that Section H of that law  
9 says that, "A county may not adopt zoning  
10 regulations that disallow permanently or temporarily  
11 commercial wind energy facilities from being  
12 developed or operated in a district zoned to allow  
13 agricultural or industrial uses"?

14 So, in other words -- that was a  
15 long-winded quote. In other words, it limited a  
16 county's authority. Are you generally aware of  
17 that?

18 **A. Yes, sir.**

19 Q. All right. Are you aware that the law  
20 says that a county with an existing zoning ordinance  
21 in conflict with the section shall amend its  
22 ordinance within 120 days?

23 **A. Vaguely familiar with that. Yes.**

24 Q. And then are you vaguely familiar that



1 then, in May, Piatt County did amend its wind  
2 ordinance?

3 **A. Yes, sir.**

4 Q. All right. Are you aware of the new  
5 ordinance? Have you looked at it?

6 **A. Parts of it. Mostly the impact of the  
7 road side of things.**

8 Q. Okay. And so, I can show it to you if you  
9 want, but are you aware that under the new ordinance  
10 the special use permit application must "include a  
11 copy of each proposed wind road use agreement and  
12 supporting documentation required by the appropriate  
13 governmental units having jurisdiction over  
14 identified public roads"?

15 And that is from Section 5(b)(15) of the  
16 ordinance. Are you aware of the requirement --

17 **A. Yes.**

18 Q. That you have to include a draft road use  
19 agreement?

20 **A. I am aware of the statement that was put  
21 in there. Yes.**

22 MR. HESS: Mr. Kains, I would like to show  
23 Mr. Seibring part of our application. Is it all  
24 right if I approach him?

1 HEARING OFFICER: Yes, you may.

2 MR. HESS: And I think we have several  
3 extra copies. I am not sure how many we have, but  
4 would you like me to hand up additional copies as  
5 well? This is the appendices to our permit  
6 application. I don't think I need to.

7 HEARING OFFICER: I don't think you need  
8 to right know. If we get to the point where the  
9 board needs to look at that specific appendix, then  
10 the board can look at it on its own.

11 MR. HESS: May I approach the witness?

12 HEARING OFFICER: Yes, you may.

13 BY MR. HESS:

14 Q. Mr. Seibring, I'll proffer for you I've  
15 just handed you Volume II of the Appendices to the  
16 Prosperity Wind Permit Application, and I would like  
17 to draw your attention to Appendices D2, D3, and D4.  
18 They should be tabbed so that hopefully they are  
19 relatively easy for you to find.

20 D2, D3, and D4. Take as long as you want  
21 to sort of review those documents, but my question  
22 for you is: Is D2 a draft road use agreement  
23 between Prosperity Wind and Piatt County?

24 **A. Without reading all 80 pages of it, yes.**

1     **It appears to be the draft of the use agreement,**  
2     **yes.**

3           Q.     And we'll go through some of the details  
4     in a little bit, but generally speaking does it look  
5     similar to you as the Goose Creek Wind Prosperity  
6     agreement that you presented to the Piatt County  
7     Board in March?

8           **A.     Yes, sir.**

9           Q.     Both documents were 80 pages?

10          **A.     Something like that.**

11          Q.     Both documents were about 35 pages of a  
12     contract and then a whole ton of exhibits?

13          **A.     Yes, sir.**

14          Q.     And then D3 would be the Draft Road Use  
15     Agreement with Blue Ridge Township. Does that look  
16     right to you?

17          **A.     Yes, sir.**

18          Q.     And then D4 would be the Draft Road Use  
19     Agreement with Goose Creek Township; is that right?

20          **A.     Yes, sir.**

21          Q.     Okay. Now, you heard Mr. Carlson sort of  
22     in summary talk about how the Prosperity Wind Road  
23     Use Agreements are the same as the Goose Creek Wind  
24     Road Use Agreement.

1 I want to drill down a little bit on that.  
2 So they are, would you agree, nearly identical but  
3 there's a few differences?

4 **A. Yes, sir. I would agree to that.**

5 MR. HESS: Okay. Let's just make the  
6 record very quickly here on what those differences  
7 are.

8 Mr. Kains, can I hand up our narrative  
9 portion of our permit application?

10 HEARING OFFICER: Yes, you may.

11 BY MR. HESS:

12 Q. I'll hand that to you and take this unless  
13 you want it.

14 **A. No. It's all yours. I've got plenty.**

15 Q. Mr. Seibring, I just handed you the  
16 narrative portion of our Prosperity Wind Permit  
17 Application. If I could ask you to, please turn to  
18 page 16, specifically Section 316.

19 **A. Yes, sir.**

20 Q. Tell me when you are there. Are you  
21 there?

22 **A. Yep.**

23 Q. All right. Section 316 is a summary of  
24 the road use agreement that is included in Appendix

1 D that you just identified for us; is that right?

2 **A. Yes.**

3 Q. All right. And then, if you turn to  
4 Section 3.16.2, which is actually on page 17, so you  
5 are going to have to flip the page, it describes the  
6 payment terms; is that right?

7 **A. Yes, sir.**

8 Q. We'll come back and talk about those  
9 payment terms in just a moment, but to talk about  
10 the differences, I want to keep going. If you go to  
11 Section 3.16.3, it should be on the same page I  
12 believe.

13 **A. Next page.**

14 Q. I am sorry. Page 1. You are correct.  
15 You are faster than I am.

16 Specifically the second paragraph that  
17 begins, "There are only three differences between  
18 the Draft Road Use Agreements submitted here and the  
19 Road Use Agreement the Piatt County Board approved  
20 on March 16, 2023." Are you there yet?

21 **A. Yes.**

22 Q. I want to ask you -- and please take your  
23 time in answering these questions -- whether you  
24 agree to each of these differences.

1                   So the first difference is the name  
2 change. Pretty simple. Prosperity Wind instead of  
3 Goose Creek Wind?

4           **A.     Correct.**

5           Q.     The second difference is that we had to  
6 update the dates and deadlines, right?

7                   We had a construction schedule for Goose  
8 Creek Wind contemplating spring and summer that is  
9 no longer applicable, so we had to update those  
10 dates?

11          **A.     Correct.**

12          Q.     And you've worked with Mr. Fountain, and  
13 as far as you know Piatt County is in agreement with  
14 the dates and deadlines?

15          **A.     Correct.**

16          Q.     Which brings us to the third difference.  
17 The third difference is that we, Prosperity Wind,  
18 deleted a term that would have required an annual  
19 operations payment; is that right?

20          **A.     That is correct.**

21          Q.     All right. And so the Goose Creek Wind  
22 Road Use Agreement had an annual operations fee  
23 that, when you totaled it up amongst the three  
24 agreements, it came to \$180,000 per year; is that

1 right?

2 **A. Sounds correct.**

3 Q. And the problem, at least from Prosperity  
4 Wind's perspective -- I am not going to ask if you  
5 agree with this -- is that the new siting reform law  
6 explicitly prohibits fees that are not tied to  
7 construction. So an operations fee would run afoul  
8 to the new law.

9 **A. Okay.**

10 Q. Is that what you heard from us in our  
11 negotiations?

12 **A. Yes. That is what I heard from you.**

13 Q. That brings us to last year's  
14 negotiations. Is it correct that on last Monday  
15 you, me, and your attorney Ms. Churney, got on a  
16 phone call to negotiate these road use agreements?

17 **A. This is correct.**

18 Q. We basically had an agreement on all of  
19 the Goose Creek Wind terms, so we didn't have to  
20 redo all that stuff?

21 **A. Correct.**

22 Q. And we then discussed these annual  
23 operations?

24 **A. Correct.**

1 Q. And then what followed, I believe it was  
2 the next day, was Ms. Churney e-mailed a revised  
3 road use agreement for Piatt County with certain new  
4 language in it?

5 **A. Correct.**

6 Q. The new language, so that we are clear  
7 here, addressed two different topics. There was  
8 some language about technical information related to  
9 highway -- related to repairs for Highway 5; is that  
10 correct?

11 **A. Correct.**

12 Q. You would know better than I would, so  
13 correct me if I am wrong.

14 And then there was an annual fee, but it  
15 was now reworded as a post-construction review fee?

16 **A. That is correct.**

17 Q. Okay. And then last week Prosperity Wind  
18 accepted those proposed edits?

19 **A. Correct.**

20 MR. HESS: All right. I now do have the  
21 documents I would like to show Mr. Seibring and then  
22 offer as exhibits.

23 HEARING OFFICER: Yes, sir.

24 MR. HESS: I think it would probably be



1       quickest if I did all three at one time.

2                   HEARING OFFICER:   Yep.   All right.

3                   MR. HESS:   All right.   May I approach  
4 members of the ZBA?

5                   HEARING OFFICER:   Yes, you may.

6                   MR. KEYT:   Do you want them individually  
7 marked as Group Exhibit 8, or 8, 9, and 10?

8                   MR. HESS:   I am agnostic.   Whatever  
9 Mr. Kains would prefer.   I will proffer they are  
10 three fully negotiated, ready-for-execution road use  
11 agreements, one with Piatt County and one each with  
12 of the townships.   We can make them separate  
13 exhibits.

14                   HEARING OFFICER:   Let's, for the ease of  
15 understanding because they are separate negotiated  
16 agreements with prospective road districts and the  
17 county, let's refer to them as 8, 9, and 10.

18                   MR. HESS:   Yes, sir.

19                   HEARING OFFICER:   Very good.

20       BY MR. HESS:

21           Q.     So then, starting with the Piatt County  
22 Road Use Agreement -- so, Mr. Seibring, if you would  
23 look on the very first page, the very first line, it  
24 should say Piatt County.

1           **A.     Yes, sir.**

2           Q.     Is this the fully negotiated road use  
3 agreement that we had agreed to?  And we'll get to  
4 today's last-minute changes.

5           **A.     Okay.**

6           Q.     Yes, sir.

7           **A.     Okay.**

8           Q.     We had reached an agreement on principle  
9 by the end of last week?

10          **A.     Without reading this, I will make the**  
11 **assumption that this is the agreement that we came**  
12 **to.**

13          Q.     How about this:  I will proffer for you  
14 this is the agreement that was attached to  
15 Ms. Churney's e-mail to you and I last Wednesday.

16          **A.     Perfect.**

17                 MR. HESS:  All right.  Then I would move  
18 to admit the Piatt County Prosperity Wind Road Use  
19 Agreement as Applicant's Exhibit 8.

20                 HEARING OFFICER:  Yes.  Applicant's 8 is  
21 admitted.

22                         (APPLICANT'S EXHIBIT 8 - PIATT COUNTY  
23 AGREEMENT.)

24                 BY MR. HESS:

1           Q.     Now, let's make sure we clarify the  
2 record. Did Ms. Churney e-mail several of us today  
3 with a few additional edits?

4           **A.     Yes.**

5           Q.     I'll proffer I did not have time to print  
6 those. Those came in about 3:00.

7           **A.     3:13.**

8           Q.     Would you agree that they were  
9 non-substantive? I think one was a correction of  
10 signature block and an extra line.

11          **A.     Yes.   Minor details.**

12          Q.     All right. So that is the Piatt County  
13 Road Use Agreement.

14                 If we next go to the Blue Ridge Township  
15 Road Use Agreement, would you agree, looking at it,  
16 this is the agreement that I had attached to an  
17 e-mail saying this is our final ready-for-execution  
18 agreement between Blue Ridge Township and  
19 Prosperity?

20          **A.     That would be correct.**

21          Q.     And again, just to clarify, late this  
22 afternoon there were a few last-minute additions  
23 that I was not able to get in this printing that are  
24 non-substantive; is that fair?

1           **A.     That's correct.**

2           Q.     That we need to clean up?

3           **A.     Yes.**

4                   MR. HESS:  At this time, Mr. Kains, I  
5 would move to admit the Blue Ridge Township  
6 Prosperity Wind Road Use Agreement as I believe  
7 Applicant's Number 9.

8                   HEARING OFFICER:  Yes.  Applicant's  
9 Number 9 admitted.

10                   (APPLICANT'S EXHIBIT 9 - BLUE RIDGE  
11 TOWNSHIP AGREEMENT.)

12           BY MR. HESS:

13           Q.     Almost done, Mr. Seibring.  The last one  
14 would be the Goose Creek Township Road District  
15 Prosperity Wind Road Use Agreement that I've handed  
16 you.  Looking at it, does this also look like the  
17 Goose Creek Township agreement that I had attached  
18 to my e-mail representing the final,  
19 ready-to-be-executed road use agreement?

20           **A.     I don't remember if you sent one specific**  
21 **to Goose Creek or not.  If you did -- there has been**  
22 **a lot of them going back and forth.  I would make**  
23 **the assumption that that was the intent of what this**  
24 **is.  Yes.**

1 Q. And let me ask the same question in a  
2 slightly different way. Would you agree that  
3 Ms. Churney, your attorney, also had last-minute  
4 edits at about 3:13 today to this agreement as well?

5 **A. Yes.**

6 Q. So this agreement, is it fully executable  
7 except for those non-substantive edits?

8 **A. That's correct.**

9 MR. HESS: At this point, Mr. Kains, I  
10 would move to admit Goose Creek Township Prosperity  
11 Wind Road Use Agreement into evidence as Applicant's  
12 Exhibit 10.

13 HEARING OFFICER: Yes. Applicant's  
14 Exhibit 10, Goose Creek Township Road Use Agreement,  
15 is admitted in evidence.

16 (APPLICANT'S EXHIBIT 10 - GOOSE CREEK  
17 TOWNSHIP AGREEMENT.)

18 BY MR. HESS:

19 Q. Okay. Mr. Seibring, you have been very  
20 generous with your time, and I only have a few more  
21 questions for you. I think for these we can focus  
22 on the Piatt County Road Use Agreement.

23 I want to make sure that the record is  
24 clear and the ZBA is clear about how these road use

1 agreements were set up to work.

2 It's 80 pages. We are not going to go  
3 through all of it, but would you agree that  
4 Section 1, which begins on page 4 and is a very  
5 short section, are the authorizations for Prosperity  
6 Wind to use county roads?

7 **A. That would be correct.**

8 Q. It's probably one of the shorter sections  
9 in the agreement?

10 **A. Yes.**

11 Q. What then follows are all of the things  
12 Prosperity Wind has to do in exchange for all of  
13 those authorizations?

14 **A. That is correct.**

15 Q. Okay. So let's talk about that. For  
16 example, if you go to page 7, Section D, so this is  
17 Section 2(d) on page 7, it is a long section titled  
18 Matters to be Completed Before Project Construction  
19 Begins; is that right?

20 **A. Yes.**

21 Q. So it then outlines all of the things that  
22 Prosperity Wind has to do even before they could  
23 begin construction?

24 **A. Correct.**

1 Q. All right. I want to give a couple  
2 highlights for the ZBA.

3 On page 9, if you go to Section 4, would  
4 you agree that under this road use agreement the  
5 road authority has to sign off on all of the  
6 pre-construction documents before Prosperity Wind  
7 can start transporting equipment?

8 **A. That's correct.**

9 Q. And I would assume that you are going to  
10 be active on the road authority's behalf for much of  
11 this?

12 **A. Yes.**

13 Q. All right. And so you have to -- you have  
14 to approve the transportation impact analysis; is  
15 that right?

16 **A. That is correct.**

17 Q. You have to approve the pre-construction  
18 plan?

19 **A. Correct.**

20 Q. You have to approve the projected scope of  
21 repairs?

22 **A. That is correct.**

23 Q. And under this particular provision we  
24 have to get your approval before we can bring any

1 equipment?

2 **A. That is correct.**

3 Q. All right. If we go to page 10, the A at  
4 the very top, so that we are making the record here,  
5 this would be one of the new edits that Ms. Churney  
6 put in last week that we agreed to?

7 **A. That is correct.**

8 Q. So this would be one of the few situations  
9 where these revised road use agreements are  
10 different than what was in our permit application?

11 **A. That would be correct.**

12 Q. Okay. Mr. Harrington had asked several  
13 questions about traffic, and then I think we heard  
14 additional questions about traffic, so let's talk  
15 about traffic provisions for just a minute.

16 We are on page 10. If you look at  
17 Section 5(a), would you agree that it requires  
18 Prosperity Wind to provide a daily plan-of-the-day  
19 report about the traffic control plan?

20 **A. Yes, sir.**

21 Q. And then, if you go to page 15, Section 9,  
22 sort of buried in the middle, Prosperity Wind has to  
23 coordinate with the road authority, specifically  
24 you, regarding the schedule of project construction



1 traffic in weekly scheduled meetings; is that right?

2 **A. That is correct.**

3 Q. All right. So that's just a highlight of  
4 all of the things Porosity Wind has to do before  
5 construction begins.

6 But if we keep moving on, starting in  
7 Section E, which is on page 14, there is an entire  
8 section of ongoing obligations.

9 **A. Yes, sir.**

10 Q. So the way this agreement was structured,  
11 would you agree, there are things Prosperity Wind  
12 has to do before construction to get your approval,  
13 and there are things that they have to do on an  
14 ongoing basis?

15 **A. Correct.**

16 Q. And a lot of Section E, which is very long  
17 or very technical requirements, if you just flip  
18 through it, this is what the marathon section in  
19 March probably took all the time?

20 **A. Yes, sir.**

21 Q. And so, for example, if you look just  
22 still on page 14, under (e)(2), an ongoing  
23 obligation is horizontal and directional boring  
24 anytime collection of cables are going to cross any

1 roads?

2 **A. Yes, sir.**

3 Q. And it gives very specific requirements  
4 about the pipes and distance that all that is going  
5 to have to go under?

6 **A. Correct.**

7 Q. Okay. And then, just to give one more  
8 example of the level of detail, if you look under  
9 Subsection 8 on page 15 -- I am going to try to  
10 hopefully move this through in order here --  
11 Prosperity Wind actually has to execute releases to  
12 you that would allow you to contact our vendors to  
13 get their delivery schedule?

14 **A. Correct.**

15 Q. So if, for some reason, you didn't believe  
16 our traffic schedule, you can go straight to the  
17 vendor?

18 **A. Yes, sir.**

19 Q. All right. And then, if we can jump ahead  
20 a little bit to page 21, subsection 37 is the first  
21 payment provision in these agreements. Here we see  
22 a \$500,000 road permit fee; is that right?

23 **A. That's correct.**

24 Q. And you can look at the other agreements

1 if you want. Section 37 has the same road permit  
2 fee, but the amounts are different?

3 **A. Correct.**

4 Q. And they add up to \$3 million total?

5 **A. Correct.**

6 Q. I want to go to the concern that Mr. Reed  
7 expressed earlier tonight. It talked about shoulder  
8 drop-off. The shoulder drop-off is actually  
9 addressed specifically in this road use agreement?

10 **A. It is.**

11 Q. Because it was a heavily negotiated term?

12 **A. It was.**

13 Q. So, if you go to page 16, there are two  
14 different provisions that address it, Section 16 and  
15 Section 17.

16 **A. Section 16 or page 16?**

17 Q. Page 16, and then Paragraphs 16 and 17.

18 **A. Yes, sir.**

19 Q. So, subsection 16 talks about ditch slope.  
20 It requires a 3 to 1 ditch slope where possible; and  
21 if it's not possible, then the parties have to work  
22 together to basically figure out a solution; is that  
23 right?

24 **A. That is correct.**

1           Q.     And then, to specifically address  
2     Mr. Reed's concern, paragraph 17, if local roads  
3     degrade -- and the definition of degrade includes  
4     drop-offs from the road-to-road shoulder that are  
5     not a smooth transitioning -- Prosperity Wind has to  
6     fix it, right?

7           **A.     That is correct.**

8           Q.     And later on down there it says, if it's  
9     an emergency condition, they have to fix it right  
10    away or you can fix it and bill us for it?

11          **A.     Correct.**

12          Q.     All right. So then that brings us to the  
13    post-construction roadwork. So, just to orient the  
14    ZBA, we've talked about everything that has to be  
15    done pre-construction, everything that has to be  
16    ongoing, and now let's talk about what happens at  
17    the end of construction.

18                 If you go to page 22, Section 3 addresses  
19    post-construction roadwork; is that right?

20          **A.     Correct.**

21          Q.     And in the very first sentence,  
22    Section 3(a) states, "The parties agree that the  
23    road authority will perform the post-construction  
24    surface repair work." Did I read that right?

1           **A.     That's correct.**

2           Q.     I want to make sure that is clear.  Would  
3     you agree, in your review of all of these other road  
4     use agreements, that's relatively unusual?

5           **A.     Yes.**

6           Q.     And so there were a lot of questions and  
7     concerns in the Goose Creek wind hearing about,  
8     well, what happens if Apex just never repairs the  
9     roads at the end?

10          **A.     Correct.**

11          Q.     And that was a big topic in the  
12     negotiations in March?

13          **A.     Yes.**

14          Q.     And the solution that we've agreed to in  
15     these agreements is that Prosperity Wind is going to  
16     make a very large surface repair treatment payment?

17          **A.     Correct.**

18          Q.     And then it will be your responsibility to  
19     hire a vendor of your choosing, decide the schedule,  
20     and do it to your satisfaction?

21          **A.     Correct.**

22          Q.     So, obligations for surface repair  
23     treatment, for fixing the roads at the end of  
24     construction, Prosperity Wind is paying for it, but

1 you are in control?

2 **A. Correct.**

3 Q. And if we look through all three  
4 agreements, the section -- the payments under  
5 Section 3(a), first paragraph, total \$10 million?

6 **A. I believe that is correct. Yes.**

7 Q. And then what is different about the  
8 county agreement is that second paragraph in 3(a)  
9 that is not in the other ones, specifically for  
10 Highway 2, Prosperity Wind has agreed to pay  
11 \$5.4 million?

12 **A. Correct.**

13 Q. All right. So then the last topic I want  
14 to just get into the record here are those annual  
15 fees. So if you go to page 29 --

16 I am sorry. Before we do that, since we  
17 are going in order here, let's do the financial  
18 security section, which is Section 6 on page 26.  
19 Would you agree that these road use agreements  
20 require two different levels of financial security  
21 to protect Piatt County?

22 **A. Yes.**

23 Q. Escrow accounts and a letter of credit?

24 **A. That is correct.**

1 Q. The escrow account is \$100,000 that you  
2 can access for anything that we have failed to do?

3 **A. Correct.**

4 Q. So if we don't repair something, and you  
5 need to hire somebody to do it, the money is in a  
6 bank account for you to do it?

7 **A. Correct.**

8 Q. And then, on top of that, is a letter of  
9 credit that I believe totals across three agreements  
10 \$12.4 million as financial security. You can look  
11 through all three of them. Would you agree it's  
12 different amounts?

13 **A. Yes.**

14 Q. And millions of dollars?

15 **A. Yes, sir.**

16 Q. And the point of that is to protect Piatt  
17 County so that, if we never do what we are supposed  
18 to do, you've got a financial security?

19 **A. Correct.**

20 Q. All right. So then, lastly, let's go to  
21 Section 7, construction review, page 29. This is  
22 the section that is different than the drafts that  
23 were included with our permit application; is that  
24 right?

1           **A.     That would be correct.**

2           Q.     Because we've renamed it. In the original  
3 draft it would have been operations period, and now  
4 we are calling it construction review?

5           **A.     That is correct.**

6           Q.     All right. And then, if we flip the page,  
7 on page 30 we see in Section E, construction review  
8 fee that is paid annually.

9           **A.     Yes, sir.**

10          Q.     Would you agree that, if you add up those  
11 construction review fees in the three agreements,  
12 you get \$180,000 per year?

13          **A.     I believe so. Yes.**

14          Q.     It is dangerous when I try to do math, but  
15 with my math that is over ten years would be  
16 1.8 million.

17          **A.     That sounds about right.**

18          Q.     So, if you multiply 1.8 times 3 over  
19 30 years, that would be \$5.4 million?

20          **A.     That would be correct.**

21          Q.     To be clear, that is in today's dollars  
22 because the last sentence in (e) says that that is  
23 going to be adjusted annually based on the National  
24 Highway Construction Cost Index?



1           **A.    Correct.**

2           Q.    So those amounts will go up over time?

3           **A.    Yes.**

4           Q.    Okay.  So then the last question that I am  
5 going to pose for you is the same question that the  
6 Piatt County Board asked you in March.  Are you  
7 satisfied with these road use agreements?

8           **A.    Yes.**

9           Q.    Do you feel that Piatt County and the  
10 townships are protected?

11          **A.    Yes, sir.**

12                   MR. HESS:  Thank you, Mr. Seibring, for  
13 your time.  No further questions.

14                   HEARING OFFICER:  Thank you, Mr. Hess.

15                   Mr. Seibring, don't go away.  There's  
16 questions for you from other folks.

17                   First of all, Mr. Seibring, thank you.

18                   Questions from the members of the Zoning  
19 Board of Appeals for Mr. Seibring?

20                   All right.  Very good.

21                   Questions for Mr. Seibring from members of  
22 units of local government, including school  
23 districts?

24                   Questions from interested parties and

1 members of the public opposed to the application or  
2 neutral on the application?

3 Any questions from the public for  
4 Mr. Seibring?

5 Questions from Piatt County staff and  
6 consultants?

7 Mr. Seibring, you lucked out.

8 MR. SEIBRING: I can go?

9 HEARING OFFICER: Yes, sir. Thank you for  
10 your testimony and thank you for all of the answers  
11 that you gave Mr. Hess.

12 MR. SEIBRING: Thank you.

13 HEARING OFFICER: And all of us appreciate  
14 it. Thank you. You may step down.

15 Okay. It is 11 minutes until 9:00.

16 Who is your next witness?

17 MS. ANTONIOLLI: Our next witness is Jason  
18 Conley. He has a presentation that is approximately  
19 15 minutes, and so it's up to you if you would like  
20 to proceed with his presentation and follow-up with  
21 questions.

22 HEARING OFFICER: What is the subject  
23 matter of Mr. Conley's testimony?

24 MS. ANTONIOLLI: He's here to talk about

1 safety, both during construction and during the  
2 operations period.

3 HEARING OFFICER: Then, after Mr. Conley,  
4 who do you have?

5 MS. ANTONIOLLI: We have Brie Anderson, to  
6 my right, who will give a presentation that's  
7 probably about 20 or 25 minutes.

8 HEARING OFFICER: And the subject matter  
9 of that?

10 MS. ANTONIOLLI: She will talk about how  
11 the application complies with the WECS ordinance.

12 HEARING OFFICER: Okay. And then after  
13 Ms. Anderson?

14 MS. ANTONIOLLI: We are done with our main  
15 presentation.

16 HEARING OFFICER: And if we need to hear  
17 from Mr. MaRous and Dr. Loomis, will they be  
18 available tomorrow night?

19 MS. ANTONIOLLI: They will be available.

20 HEARING OFFICER: Okay. Mr. Chairman, it  
21 is 10 minutes until 9:00. If Mr. Conley's  
22 presentation goes 15 minutes, and then questions for  
23 him, do we want to go to 9:15 or 9:30 considering we  
24 have been here almost three hours, or do you want to

1 take up Mr. Conley tomorrow night?

2 What is the board's pleasure? I will put  
3 it all on you, Loyd.

4 MR. CHAMBERS: I would be okay with  
5 tomorrow.

6 MR. HARRINGTON: Second that.

7 HEARING OFFICER: Jim, will you be here  
8 tomorrow night?

9 MR. HARRINGTON: Yeah.

10 HEARING OFFICER: Okay. Good.

11 MR. WAX: I'd go for tomorrow.

12 HEARING OFFICER: I think that we have  
13 been here a while. I think what might be best is if  
14 we recess now, reconvene tomorrow night at 5:30 in  
15 this very room, in this location. And tomorrow  
16 night after we resume, after the recess, we'll hear  
17 from Mr. Conley, Ms. Anderson, and perhaps  
18 Mr. MaRous and Dr. Loomis.

19 Do you have any other experts here who may  
20 need to testify to clarify things?

21 MS. ANTONIOLLI: At this point, at this  
22 moment, we don't have. We don't plan to call any  
23 other experts, but we do have them available  
24 tomorrow on shadow flicker and noise. We will also

1 have an environmental expert available to answer any  
2 questions that may come up.

3 MR. HESS: All of our experts will be here  
4 tomorrow.

5 HEARING OFFICER: So we'll hear from two  
6 and then if the board -- well, the two we  
7 referenced, Mr. Conley and Ms. Anderson, and if the  
8 board wants to hear from anybody else. Okay?

9 MS. ANTONIOLLI: Yes. That is fine.

10 HEARING OFFICER: Anything else from you  
11 all?

12 MR. HESS: No, sir.

13 HEARING OFFICER: Very good.

14 Mr. Keyt, anything?

15 MR. KEYT: No.

16 HEARING OFFICER: With that, we will be in  
17 recess until 5:30 tomorrow evening in this room. We  
18 will see you all tomorrow night.

19 (HEARING IN RECESS.)

20

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CERTIFICATE OF REPORTER

I, Holly Wingstrom, CSR #84-003888, reported in machine shorthand the proceedings had in the above-entitled cause and transcribed the same by computer-aided transcription, which I hereby certify to be a true and accurate transcript of the proceedings had.

  
Holly Wingstrom, CSR #84-003888  
Official Court Reporter

Dated: 9/8/2023



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