BEFORE THE OHIO POWER SITING BOARD

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In the Matter of the	:	
Application of Republic	:	
Wind, LLC, for a Certificate	:	
Of Environmental	:	Case No. 17-2295-EL-BGN
Compatibility and Public	:	
Need for a Wind-Powered	:	
Electric Generating	:	
Facility in Seneca and	:	
Sandusky Counties, Ohio.	:	

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PROCEEDINGS

Before Mr. Jay S. Agranoff and Ms. Anna Sanyal, Administrative Law Judges, at the Ohio Power Siting Board, 180 East Broad Street, Room 11-C, Columbus, Ohio, called at 9:00 a.m. on Monday, November 18, 2019.

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VOLUME VII

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Monday Morning Session,
November 18, 2019.
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ALJ AGRANOFF: Good morning, everybody. Before we actually begin with the testimony for today, I believe that there were some housecleaning matters that we needed to address in respect to conversations that we had had at the beginning of this hearing, but relative to the manuals that had been marked as confidential as Exhibit W to the Application.

And there had been a request from the Bench made to the Applicant to see whether or not any of that information that had been deemed as confidential could indeed be put on the record, and I believe at this point in time, Mr. Parram, you have made an attempt at doing so. If you could please give us an update.

MR. PARRAM: Yes, your Honor. I have redacted versions of the turbine manuals that were submitted as part of the Application as Exhibit W. I have the full redacted versions here that I'm going to mark as Exhibit 1M, which will be the redacted Exhibit W to the Amended Application filed on 12-26, 2018.

ALJ AGRANOFF: And that's replacing what was previously Exhibit 1L?

MR. PARRAM: Yes, your Honor.

ALJ AGRANOFF: Do you want to just substitute this exhibit as the new 1L to replace the old one?

MR. PARRAM: That will work -- that works, too, your Honor.

ALJ AGRANOFF: That way there's no reason to have confusion.

MR. PARRAM: So we'll just call it 1L.

ALJ AGRANOFF: So this will replace the previously admitted 1L. And then with respect to the public information relative to these manuals, that will be 1M?

MR. PARRAM: Yes, your Honor.

ALJ AGRANOFF: 1L is the unredacted and 1M is the redacted.

MR. PARRAM: Yeah. So, your Honor, currently confidential Exhibit 1L is the unredacted Exhibit W.

ALJ SANYAL: Okay. So there's no change to 1L then?

MR. PARRAM: Your Honor, I think -- let me clarify. The -- so currently the Exhibit 1L is

the confidential unredacted Exhibit W to the Amended Application.

ALJ SANYAL: Which has always existed as a thing.

ALJ AGRANOFF: That's true.

MR. PARRAM: So I think this should just be the redacted version. We'll mark it as 1M. This is the public version. So no change to 1L.

ALJ AGRANOFF: 1L remains in its entirety redacted -- unredacted, and will be kept under seal?

(EXHIBIT MARKED FOR IDENTIFICATION.)

MR. PARRAM: Yes. I'm going to mark this as 1M. These are the redacted versions.

And on another note, your Honor, with respect to the Nordex safety manual, there's been confidential testimony regarding a portion of the safety manual.

Now that I have the redacted version of the manual for the manufacturer, the confidential portion related to a recommended safety setback, that's actually not confidential, and it is not redacted within this document.

So what -- I believe that since the only confidential testimony that we have had in the

proceeding thus far has related to this setback which has been confidential, I don't believe we need a confidential portion of the testimony, or portion of the record in this case.

ALJ SANYAL: And that's Staff Witness Conway's testimony?

MR. PARRAM: That's Staff Witness Conway's testimony. And then also, we had a confidential portion for cross-examination of Company Witness Carr, and the only questions during that cross-examination of Mr. Carr was about the setback that is within the manual, which is not confidential information. So therefore, I don't believe we need any confidential record.

ALJ AGRANOFF: Okay. So we'd only had a sealed record with respect to the cross-examination of Mr. Conway?

MR. PARRAM: And Mr. Carr, your Honor.

ALJ AGRANOFF: So then both of those sealed portions of the transcript will now be included as part of the public record?

MR. PARRAM: Yes.

ALJ AGRANOFF: Okay. It will be so directed.

Any other housecleaning?

MR. PARRAM: Actually --

MS. BAIR: May I follow up on that? So there's nothing confidential in the record whatsoever, right?

MR. PARRAM: Correct.

MS. BAIR: And Staff Exhibit 5A is public now?

ALJ SANYAL: Yes, we can replace Staff Exhibit 5 with the 5A.

MS. BAIR: Okay.

ALJ SANYAL: If that's okay.

MS. BAIR: Yeah, that's fine.

MR. PARRAM: Another item. On Friday when Mr. Zeto was on the stand he made reference to an ODNR April 27, 2018 letter. I have a copy of that that I'd like to have marked as an exhibit.

ALJ AGRANOFF: Okay.

MR. PARRAM: And I'm going to mark that as Applicant Exhibit 40.

ALJ AGRANOFF: It will be so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MR. PARRAM: Another procedural item, your Honor, before we get started here. Thank you for your patience.

I've already handed out a document that

has been marked as LR Exhibit 3A. Do you have that up there, your Honor?

ALJ AGRANOFF: Uh-huh.

MR. PARRAM: LR Exhibit 3A is amended responses for -- Republic Wind's Amended Responses to the Local Residents' Third Set of Interrogatories and Requests For Production of Documents.

Your Honor, we previously had marked LR Exhibit 3 which was Republic Wind's initial responses to the discovery requests for the local residents. Subsequent to this being marked and admitted as an exhibit, we discovered there was an error in one of the responses of Republic Wind.

What I've done, and I conferred with Mr. Van Kley regarding these responses, is provided a redline copy of the changes to some of the interrogatory answers, and then also provided a clean copy of the updated responses, and then also included an updated verification page for Mr. Isaac Old who was responsible for some of the amended responses.

And for clarity of the record, I'm marking this as LR Exhibit 3A, so that way you can track what was the initial LR Exhibit 3 and this updated response.

ALJ AGRANOFF: Mr. Van Kley, you're okay

with that?

MR. VAN KLEY: Yes, your Honor.

(EXHIBIT MARKED FOR IDENTIFICATION.)

ALJ AGRANOFF: So at this point in time we'll have Applicant Exhibit 40, as well as LR Exhibit 3A, and Exhibit 1L -- Applicant Exhibit 1M all admitted as part of the record at this time.

(EXHIBITS ADMITTED INTO EVIDENCE.)

MR. VAN KLEY: What is Exhibit 1M?

ALJ AGRANOFF: 1M is the public manual information that corresponds to the previously identified 1L. Does that cover all the cleanup?

MR. PARRAM: Yes, your Honor.

ALJ AGRANOFF: Thank you. At this point in time, Mr. DeVine, are you ready to call Mr. McCallister?

MR. DE VINE: We are. We would call Bill McCallister.

ALJ AGRANOFF: Please come forward, sir. Please raise your right hand. Do you solemnly swear the testimony you're about to give in this proceeding is the truth, the whole truth, and nothing but the truth?

MR. MC CALLISTER: I do.

ALJ AGRANOFF: Please be seated.

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Bill McCallister,

being first duly sworn, as prescribed by law, was examined and testified as follows:

DIRECT EXAMINATION

By Mr. DeVine:

Q. Could you please state your name for the record?

A. Bill McCallister.

(EXHIBIT MARKED FOR IDENTIFICATION.)

By Mr. DeVine:

Q. And I've handed you what's been previously marked as Seneca County Park District Exhibit No. 3. Do you have that document in front of you?

A. Yes.

Q. What is Seneca County Park District Exhibit No. 3?

A. It is the direct testimony from me.

Q. And if I asked you the questions in Exhibit 3, Park District Exhibit 3, would your answers be the same today?

A. Yes.

Q. Any changes or corrections that you're aware of that need to be made to this document?

A. Not that I am aware of.

Q. Was Seneca County Park District Exhibit 3 prepared by you or under your direction?

A. Yes.

Mr. DeVine: At this point, your Honors, we would move for the Exhibit -- move for the admission of Seneca County Park District Exhibit 3 subject to cross-examination, and would tender Mr. McCallister for same.

ALJ AGRANOFF: Thank you. Mr. Parram?

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CROSS-EXAMINATION

By Mr. Parram:

Q. Good morning, Mr. McCallister.

A. Good morning.

Q. Are you a biologist by trade?

A. No, I'm not.

Q. Have you had any experience performing any bat surveys?

A. No, I haven't.

Q. Any surveys regarding any avian species?

A. No.

Q. Any raptor nest surveys, eagle nest surveys?

A. No.

Q. If you go to question 6 of your testimony, which is on the third page.

A. Yes.

Q. You state that you believe that you'll be able to see a wind turbine in every direction at the Bowen Nature Preserve. Do you see that?

A. Yes.

Q. How did you come to that understanding?

A. I saw a map with the proposed locations for the turbines, and as recently as two days ago, on Saturday, I went out to the park with the map and visualized it myself.

Q. How many turbines did you see?

A. I didn't see any.

Q. Well, I'm saying when you visualized, how many turbines were you visualizing? I'm sorry.

A. I visualized probably 15 -- 15 to 20, I would say, just judging the distance from where I was standing and guessing how far they would be.

Q. When you say you were guessing how far they would be, you didn't have any actual measurement of how far the turbines were back from where you're standing?

A. No, I did not have any.

Q. And how did you visualize or identify

the exact location of where each turbine would be?

A. I didn't know the exact location. I think I'm fairly good at estimating distances, but I didn't have an exact measurement, no.

Q. And when you were visualizing this, were there any structures in front of your line of sight that would have blocked the proposed turbine?

A. Could have been some structures, barns, things like that. There were no -- there were no towers at all. The only kind -- there were no cellphone towers. There were telephone poles, was about the only kind of a structure, I guess you'd say. But there were -- there was woods and there's some farms that are scattered around.

Q. Do you have a copy of Park District Exhibit 1 in front of you?

MR. DE VINE: I have it if you want me to -- you want 2, also?

MR. PARRAM: Yes, if you could, please.

By Mr. Parram:

Q. Mr. McCallister, quickly on Exhibit 1, what was your involvement in preparing Exhibit 1?

A. I didn't have any involvement in preparing it.

Q. Who prepared it?

A. I really don't know who prepared it.
Q. When is the first time you saw it?
A. Approximately ten days ago.
Q. Who provided it to you?
A. Mr. DeVine.
Q. So on line 41 it says 21 turbines are to be constructed within two and one-half miles of the nature preserve. Do you see that?
A. Yes.
Q. Where did you obtain this information?
A. Where did I obtain it?
Q. Yes.
A. From looking at this map, and also in consultation with Mr. DeVine.
Q. And this map, you're referring to Exhibit 1?
A. Exhibit 1.
Q. Okay. And ten turbines are to be constructed within one mile of the nature preserve. How did you come up with that information?
A. The same way.
Q. Okay.
A. May I also add, I also spoke with our park director, Sarah Betz, about this as well.
Q. What is the Aeronautical Study No.

2018-WTE-11673-OE?

A. If I recall, I did see that, it was the -- I believe it had to do with the normal flight patterns of airplanes and other flying -- primarily airplanes in the area, and how they would be affected by this, if I'm recalling right.

Q. So in the sentence it says, "This exhibit was created using the latitude and longitude for the proposed turbines..." You don't know how this exhibit was actually created, do you?

A. I don't know.

Q. Okay.

A. I don't know exactly, no.

Q. So this sentence isn't accurate; is that correct?

A. Pardon? What was your question?

Q. Where you testified that this exhibit was created using the latitude and longitude for the proposed turbines provided on the FAA document dated June 26, 2019, you don't actually know how this exhibit was created; is that correct?

A. That's true.

Q. And because you don't know how this exhibit was actually created, you don't know if it fairly or accurately depicts the location of the

Bowen Nature Preserve, do you?

A. I guess I don't know that for sure, no.

Q. Okay.

MR. PARRAM: Your Honor, I would move to strike sentence 43 through 48 of the witness' testimony.

ALJ AGRANOFF: Where on line 43 do you want that to begin?

MR. PARRAM: "This exhibit was created using the latitude..."

ALJ AGRANOFF: Through the word "Preserve" on 48?

MR. PARRAM: Yes.

ALJ AGRANOFF: Mr. DeVine?

MR. DE VINE: Can I ask the witness a question before you make your ruling, for clarification of my understanding?

ALJ AGRANOFF: I've given you the opportunity to respond how you believe you'd like to.

MR. DE VINE: Mr. McCallister, to the best of your knowledge, was Exhibit 1 created using the latitude and longitude for the proposed turbines provided on the FAA document dated 6-26-2019?

MR. PARRAM: Your Honor, I object. His testimony doesn't say to the best of his knowledge,

it says the exhibit was created using the latitude and longitude. The testimony says what it says.

ALJ AGRANOFF: I agree with Mr. Parram in that respect. So is there something that you'd like to add as to --

MR. DE VINE: I would move to amend the testimony of Mr. McCallister to add the words, "To the best of my knowledge," prior to the word this in line 43 of his testimony.

MR. PARRAM: And I would oppose that motion.

ALJ AGRANOFF: Mr. McCallister, separate and apart from the exhibit that we were just looking at, specifically Seneca County Park Exhibit 1, do you have familiarity with the location of the Bowen Nature Preserve?

THE WITNESS: Yes.

ALJ AGRANOFF: And separate and apart from this particular map, do you have familiarity with the proposed locations of the 21 turbines?

THE WITNESS: I have familiarity just from standing at the park and looking out from the park itself. I haven't -- I haven't driven to each site or something like that.

ALJ AGRANOFF: And separate and apart

from this particular map, are you able to state with some accuracy the distance of the proposed turbine locations from the nature preserve?

THE WITNESS: From referring to the map, Exhibit 1?

ALJ AGRANOFF: No, I'm saying separate and apart from this map.

MR. PARRAM: Well, your Honor, I would object to that question to the extent that it's been asked and answered. The witness already indicated that he didn't know the distances of the turbines with respect to the park.

ALJ AGRANOFF: I think he can say that again to my question.

THE WITNESS: I don't know the exact distances.

ALJ AGRANOFF: So the basis for the testimony as it currently is written, other than the information that is contained within this particular map that has been marked as Seneca County Park Exhibit 1, you don't have any other knowledge as to the distances between the proposed turbine locations, and the Bowen Nature Preserve?

THE WITNESS: I don't have any other knowledge, no.

ALJ AGRANOFF: At this point in time, then, I'm going to grant the motion to strike. Please proceed.

By Mr. Parram:

Q. If you go to question 8, it discusses Exhibit 2. Do you see Exhibit 2?

A. Yes.

Q. When did you first see Exhibit -- when did you first see this document?

A. I seen a lot of maps of the parks. This exact document, I would say probably ten days ago. It's very similar to other maps of our parks.

Q. You didn't prepare this map?

A. No.

Q. Do you believe it's a fair and accurate depiction of the general location of the various parks?

A. Yes.

Q. So in question 9, you talk about a two-and-a-half mile buffer; is that correct?

A. That's right.

Q. How did you come up with two-and-a-half miles?

A. Two-and-a-half is a -- it's really an arbitrary number that -- that we feel just from

standing there and looking out, and the height of these proposed wind turbines, that we feel would be a distance that they would be less intrusive into the activities of the park and people that use them. I think it's a -- to my knowledge, it's not a scientific number or anything like that.

MR. PARRAM: Okay. I have no further questions, your Honor.

ALJ AGRANOFF: Thank you. Do any of the other intervening parties or Staff have questions of Mr. McCallister?

MS. BAIR: I have no questions.

MR. VAN KLEY: No.

ALJ AGRANOFF: Redirect?

MR. DE VINE: No redirect.

ALJ AGRANOFF: Mr. McCallister, is the Bowen Nature Preserve entirely within the project area, the proposed project area?

THE WITNESS: I believe so, yes.

ALJ AGRANOFF: Based on my one question, any limited followup?

(No response.)

ALJ AGRANOFF: Thank you, Mr. McCallister.

(Witness excused.)

ALJ AGRANOFF: Mr. DeVine.

MR. DE VINE: We would move for the admission of Seneca County Park District Exhibit 3 and Seneca County Park District Exhibit 2.

ALJ AGRANOFF: Any objections, Mr. Parram?

MR. PARRAM: No, your Honor.

ALJ AGRANOFF: There being no objections, the aforementioned exhibits shall be admitted as part of the record at this time.

(EXHIBITS ADMITTED INTO EVIDENCE.)

ALJ AGRANOFF: At this point in time is Staff prepared to call their first witness?

MS. BAIR: Yes. Thank you, your Honor. Staff would like to call Derek Collins.

ALJ AGRANOFF: Please come forward, Mr. Collins.

ALJ SANYAL: Mr. Collins, do you solemnly swear or affirm that the testimony you're about to provide is the truth?

MR. COLLINS: I do.

ALJ SANYAL: You may be seated. And I understand that none of the parties have questions for Mr. Collins, correct, only me?

ALJ SANYAL: Mr. Collins, if you will --

MS. BAIR: You want me to do my --

ALJ SANYAL: Yes.

- - -

Derek F. Collins,

being first duly sworn, as prescribed by law, was examined and testified as follows:

DIRECT EXAMINATION

By Ms. Bair:

Q. Could you please state your name, and spell it for the record?

A. Derek, first name, D-e-r-e-k, middle initial F, last names Collins, C-o-l-l-i-n-s.

Q. And when the Staff Report was created in this case were you employed -- where were you employed and in what capacity?

A. I was employed by the Public Utilities Commission, the Rates and Analysis Department, and at that time I was the geologist that did all the geotechnical subsurface investigation.

MS. BAIR: And your Honor, I would like to have marked as Staff Exhibit 9, the Direct Testimony of Derek Collins.

ALJ SANYAL: So marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

By Ms. Bair:

Q. Do you recognize this document, Mr. Collins?

A. Yes, I do.

Q. And could you please identify what that is?

A. This is my prefiled testimony.

Q. And was this testimony prepared by you or under your direction?

A. Yes, it was.

Q. Do you have any changes, corrections, or additions to make to Staff Exhibit 9 at this time?

A. No, I do not.

MS. BAIR: Thank you. Your Honor, I move Staff Exhibit 9 into evidence subject to cross-examination.

ALJ SANYAL: Thank you, Ms. Bair. Does Mr. Collins have a copy of the Staff Report?

MS. BAIR: No. I'll bring one up.

ALJ SANYAL: Thank you.

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EXAMINATION

By ALJ Sanyal:

Q. Okay. Mr. Collins, if you will turn to page 2 of your testimony, and I'm looking at lines 2 to 5. So you say here that you were the analyst

pertaining to ecological impacts, public and private water supply, geology, and slopes and soil suitability, correct?

A. Yes, I did.

Q. Okay. So will you turn to page 26 of your testimony -- I'm sorry, page 26 of the Staff Report? And then the top of page 26, the Geology section, were you responsible for drafting that section?

A. I was.

Q. Okay. So I'm just going to read out some portions, and you let me know if I'm reading it correctly.

So you say in the second paragraph under the Geology section that, "The applicant has noted that 27 of the proposed 64 wind turbines are situated in areas exhibiting karst features. Where the Applicant conducts future geotechnical studies that identify karst features, those areas would be avoided for siting wind turbines." Did I read that correctly?

A. You did.

Q. Okay. So I think the 64 wind turbines is probably an outdated number, because I think the Applicant now has 50-some turbines.

And then in the last paragraph of that Geology section, you note, "Staff finds there are no particular geological features that exist that would adversely effect or restrict the construction of the wind turbines' ability." Did I read that correctly?

A. Correct.

Q. Okay. So will you please help us understand, since the area does have karst features, why Staff did not think that that would adversely affect the construction of wind turbines' abilities?

A. Because those areas have not been further studied in detail.

Q. Can you expand on that answer, by whom?

A. The Applicant will do site-specific work at each of those wind turbine locations.

Q. And when would the Applicant do that?

A. Those are, I think, 60 days prior to construction.

Q. And Staff did not do any independent research into the karst area?

A. No, they did not.

Q. Mr. Collins, if the Applicant -- when the Applicant does do their research into the area, and if they find karst features in the project area, what would Staff's expectations be at that time?

A. They would either have to address those features from a standpoint of whether those are suitable for building the wind turbines, or decide that those areas are not suitable at all for construction.

Q. Mr. Collins, what are -- what mitigation measures are available if karst features were identified -- and it's a two-parter -- and when are mitigation measures not appropriate?

A. I would probably leave that to our engineers, our Staff engineers and those who are supporting that part of the technical expertise on the project, so that's sort of outside of my realm of expertise.

Q. Okay. And do you know which Staff person that would be?

A. One of the engineers that we do have on staff that looks a lot at the foundations for these wind turbines is Andrew Conway.

ALJ SANYAL: Those are all the questions I have. Are there any questions based on the questions I have asked? I have a feeling there might be. Mr. Van Kley?

MR. VAN KLEY: Yeah, just one or two.

- - -

CROSS-EXAMINATION

By Mr. Van Kley:

Q. Mr. Collins, referring you back to some of the language that you were asked to comment on, specifically on page 26 of the Staff Report, paragraph 2, the last sentence that was read to you states, "Where the Applicant conducts future geotechnical studies that identify karst features, those areas would be avoided for siting wind turbines," what was the basis for that statement?

A. I think in some of the conversations I had with the Applicant during our field reviews and subsequent conversations, that the karst features, in the most severe cases, would probably be to their -- to the project's construction would probably be more apt to be avoided than maybe the mitigating factors of doing something more -- using constructive methods that might be more expensive in terms of trying to establish putting a wind turbine at that particular location.

MR. VAN KLEY: Okay. Nothing further.

MR. PARRAM: I do have a followup question.

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CROSS-EXAMINATION

By Mr. Parram:

Q. So with respect to that last sentence, that is not a requirement upon the Applicant to completely avoid any areas where there are karst formations when constructing wind turbines; is that correct?

A. Correct.

MR. PARRAM: That's all I have, your Honor.

ALJ SANYAL: Mr. DeVine, did you have any questions?

MR. DE VINE: No.

ALJ SANYAL: Redirect?

MS. BAIR: No redirect.

ALJ SANYAL: Thank you, Mr. Collins. We appreciate you coming by.

THE WITNESS: You're welcome.

(Witness excused.)

ALJ SANYAL: So I think we have Staff Witness Bellamy next, but we do have a pending motion, and a memo contra to review. We received the company's memo contra this morning, so we have not had the opportunity to review it. So we do need some time to kind of read through the memo contra.

MS. BAIR: I just want to make sure that

I move Staff Exhibit 9, Mr. Collins' testimony, into evidence.

ALJ SANYAL: Thank you, Ms. Bair. And are there any objections to that exhibit being admitted?

Hearing none, Staff Exhibit 9 is admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

MS. BAIR: You all need more time to consider that motion? In other words, do you want me to change the witness order, or what are we saying?

ALJ SANYAL: We haven't read the memo contra that appeared on our docket this morning, so -- we have not read it, so we can do -- if you want to take other witnesses first, we could do that, but at some point we will have to take a break and review.

MS. BAIR: Okay. I would -- let me see -- who is next?

ALJ SANYAL: It's Bellamy, Pawley, Butler, O'Dell, and Conklin.

MS. BAIR: Mr. Conklin is here. Does anyone -- if no one objects to the order being changed, we can put him on. We can certainly find other witnesses.

ALJ SANYAL: Let's do Mr. Conklin. Mr. Conklin, if you'll come up here. If you'll raise your right hand. Do you swear or affirm the testimony you're about to provide will be the truth?

MR. CONKLIN: I do.

ALJ SANYAL: Please be seated. Ms. Bair, proceed.

- - -

Tyler Conklin,

being first duly sworn, as prescribed by law, was examined and testified as follows:

DIRECT EXAMINATION

By Ms. Bair:

Q. Could you please state your name, and spell it for the record?

A. Yes. Tyler Conklin, T-y-l-e-r, C-o-n-k-l-i-n.

Q. And by whom are you employed, and what are your responsibilities?

A. I'm employed by the Public Utilities Commission of Ohio, and my responsibilities include reviewing net metering and interconnection issues, as well as working on some Ohio Power Siting Board cases.

Q. Thank you.

MS. BAIR: Your Honor, I'd like to have marked as Staff Exhibit 10 the Prefiled Direct Testimony of Tyler Conklin.

ALJ SANYAL: It is so marked.

MS. BAIR: Thank you.

(EXHIBIT MARKED FOR IDENTIFICATION.)

By Ms. Bair:

Q. Do you recognize what has been marked as Staff Exhibit 10?

A. I do.

Q. And what is that document?

A. This is my prefiled testimony.

Q. Was that testimony prepared by you or under your direction?

A. Yes.

Q. Do you have any changes, corrections, or additions that you would like to make?

A. No.

Q. If I were to ask you the questions contained in Staff Exhibit 10, would your answers be the same today?

A. Yes, they would.

MS. BAIR: Your Honor, I'd like to move Staff Exhibit 10 into evidence subject to cross-examination.

ALJ SANYAL: Thank you, Ms. Bair. I believe, Mr. Parram?

- - -

CROSS-EXAMINATION

By Mr. Parram:

Q. Good morning, Mr. Conklin.

A. Good morning.

Q. Do you have the Staff Report in front of you?

A. Yes.

Q. Can you go to Condition 56 of the Staff Report?

A. Do you know what page that is?

Q. It should be 69.

A. Okay. I see it.

Q. Did you perform any economic analysis regarding the project using the Vestas V136 at particular locations for the project?

A. Other than looking at the overall capital cost, no.

Q. Are you familiar with the Applicant's proposal to construct up to 10 -- or to use the Vestas V136 at up to 10 locations?

A. I am aware of that, yes.

Q. You didn't do any analysis to determine

the impact of using more than 10 Vestas V136 -- what impacts that would have on the overall economics to the project?

A. No, I did not.

MR. PARRAM: I have no further questions.

ALJ SANYAL: Any other cross? Redirect?

MS. BAIR: No redirect.

ALJ SANYAL: Any questions? Thank you, Mr. Conklin.

(Witness excused.)

MS. BAIR: I'd like to move Staff Exhibit 10 into evidence.

ALJ SANYAL: Any objections? Hearing none, Staff Exhibit 10 is admitted to the record.

(EXHIBIT ADMITTED INTO EVIDENCE.)

ALJ SANYAL: Let's go off the record.

(Recess taken.)

ALJ AGRANOFF: Let's go back on the record. Ms. Bair, are you ready to call your next witness?

MS. BAIR: Yes, your Honor. The Staff calls Jon Pawley as its next witness.

ALJ AGRANOFF: Please raise your right hand. Do you solemnly swear the testimony you're

about to give in this proceeding is the truth, the whole truth, and nothing but the truth?

MR. PAWLEY: I do.

ALJ AGRANOFF: Please be seated.

- - -

Jon C. Pawley,

being first duly sworn, as prescribed by law, was examined and testified as follows:

DIRECT EXAMINATION

By Ms. Bair:

Q. Mr. Pawley, could you please state your name, and spell it for the record?

A. My name is Jon Pawley. It's P-a-w-l-e-y.

Q. And by whom are you employed, and what are your responsibilities?

A. I'm employed with the Public Utilities Commission in the Department of Rates and Analysis as a Utility Specialist 3.

MS. BAIR: Your Honor, I'd like to mark the Direct Testimony of Jon Pawley as Staff Exhibit 11.

ALJ AGRANOFF: It shall be so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MS. BAIR: Thank you.

By Ms. Bair:

Q. And, Mr. Pawley, could you please identify that document?

A. Yes. It is my prefiled testimony that was filed October 28th, 2019.

Q. And was this testimony prepared by you or under your direction?

A. Yes.

Q. Do you have any changes, corrections, or additions to make to that?

A. No.

Q. And if I were to ask you the questions contained in Staff Exhibit 11 today, would your answers be the same?

A. Yes, they would.

MS. BAIR: Thank you. Your Honor, I'd like to move Staff Exhibit 11 into evidence subject to cross-examination.

ALJ AGRANOFF: Mr. Parram?

- - -

CROSS-EXAMINATION

By Mr. Parram:

Q. Good morning, Mr. Pawley.

A. Good morning.

Q. In your testimony on page 2, question

and answer 6, it indicates that you worked on portions of the Staff Report involving setbacks; is that correct?

A. Correct.

Q. And in your review of the setbacks in this case -- let me start by asking, were you involved at all in reviewing the Application prior to the Application being deemed complete?

A. In terms of setbacks, or --

Q. In general.

A. Yes.

Q. And as part of your review for the completeness review, did you review the Application with respect to setbacks?

A. No, I did not.

Q. And what was your involvement with respect to determining if particular turbines were in compliance with the Board's setback requirements?

A. In terms of the Staff Report of Investigation, my analysis was fundamentally a fact check of the information that was provided in the Application.

Q. And in that fact check were you determining whether or not certain turbines were in compliance with the Board's rules regarding setbacks?

A. No, I was determining the dimensions -- the types of turbines that were used, and the dimensions that the Applicant presented. I was fact checking the distances to make sure that they complied with the layout of the setback parameters that were in the Application.

Q. And when you say complied with the layout, were you -- did you have any involvement in determining whether certain turbines were in compliance with the Board's rules regarding setbacks from roads?

A. I did not perform a legal analysis regarding which rules should apply.

Q. Did you perform an analysis regarding whether or not certain turbines were -- what distance they were from public roads?

A. Yes.

Q. And in your analysis, in looking at how far turbines were set back from roads, were you looking at a set of rules?

A. No, I was reviewing the information that was provided in the Application, which I believe was presented as greater than about 660 feet and less than 1,371 feet. That's what I was trying to determine.

Q. Okay. And then after you made that determination, was there another Staff person that made a determination whether or not those setbacks were in compliance with the rules?

A. I don't know -- I don't know if Staff members looked at the information that was provided from a legal perspective, legal filing requirement perspective.

Q. Okay. Do you have a copy of the Staff Report in front of you?

A. Yes.

Q. Okay. If you go to page 67, and look at Condition 42.

A. Yes.

Q. There's a discussion regarding turbines 10, 38, and 43. Do you see that there?

A. I do.

Q. Did you have any involvement in analyzing the setbacks with respect to 10, 38, and 43?

A. As it pertains to this Condition, no.

Q. Did you have any involvement in looking at those particular turbines to determine how far back they are from roads?

A. Yes. I believe there were data requests

between Staff and the Applicant that had some determination on those numbers.

Q. Okay. And you reviewed those data requests?

A. I did.

Q. And do you recall what the responses indicated with respect to the distances for those turbines?

A. Specifically, no. But I do recall that they were not within 660 feet, but I don't remember the exact distance.

Q. And did you issue that data request?

A. No -- I retract that. I issued -- there were some questions internally based on GIS review that I had some questions about distances to pipelines and roads, but I think another Staff person actually issued it to the Applicant.

ALJ AGRANOFF: Just so the record is clear, the acronym GIS?

THE WITNESS: Geographic Information Systems. It's a mapping tool.

ALJ AGRANOFF: Thank you.

By Mr. Parram:

Q. Are you familiar with 4906-408(C)(2) that's spelled out in Condition 42?

A. I'm familiar with it, yes.

Q. Okay. What is the minimum setback that is -- that is -- that these turbines are not compliant with?

A. I do not know the answer to that question because I didn't write the Condition.

MR. PARRAM: I have no further questions, your Honor.

ALJ AGRANOFF: Questions from either Mr. Van Kley or Mr. DeVine?

MR. VAN KLEY: No.

MR. DE VINE: No.

ALJ AGRANOFF: Redirect?

MS. BAIR: No redirect.

ALJ AGRANOFF: Thank you, Mr. Pawley.

THE WITNESS: Thank you.

(Witness excused.)

MS. BAIR: Staff would like to move Staff Exhibit 11 into evidence.

ALJ AGRANOFF: Any objection?

There being none, Staff 11 shall be admitted as part of the record at this time.

(EXHIBIT ADMITTED INTO EVIDENCE.)

ALJ AGRANOFF: Ms. Bair, your next witness?

MS. BAIR: Staff calls Matthew Butler to the stand, please.

ALJ AGRANOFF: Please raise your right hand. Do you swear the testimony you're about to give in this proceeding is the truth and nothing but the truth.

MR. BUTLER: I do.

ALJ AGRANOFF: Please be seated.

- - -

Matthew Butler,

being first duly sworn, as prescribed by law, was examined and testified as follows:

DIRECT EXAMINATION

By Ms. Bair:

Q. Can you please state your name for the record, and spell it?

A. Matthew Butler, M-a-t-t-h-e-w, B-u-t-l-e-r.

Q. By whom are you employed and in what capacity?

A. I'm employed by the Public Utilities Commission of Ohio as an Administrative Officer 2 in the Rates and Analysis Department.

MS. BAIR: Your Honor, I'd like to have marked as Staff Exhibit 12 the prefiled testimony of

Matthew Butler filed on October 28th.

ALJ AGRANOFF: It shall be so marked.

(EXHIBIT MARKED FOR IDENTIFICATION.)

MS. BAIR: Thank you.

By Ms. Bair:

Q. Do you recognize what has been marked as Staff Exhibit 12?

A. I do.

Q. Was this prepared by you or under your direction?

A. It was.

Q. Do you have any changes, additions, or corrections to make to that at this point?

A. No.

Q. And if I were to ask you the questions contained in Staff Exhibit 12, would your answers be the same today?

A. Yes.

MS. BAIR: Thank you. I'd like to move Staff Exhibit 12 into evidence subject to cross-examination.

ALJ AGRANOFF: Mr. Parram?

MR. PARRAM: No questions, your Honor.

ALJ AGRANOFF: Mr. Van Kley?

MR. VAN KLEY: Yes. I'd like the

witness to take a look at a previously introduced Exhibit, LR Exhibit 11. Is there a copy of that at the Bench -- I mean, at the witness stand?

THE WITNESS: It doesn't look like it.

MS. BAIR: Would you please let us know what this is?

MR. VAN KLEY: It's a set of emails between Mr. Butler and Mr. Carr. Looks like this.

MS. BAIR: Exhibit 11? Do you have an extra one?

MR. VAN KLEY: I don't.

- - -

CROSS-EXAMINATION

By Mr. Van Kley:

Q. All right. Mr. Butler, I have handed you what has been marked as LR Exhibit 11. Do you recognize that as a series of emails between you and Dalton Carr?

A. Yes, it looks like this was an exchange -- email exchange from about two years ago.

Q. Okay. Please take a look at the second page of that exhibit. At the bottom of that page you'll see an email from you to Dalton Carr dated December 18, 2017, at 2:42 p.m. Do you see that?

A. I do.

Q. I'd like to direct your attention to the text of that email where it says, "Hello, Dalton, I see that all of the letters are addressed to either the Seneca or Sandusky County Commissioners, and on none of them is the Board copied. Additionally, comments are typically sent directly to the Board by commenters rather than form letters forwarded to us by an Applicant. I'm concerned about adding these letters to -- in the docket under these circumstances. It would be more meaningful if individuals sent their letters to the Board themselves."

Do you see that language?

A. I do.

Q. My question to you is, why were you concerned about adding these letters in the docket under these circumstances?

A. Because I think that it's important for a comment to the Board to be addressed to the Board.

Q. And why do you believe that?

A. I think for the simple reason that if someone is expressing a comment to someone, that they should express that comment directly, rather than have that comment be forwarded by someone else.

MR. VAN KLEY: Okay. All right. I have

no further questions.

ALJ AGRANOFF: Mr. DeVine?

MR. DE VINE: None.

ALJ AGRANOFF: Any redirect?

MS. BAIR: No redirect.

- - -

EXAMINATION

By ALJ Sanyal:

Q. Mr. Butler, on page 2 of your testimony, line 2, you say, "I authored portions of the Staff Report." Which ones did you author?

A. It's the Public Participation and Interaction section.

Q. Which page is that?

A. One second here.

Q. Sure.

A. It would be on pages 55 and 56.

Q. Thank you.

A. Sure.

ALJ AGRANOFF: Based on Ms. Sanyal's limited questioning, any followup from counsel?

MS. BAIR: No.

MR. PARRAM: No, your Honor.

ALJ AGRANOFF: Thank you, Mr. Butler.

(Witness excused.)

MS. BAIR: And I'd move Staff Exhibit 12 into evidence.

ALJ AGRANOFF: Any objections?

MR. PARRAM: No, your Honor.

ALJ AGRANOFF: There being none, Staff Exhibit 12 shall be admitted as part of the record at this time.

(EXHIBIT ADMITTED INTO EVIDENCE.)

MS. BAIR: Staff would like to call James O'Dell as the next witness.

ALJ SANYAL: Mr. O'Dell, if you'll raise your right hand. Do you solemnly swear or affirm the testimony you're about to provide is the truth?

MR. O'DELL: Yes, your Honor.

ALJ SANYAL: You may be seated.

THE WITNESS: Thank you.

- - -

James S. O'Dell

being first duly sworn, as prescribed by law, was examined and testified as follows:

DIRECT EXAMINATION

By Ms. Bair:

Q. Mr. O'Dell, could you please state your name and spell it for the record?

A. Yes. James O'Dell, J-a-m-e-s,

O-'-D-e-l-l.

Q. By whom are you employed and what are your responsibilities?

A. I'm employed by the Public Utilities Commission of Ohio. I am a Utility Specialist 3, working primarily on Power Siting applications.

MS. BAIR: Your Honor, I would like to mark the prefiled testimony of James O'Dell, docketed on October 28th, as Staff Exhibit 13.

ALJ SANYAL: It is so marked.

MS. BAIR: Thank you.

(EXHIBIT MARKED FOR IDENTIFICATION.)

By Ms. Bair:

Q. Do you recognize this document, Mr. O'Dell?

A. Yes.

Q. And what is this document?

A. This is my prefiled testimony.

Q. And was this prepared by you or under your direction?

A. Yes.

Q. Do you have any changes or corrections to make to this document today?

A. I do not.

Q. And if I were to ask you the questions

contained in Staff Exhibit 13, would your answers be the same?

A. Yes, they would.

MS. BAIR: Your Honor, I'd like to move Staff Exhibit 13 into evidence subject to cross-examination.

ALJ SANYAL: Thank you, Ms. Bair. Mr. Parram, questions?

MR. PARRAM: No, your Honor.

ALJ SANYAL: Mr. DeVine?

MR. DE VINE: Yes.

- - -

CROSS-EXAMINATION

By Mr. DeVine:

Q. Good morning, sir.

A. Just to let you know, my hearing has declined a little bit. I need to get some hearing aids.

Q. If you can't hear me, let me know.

A. Yes, sir.

Q. How many state, local, or federal parks are located within the proposed project area?

A. I believe, if I could reference the Staff Report, I've answered that question. My knowledge is there's no federal or state, but there

is a local county park, I believe.

Q. Okay. And which park is that?

A. I don't recall the name of it, sir. I think it might be -- well, I don't recall the name for sure, sir.

Q. Would the name of that park be in the Staff Report?

A. I don't think we specifically named that park.

Q. Okay. In your testimony, page 2, line 20, you reference conducting site visits to the proposed facility location.

A. Yes, sir.

Q. Did you visit Bowen Nature Preserve when you did your site visits?

A. No, sir, I did not visit that specific park, sir.

Q. Did you visit any parks?

A. No, sir, we didn't -- I toured the area, but did not visit -- recall going into any specific parks, sir.

Q. And that same question, line 21 after the comma, you have, "...acquiring additional information from the Applicant..." Did you acquire any additional information from the Applicant related

to parks in the project area?

A. Not that park, sir.

Q. You indicate you obtained input from state agencies.

A. Yes.

Q. Did you get any input from county agencies?

A. No, sir.

Q. Did you get input from any local form of government, whether it be a municipality or township?

A. No, sir, other than what might be in the docket or whatever comments they might make.

Q. Okay. So you're familiar with information that's in the docket?

A. Somewhat.

Q. Okay. Did you see the proposed testimony of Sarah Betz from the Seneca County Park District?

MR. PARRAM: Objection, your Honor. Mrs. Betz' testimony was not submitted in this case, there was a supplemental witness, Mr. McCallister. To the extent there's questions asking about testimony that has been withdrawn, that's objectionable.

MR. DE VINE: My question was whether he

knew somebody from the park district filed something on October 28th indicating issues with the project. I'm not going to ask him specifics about what she said, but my question is in general about if he knew somebody had concerns.

ALJ SANYAL: Based on that clarification you may answer the question to the extent you know, Mr. O'Dell.

THE WITNESS: Yes, there is information in the docket -- I don't recall the specifics of it at the moment here, but there is information from that person, I believe.

By Mr. DeVine:

Q. Did you review the testimony of Mr. McCallister from the Seneca County Park District?

A. I have not reviewed that.

Q. Is Seneca County Park District Exhibit 1 in front of you there, sir? It would be a color image that was out earlier.

ALJ SANYAL: This one? I want to hang on to my copy.

THE WITNESS: I do not see it in front of me, sir.

ALJ SANYAL: I think Ms. Bair is delivering a copy.

MR. DE VINE: Okay.

ALJ SANYAL: Thank you, Ms. Bair.

MR. DE VINE: Thank you very much.

By Mr. DeVine:

Q. Do you recognize what's depicted in Seneca County Park District Exhibit 1?

A. Yes, I've seen this document, sir.

Q. And do you have the Staff Report in front of you, sir?

A. Yes, sir.

Q. Could you flip to the map that is on the page after page 8 in the Staff Report?

A. What page again, sir?

Q. If you go to page 8, the next page, there's a map that's labeled "Overview Map".

A. Map page 8, yes, sir.

Q. Okay. Are you familiar with the overview map depicted on page 8 of the Staff Report?

ALJ SANYAL: I don't think you're looking -- are you looking at this map?

MR. DE VINE: Yes.

ALJ SANYAL: So go to page 8 of the Staff Report.

MR. DE VINE: I'm not sure, is that map page -- no, it's not --

ALJ SANYAL: Go to page 8 of the Staff Report, not the maps.

THE WITNESS: Just a second, please. I have page 8.

ALJ SANYAL: And that's the map.

THE WITNESS: Thank you, your Honor.

By Mr. DeVine:

Q. Are you familiar with --

MR. DE VINE: Your Honor, could you help me with -- it's not page 9, and it's not map page 1. What -- how do I describe this page?

ALJ SANYAL: We'll just call it unmarked map after page 8.

By Mr. DeVine:

Q. Are you familiar with the unmarked map after page 8 of the Staff Report, sir?

A. Yes, I'm generally familiar. It's a large area to cover, but yes.

Q. Well, you're familiar that the map depicts the project area for the Republic Wind project?

A. Yes, sir.

Q. Are you able to tell us, on the unmarked page after page 8 of the Staff Report, where Bowen Nature Preserve would be located on that map?

A. No, sir, it's not identified. It's a very small scale map.

Q. Okay. Are you able to, looking at map page 1 through 10, find where Bowen Nature Preserve would be located?

A. Those features -- this feature is not specifically identified on this map, as I believe none of the parks are. There's vegetation, roads, things of that nature, township roads, turbine locations, but I don't believe this is specifically called out in the map.

Q. And you don't have any knowledge, based on your involvement in this case, where Bowen Nature Preserve would be in relationship to the map?

A. I can't tell you specifically, sir. It's a smaller park.

Q. Can you tell me in general?

A. No, sir, I can't tell you where it's at.

Q. Did you have any contact with anybody from the Seneca County Park District?

A. No, sir.

Q. Did you visit the Seneca County Park District website?

A. No, sir.

Q. You're familiar with the Visual Impact

Assessment that was filed on December 26, 2018, as part of the Amended Application?

A. Yes, sir.

Q. Does the Visual Impact Assessment mention Bowen Nature Preserve at all?

A. I don't have a specific recollection of that, sir.

Q. Does it mention, if you recall, Clinton Nature Preserve?

A. Not to my knowledge.

Q. Okay. What about Steyer Nature Preserve?

A. No, sir.

Q. Okay. Do you have Exhibit AA available in front of you?

MS. BAIR: Is this part of the Application?

MR. DE VINE: Yes.

MS. BAIR: And it's Exhibit AA?

ALJ AGRANOFF: So it would be Exhibit AA of Exhibit 1 in this proceeding?

MR. DE VINE: Correct.

ALJ SANYAL: If you'll give me a moment to locate it.

MR. DE VINE: Sure.

MS. BAIR: What does he have?

MR. PARRAM: He's got Exhibit AA to the December Application.

THE WITNESS: It's AA, sir, filed December 2018, visual impact analysis -- excuse me, assessment.

MR. DE VINE: Yes.

MS. BAIR: It's after Z, right?

MR. PARRAM: Yes.

ALJ SANYAL: I have it.

By Mr. DeVine:

Q. If you could go to page 30.

A. Yes, sir.

Q. On the first full paragraph it starts with, "Sites that are part of the Seneca County Park District were also visited and photographed, including the Clinton and Steyer Nature Preserves. Field review ruled out visibility from the Clinton Nature Preserve, but could not rule out the possibility of open views of project turbines from the Steyer Nature Preserve." Do you see that language?

A. Yes.

Q. To your knowledge, is Clinton or Steyer Nature Preserve within the project area for the

Republic Wind project?

A. I do not know, sir.

Q. Did I understand your earlier testimony that you believe that Bowen Nature Preserve is within the project area?

A. I reviewed that, and I believe it to be true.

Q. Do you have any concerns that the Visual Impact Assessment, as it relates to Seneca County parks, visited and photographed from two parks that are not part of the project area, and excluded one that is within the project area?

A. Concerns as to how, sir?

Q. As to your testimony, as to the impact this will have to the aesthetics of the area.

A. These are relatively small parks, in general, compared to the full scope of the Application. There will be turbines visible at different points throughout the entire project area, and I would expect those would be visible from, for example, the Bowen park that you discussed earlier.

Q. How many turbines are going to be visible from Bowen Nature Preserve, in your determination?

A. I can't tell you the exact number, sir,

but just referencing this here, with this scale, could be a half a dozen, it could be more. They will be visible.

Q. From your perspective, what distance from an unobstructed view will be visible for a turbine?

A. That would depend on a great many factors such as terrain, vegetation, obviously the viewer's ability to physically see those, intervening objects, things of that nature.

Q. And you did not set foot on Bowen to make any type of determination as to whether any of these proposed turbines would be visible from Bowen, correct?

A. No, sir, I didn't, because I expected them to be visible, just like I expected the turbines to be visible at many locations throughout the project.

Q. How many turbines need to be visible before it causes you concern regarding the aesthetics of the project?

A. Aesthetics are highly subjective, always dependent upon the user. You would make a general statement as I've -- in the Staff Report about, for example, the character of -- the nature being a rural

area, the limited number of viewers, perhaps intervening objects, things of that nature, but they will be visible throughout the project area.

It is one impact that the Board would have to weigh along with many other impacts.

Q. And you don't think it's part of your job, or somebody from Staff, to actually go to the park that's in the area to take a look?

A. Sir, it's a very large park, covers many, many square miles. Staff would do its best to assess the overall impacts, but in general, when you're looking at land use impacts or aesthetic impacts, you're making an assessment about what those impacts generally would be.

Clearly, as I've said, and I'm sure many other folks have testified, they are large structures, they will be visible.

Q. Where did you visit when you went to Seneca County?

A. We toured most of the project locations, or turbine locations, many of the back roads and throughout the general vicinity of the whole project.

Q. Did you go to the City of Tiffin?

A. Yes, sir.

Q. Did you go to specific locations within

the City of Tiffin as it relates to observations you wanted to make regarding the location of the wind turbines?

A. No, sir. But like any city, there would be more objects likely to intervene between the turbines and the potential viewer.

Q. How long were you in Seneca County?

A. Five or six visits, perhaps, sir.

Q. And total time in Seneca County?

A. I couldn't say with specificity, but I would -- 40 hours perhaps over those visits. It's hard to say, sir.

Q. Did you ever stop at the park district office?

A. I did not, sir.

Q. Did you ever speak with anybody from the Seneca County Park District?

A. I did not.

Q. Do you agree with the statement that scenic quality and viewer sensitivity in park areas are relatively high due to their natural character and recreational use they receive?

MR. PARRAM: Can we have a reference?

ALJ SANYAL: Where are you reading this?

MR. DE VINE: It's in part from AA,

page 18, I believe. Yes, page 18.

THE WITNESS: Page 18?

By Mr. DeVine:

Q. The last sentence of the first paragraph.

A. The last sentence. Okay. Yes, sir, I would agree with that.

Q. To your knowledge, did anybody -- I'm sorry.

To your knowledge, did anybody from Ohio Power Siting Board Staff visit any Seneca County park?

A. It is quite possible some of our ecological folks may have done that, but I have no direct knowledge of that.

Q. Going back to Seneca County Park District Exhibit 1.

A. The map, sir?

Q. Yes.

A. Okay.

Q. Does that fairly and accurately reflect the proposed turbine locations as it relates to Bowen Nature Preserve?

A. To the best of my knowledge.

Q. Do you still have Exhibit AA from the

December 26, 2018 Application in front of you?

A. Yes, sir.

Q. In that first full paragraph --

A. On page 18?

Q. I'm sorry, on page 30. I'm sorry.

A. All right.

Q. The Visual Impact Assessment used a wire frame simulation, according to the report.

A. Okay.

Q. Do you know what a wire frame simulation is?

A. I do not.

Q. And that simulation, whatever it is, confirmed views to be completely screened from the main parking areas, trailheads, and trail network, correct?

A. Let me read that, sir.

Q. Okay. Well, actually, why don't you read the rest of that paragraph for me?

A. Okay. Starting at, "To evaluate"?

"To evaluate potential visibility from this resource, a wire frame simulation was produced that confirmed that views would be completely screened from the main parking areas, trailheads, and trail network. See Appendix F. Open views with

potential turbine visibility were determined to be available from the hunter's parking lot and nearby trails, which are located approximately 3.5 miles from the nearest proposed turbine."

Q. As it relates to that part of the report, that's referencing views from Steyer Nature Preserve, correct?

A. It appears so, yes.

Q. There's no evaluation in this section or any section of the Visual Impact Assessment regarding Bowen Nature Preserve, correct?

A. I don't recall ever seeing that, sir, that is correct.

MR. DE VINE: I have no further questions.

ALJ SANYAL: Any questions?

MR. VAN KLEY: No.

ALJ SANYAL: And did you have questions?

MR. PARRAM: I have clarifying questions, your Honor.

- - -

CROSS-EXAMINATION

By Mr. Parram:

Q. With respect to Park District Exhibit 1 --

A. Yes, sir.

Q. -- you made a general reference about the number of turbines that are visible from the Bowen Nature Preserve when you were looking at that document?

A. Correct.

Q. Have you ever seen that document before today?

A. I've seen the document, yes. I've seen it, it was filed.

Q. Okay. And do you know who prepared that document?

A. Say again, sir.

Q. Do you know who prepared that document?

A. I do not. I assume it's the Seneca County Park folks, or the park district folks, would be my assumption.

Q. You don't know who prepared that?

A. I do not.

Q. Okay. The turbines that are on that document, do you know if those locations accurately reflect the distances from the nature preserve?

A. I would have to depend on one of our engineers to tell me whether those locations were accurate, I can't tell you.

Q. So you have no idea whether those locations are accurate?

MR. DE VINE: I'm going to object, your Honor. He's already testified he thought it was generally accurate.

ALJ SANYAL: Overruled. Go ahead.

By Mr. Parram:

Q. You don't know if that's accurate?

A. I don't know. I can't verify the authenticity -- easy for me to say -- of the specific locations of those turbines.

Q. And you don't know if that accurately reflects the number of turbines that may be --

A. No, sir.

Q. And so when you indicated -- so you can't say that that fairly or accurately represents anything?

MR. DE VINE: I'm going to object, your Honor. He's already testified it does.

ALJ SANYAL: One more time.

MR. DE VINE: I'm going to object. He's already testified it accurately does reflect something, so the question has been asked and answered.

ALJ SANYAL: Do you have any response,

Mr. Parram, or do you want to rephrase your question?

MR. PARRAM: I'll rephrase my question.

By Mr. Parram:

Q. So based upon the fact that you don't know who prepared that document, and you don't know if it accurately reflects how many turbines are actually around the nature preserve, and you don't know the specific distances of the turbines from the nature preserve, are you comfortable saying that that is a fair and accurate depiction of Bowen Nature Preserve?

A. I don't think I can say that I know without absolute certainty. Like I say, I've measured these turbine distances. We rely on our engineers to specifically locate them within the maps.

In general, they are what is consistent throughout the project area. But no, I can't specifically say whether there's a turbine missing or turbine that's at a slightly different distance on the document itself. I can't say that with certainty.

MR. PARRAM: No further questions.

ALJ SANYAL: Redirect?

MS. BAIR: May I have a break for a

brief time?

ALJ SANYAL: How about we take five minutes?

MS. BAIR: Thank you.

(Recess taken.)

ALJ SANYAL: Let's go back on the record. And do you have redirect?

MS. BAIR: Staff has no redirect.

ALJ SANYAL: Okay. Questions? I have no questions, so thank you, Mr. O'Dell. You may step down.

(Witness excused.)

MS. BAIR: I'd like to move Staff Exhibit 13 into the record.

ALJ SANYAL: Any objections? Hearing none, Staff Exhibit 13 is admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

ALJ SANYAL: And then just a clarifying question. Mr. DeVine, we haven't moved Seneca County Park Exhibit 1 into the record, correct?

MR. DE VINE: I'm moving to admit it now.

ALJ SANYAL: Any objection?

MR. PARRAM: I object. No foundation for the document.

ALJ SANYAL: Any other objections?

MR. DE VINE: I believe there was. The last witness testified it fairly and accurately depicted the area, and his last question, he said it's generally consistent with his understanding and knowledge of the project area.

MR. PARRAM: So, your Honor, I think for this exhibit, over and over, has been tried to be admitted through various witnesses. None of the witnesses have indicated that they prepared the document, or are familiar with how the document came to look how it looks.

And Mr. O'Dell, I think, was being gracious in making assumptions to some of the questions from Mr. DeVine, but he clearly indicated that one, he didn't prepare the document, he didn't know who prepared it, he couldn't say whether or not it was accurate, so there's absolutely no foundation for getting the exhibit through Mr. O'Dell or any of the other witnesses thus far.

ALJ SANYAL: I don't think --

MS. BAIR: I just think that Mr. O'Dell did not say that it fairly and accurately, I think he answered and he couched in general, generally. That's the only thing I have to add.

ALJ SANYAL: Your objection is sustained. We are not going to admit that exhibit. Thank you.

MR. DE VINE: It will remain part of the record, though, correct, for purposes of appeal? It's not going to be thrown away?

ALJ SANYAL: No, we're not admitting it into the record.

MR. DE VINE: But it remains available as part of any type of --

ALJ AGRANOFF: You can proffer it.

MR. DE VINE: I would proffer it. But so it's available for further review at some point on whether the denial of the admission was appropriate or not?

ALJ SANYAL: Yes.

ALJ AGRANOFF: So noted.

ALJ SANYAL: Okay.

ALJ AGRANOFF: I believe Mr. Bellamy is the last of the Staff witnesses.

MS. BAIR: I would also like to move into evidence the prefiled testimony of Jason Cross on behalf of Staff filed on October 28, 2019, as Staff Exhibit 14.

ALJ SANYAL: And then are there any

objections to that being admitted to the record? Hearing none, that is admitted.

(EXHIBIT ADMITTED INTO EVIDENCE.)

ALJ AGRANOFF: Ready to call your next witness?

MS. BAIR: Yes. Thank you, your Honor. Staff would like to call Mark Bellamy to the stand.

ALJ AGRANOFF: Would you raise your right hand? Do you solemnly swear the testimony you're about to give in this proceeding is the truth, and nothing but the truth?

MR. BELLAMY: I do.

ALJ AGRANOFF: Please be seated. Please proceed, Ms. Bair.

- - -

Mark Bellamy,

being first duly sworn, as prescribed by law, was examined and testified as follows:

DIRECT EXAMINATION

By Ms. Bair:

Q. Mr. Bellamy, could you please state your name, and spell it for the record?

A. Mark Bellamy, it's M-a-r-k, B-e-l-l-a-m-y.

Q. By whom are you employed and what are

your responsibilities?

A. I'm employed by the Public Utilities Commission, I'm a member of the Ohio Power Siting Board Staff. My responsibilities pertaining to Siting Board cases have to do with mainly noise, and shadow flicker, and blade shear, and ice throw studies.

MS. BAIR: Your Honor, I would like to have marked as Staff Exhibit 15 the Prefiled Testimony of Mark Bellamy filed on October 28, 2019, and mark as Staff Exhibit 16, the Amended Testimony of Mark Bellamy filed on November 15th, 2019.

ALJ AGRANOFF: The exhibits shall be so marked.

(EXHIBITS MARKED FOR IDENTIFICATION.)

MS. BAIR: Thank you.

By Ms. Bair:

Q. Do you recognize Staff Exhibit 15?

A. Yes.

Q. And could you please tell me what that document is?

A. That is my prefiled testimony.

Q. Was that prepared by you or under your direction?

A. Yes.

Q. Do you have any changes, corrections, or additions to make to that, besides your supplemental testimony that's been marked as Staff Exhibit 16?

A. No.

Q. And do you have before you what is marked as Staff Exhibit 16?

A. Yes.

Q. And could you tell me what that is, please?

A. That is my Amended Prefiled Testimony.

Q. And was that prepared by you or under your direction?

A. Yes.

Q. Do you have any changes, corrections, or additions to make to either exhibit at this time?

A. No.

MS. BAIR: Thank you. I would like to move Staff Exhibits 15 and 16 into evidence subject to cross-examination.

ALJ AGRANOFF: Point of clarification. I know that Exhibit 16 is captioned as Amended Prefiled Testimony. Was it your intent that this testimony in actuality be supplemental to the direct testimony, and not an amendment, a replacement for the prior direct testimony?

MS. BAIR: Yes, your Honor, I agree it would be more appropriately entitled supplemental testimony.

ALJ AGRANOFF: Okay. We shall consider Staff Exhibit 16 to be supplemental prefiled testimony of Mr. Bellamy.

I know that there is currently pending before us a motion to -- for leave to file the amended prefiled testimony as well as memoranda in opposition to such a request.

I've had an opportunity to review the arguments set forth in both of the pleadings, and at this point in time I'm going to grant the motion for leave to file the amended prefiled testimony as we just -- or as we just indicated the motion for leave to file the supplemental prefiled testimony of Mr. Bellamy.

And, Mr. Parram, you are certainly free on brief to make the arguments that you raised in the memoranda contra. And with that, Mr. Parram, would you care to begin your cross?

MR. PARRAM: Want me to go first?

- - -

CROSS-EXAMINATION

By Mr. Parram:

Q. Good morning.
A. Good morning.
Q. Do you have any formal education regarding the study of noise or sound vibration?
A. I had acoustical training in the Navy and college, but I did not major in acoustics.
Q. Okay. So you're not an acoustician?
A. Correct.
Q. And how many Ohio Power Siting cases -- wind farm cases have you worked on?
A. Probably a dozen or more, considering original cases and amended cases.
Q. And how many of those cases were you responsible for the noise portion of the investigation?
A. All of them.
Q. In how many of those cases have you testified?
A. I've submitted written testimony in probably half a dozen cases, but this would be the first one in which I've had to take the stand at a wind case.
Q. So speaking just generally, why does Staff analyze the potential noise impact in OPSB wind farm cases?

A. Well, noise -- the wind turbines are going to produce noise, and if there is too much noise a receptor or person can become annoyed. So we set forth standards to limit the noise that a nonparticipating receptor can receive from a wind turbine.

Q. So is it fair to say that it's to address or mitigate potential annoyance for receptors or individuals that may be near the wind turbines?

A. Yes.

Q. And would you characterize noise as a potential impact from a project? And let me clarify. I asked the question because -- well, as part of your role in OPSB cases, as one of the -- one of your jobs is to -- is it to minimize potential environmental impacts on surrounding landowners?

A. So you had two questions there. Do you want me to answer both?

Q. If you can.

A. Okay. The ending of your first question said on projects, so noise impact varies depending on what kind of projects it is. For instance, gas pipeline produces very little operational noise, although every project has construction noise, so there's always some impacts.

And any generation equipment that happens above ground is going to have noise -- operational noise impacts. I'm sorry, and what was your second question?

Q. I can't recall, so let's not worry about it.

So I think -- and you helped me clarify what my question is. Is one of your tasks in preparing the Staff Report and preparing proposed Conditions to reduce impacts due to the operation of the wind farm?

A. Well, it might be more correct to say that we want to limit the impacts to a certain level, not -- I mean, if a generation project produces noise, and it is so low that it doesn't impact any receptors, then no, we wouldn't seek to reduce the noise from that project.

But if there are receptors that are going to receive noise impacts, then yes, we want to minimize those impacts to the noise standards that we have.

Q. So is it fair to say that you're trying to minimize noise impacts, not completely eliminate all noise impacts?

A. Yes.

Q. Does Staff perform its own analysis to determine the ambient -- let me start with this: What does the term ambient nighttime noise level mean to you?

A. That is the average noise level during the night for a certain area.

Q. And why is it important to determine ambient noise level, nighttime noise level, in OPSB wind farm cases?

A. Because one of the significant impacts from noise is -- arises from annoyance. And I rely on a State of New York Department of Conservation study that says above -- if you increase the ambient noise level above 6 dBA, then that noise starts to become annoying. So at least since, I think, 2011 or '12, we have limited all wind cases to ambient level plus 5 dBA.

Q. And so the "we" is Power Siting Board Staff?

A. Yes. Yes, by we I mean Conditions that are attached to wind cases -- I'm sorry, attached to Staff reports and wind cases.

Q. And so the 5 dBA is more conservative than the actual 6 dBA you were referring to in that New York study?

A. Yes.

MR. VAN KLEY: Objection. This is entering friendly cross. I don't see any dispute between the Applicant and the Staff with regard to the issues that he's talking about right now, especially this last question.

MR. PARRAM: I think we're definitely adverse with Mr. Bellamy on a number of issues recently, but I'm laying a foundation for, one, his familiarity with the 5 dBA standard for Power Siting Board Staff, and then also leading up to his determinations in this case, which I think you can see in some of our testimony we think we may be -- may be a departure from Staff from that precedent.

So I'm building up the foundation to some other areas. This is really background, your Honor.

ALJ AGRANOFF: I'll allow the question.

By Mr. Parram:

Q. And does the Staff perform its own analysis to determine the ambient nighttime noise level in OPSB wind cases?

A. No.

Q. How is the ambient nighttime noise level determined?

A. An applicant will place noise monitors throughout a project area, and from the data received from those, determine a project area average ambient noise level.

Q. And the Staff relies upon the ambient nighttime noise level as indicated in the noise reports submitted by the Applicant?

A. Yes.

Q. And in the prior Ohio Power Siting Board wind farm cases where you worked on, have you ever modified or have you ever proposed a modification of the ambient nighttime noise level proposed by the Applicant?

A. Yes.

Q. What cases?

A. I don't remember the case, but there was a wind case, I think they had four or five monitoring locations. One location was in the middle of a small town, right on the road. I suggested the applicant not use that location, and a new average was found and used for the project.

Q. In that particular case do you recall how the applicant selected its noise monitoring locations?

A. I don't know what you mean by how.

Q. Well, so to determine the ambient nighttime noise level the applicant has to perform a noise study, correct?

A. Yes.

Q. And as part of developing that study they have to set up certain monitors within the project area?

A. Yes.

Q. So they have to go through a process of deciding where to put those monitors, correct?

A. Yes.

Q. Do you recall how the applicant in that case selected its particular monitoring locations?

A. No. And in wind applications, generally, applicants are not generally very descriptive on the rationale on choosing certain locations.

Usually the locations are listed, and the environment around the location is described, and the distances from a road or residence are listed, but not a rationale on why a certain location was picked over another location.

Q. Have you ever issued a data request to ask why locations were selected?

A. No.

Q. In none of the Power Siting Board cases you worked on?

A. I cannot recall a data request asking for --

Q. And you didn't ask one in this case, did you?

A. No.

Q. Do you know if there's any industry standards that -- that guide -- do you know if there's any industry standard or guidance regarding how monitoring locations should be selected?

A. Yes, there are standards on how to do monitoring, and the standards talk about locations. So yes.

Q. And those standards describe where -- do those standards -- let me back up.

What are some of the standards you're referring to?

A. I don't recall the specific numbers, but I think the organization is A-N-S-I, ANSI, and I believe one of the standards is ANSI 12.9.

ANSI 12.9 has several subsets, and I did ask the Applicant in this case what standards were used for the ambient monitoring study, and it was replied in a data request, and I can't recall the

exact chapter number, but it was a nationally recognized noise standard for noise monitoring.

Q. Did you -- in your general practice, do you review the ANSI standards?

A. Yes.

Q. And do you review those standards to determine whether or not the noise monitoring location selection was adequate?

A. I don't believe the standard -- the standard does not talk about noise locations, comparing one to another. It's more of, you know, where should the -- where and how should the monitor be located.

Q. Okay. So let me restate that.

As far as you're aware, the standards give you guidance about how you should set up the monitor to have accurate recordings of sound, correct?

A. Yes.

Q. These standards do not, as far as you are aware, indicate where particular monitors should be set up to accurately record ambient sound for a wind farm project?

A. Yes, that is my understanding.

Q. So -- and based on your experience, how

does -- how do applicants go about selecting particular noise monitoring locations?

A. I believe Mr. Old explained it pretty well during his testimony in that noise engineers will look at different soundscapes to try to determine a fair representation of the project area when they are choosing monitoring locations.

Q. And as far as you're aware, Mr. Old did that in this case?

A. I'm not sure. I believe Mr. Old said that someone else chose the locations, but he went and actually set the monitors up. But I'm not certain.

Q. And so in this case was there -- did you have any questions or ask the Applicant how they selected their particular locations?

A. No, I didn't ask them how they selected their locations.

Q. Is it your normal practice to ask applicants how they select their particular locations?

A. I just said I have never sent a data request asking on how an applicant chooses their location.

Q. In the one prior case where you asked

the applicant to select another location, why did you ask them to do that?

A. I didn't ask them to select another location, I asked them to delete a location.

Q. Why did you ask them to do that?

A. Because the noise monitor was very close to a road, and a small town. It was the only small town in the project area, so I didn't think that was very representative of the project.

Q. And when you made that decision, what were you basing that upon?

A. The geography of the project area, that that location was pretty unique in the project area. There were no other small towns in the project area, and the noise monitor was located pretty close to the road in that small town, so I didn't think it was appropriate to include that in the average of the project area ambient levels.

Q. So in that particular case you determined, based upon your general understanding of the project area, that that particular location was not representative of the soundscape of the project area?

A. Yes.

Q. Do you have the Staff Report in front of

you?

A. Yes.

Q. If you can go to page 36 of the Staff Report.

A. Okay.

Q. And you were responsible for drafting portions of the Staff Report that address operational noise; is that correct?

A. Yes.

Q. And on page -- bottom of page 36, it talks about how Republic Wind had seven survey locations that were sent. Do you see that there?

A. I do.

Q. And so when you initially reviewed -- and you did review each one of the seven survey locations for Republic Wind, correct?

A. Yes.

Q. And when you prepared the Staff Report, you didn't disagree with RSG's -- or Republic Wind's selection of those noise monitoring locations, correct?

A. No, I didn't disagree with them.

Q. And you believed at that time that those locations provided an adequate or accurate representation of what the overall ambient

nighttime -- or ambient noise level for the project would be?

A. Yes.

Q. And you didn't disagree that 41 dBA represented the average nighttime ambient level for the project at that time?

A. No.

Q. And you didn't ask Republic Wind at any point why they selected seven locations?

A. No.

Q. So in your experience, is it important to have the monitoring locations adequately spaced out throughout the project area?

A. You should have monitoring locations that represent the project area both geographically and as far as population density goes. But we don't have a rule on where exactly, you know, locations must be throughout the project area.

Q. Is it ever a concern if you have too many monitoring locations that are too close to each other?

A. It could be.

Q. Why?

A. Depending on where the locations are, if you put many locations in one area, that could look

like you're trying to skew the results.

Q. In selecting the monitoring locations is it important to consider changes -- or is it important to consider the elevation within the area?

A. It might be, but in Ohio wind cases the elevations are pretty similar throughout the project area.

Q. Are there any locations within the project area that have more significant decreases in elevation than others?

A. I have not studied topographical maps of the project areas so I can't answer questions on changes in elevation.

Q. Is it fair to say when you looked at the noise monitoring locations in this case, elevation was not an issue that you considered?

A. Yes.

Q. If you can turn to page 67 of the Staff Report, Condition 44. Are you there?

A. Yes.

Q. And you drafted Condition 44, correct?

A. Yes.

Q. And do you believe Condition 44 adequately addresses potential concerns for noise impacts on sensitive receptors?

MR. VAN KLEY: Objection. Again, your Honor, this is certainly friendly cross. It's not background for the Applicant's disagreement with the Staff's determination that those monitors in the western part of the project area should be considered, now he's simply trying to bolster the position in the proposed Exhibit 44 that the Applicant is in favor of.

ALJ AGRANOFF: Mr. Parram.

MR. PARRAM: Mr. Bellamy -- or it's Staff's position in their Supplemental Staff Report -- and again, I think if you could look at our testimony, specifically the testimony of Mr. Old, the supplemental testimony of Mr. Old, and Mr. Carr, I think it explains our disagreement with the Staff about how some of the -- the Conditions are being implemented, and whether or not particular Conditions are being implemented uniformly, and whether or not this Condition is being adequately applied throughout the project area.

MR. VAN KLEY: There's no disagreement with the Staff over whether Condition 44 is a Condition that favors or does not favor the Applicant. There's no disagreement between them on this particular Condition, and the Condition says

what it says.

MR. PARRAM: Well, Mr. Van Kley saying that is one thing, but to the extent that I am trying to establish Staff's position with respect to what is a reasonable limitation on operational noise throughout the project area for all the different receptors, is one of the primary issues we are adverse to the Staff on, and I should be able to explore it with the witness that drafted this Condition, and then other Conditions, to the extent that those Conditions may not align, I'm able to cross him. This isn't friendly cross.

ALJ AGRANOFF: I'll allow the question.

MR. PARRAM: So could I have the question reread?

(Question read back.)

THE WITNESS: Yes.

By Mr. Parram:

Q. And you would agree that 5 dBA ambient nighttime limitation, and that the 5 dBA over the ambient nighttime noise level, is consistent with OPSB precedent, correct?

A. Yes. And it's in the current rules.

Q. Okay. If you go to the Supplemental Staff Report -- do you have that in front of you?

A. Yes.

Q. And at page 6, looking at Condition 58. Do you see that?

A. Yes.

Q. Why is Staff recommending this condition?

A. Because certain noise sensitive receptors were left off of the noise monitoring map, so if the people living at those locations were relying on the map to try to determine whether they would receive noise impacts, they would have been uninformed.

And it wasn't until October of this year that the noise levels at those locations, and the map was updated, so the residents living at those locations had no chance to comment during the public hearing, and therefore it's my opinion that those receptors should not receive any levels above ambient since they didn't have a chance to comment on the noise levels.

Q. The fact that they didn't have an opportunity to comment on those noise levels, it doesn't change the noise impacts for those individuals, does it?

A. No.

Q. So this condition doesn't actually address limiting noise impacts for those individuals based upon any concern about annoyance, does it?

A. No, it's about due process.

Q. Explain to me what -- in your opinion, what due process these individuals were entitled to in this case?

A. The Applicant is obligated to follow rules that state that, for example, all receptors have to be modeled, and in this case that was missed for several receptors. Because it was missed, those receptors, if they relied upon the map, would not have known about their potential noise impacts.

Q. And this proposed condition would ensure a complete elimination of all noise impacts, right?

A. Yes.

Q. Not a limitation on noise impacts, correct?

A. Well, it's a limitation of the noise impacts up to the ambient level.

Q. So a complete elimination of the noise impacts -- potential noise impacts?

A. Up to the ambient level, yes. If the turbine is producing noise and it doesn't rise to the level of the ambient level, then I am not

recommending a Condition for that turbine.

Q. Okay. And for -- why did you limit -- so in Condition 58 you indicate that the Applicant shouldn't use these four particular models?

A. Yes.

Q. Do you know if -- and you removed or recommended that the Applicant not use these particular models because it was your understanding that if these models are used, the noise levels would be above ambient, correct?

A. Yes.

Q. Do you know if these particular models have noise reduced operation modes?

A. Yes, they do.

Q. Do you know if these particular models listed in Condition 58, if they use noise reduced operation modes, if they would be able to operate without exceeding ambient?

A. I don't know if -- there's only so much reduction that can be done through noise reduction levels, and I don't know if these turbines have already used, say, the maximum noise reduction mode, and therefore no more reduction is available. I'm not sure about that.

Q. Well, if they could operate in noise

reduction mode and meet the -- at least what was the, I believe, 41 dBA ambient nighttime level, wouldn't you agree that the Applicant should be able to use those models as long as they don't exceed the ambient 41 dBA?

A. Yes.

ALJ AGRANOFF: Just want to make sure, Mr. Bellamy, you did respond to Mr. Parram's prior question?

THE WITNESS: Yes. I said yes.

ALJ AGRANOFF: I didn't hear.

MR. PARRAM: May I approach the witness, your Honor?

ALJ AGRANOFF: Yes.

MR. PARRAM: I'm going to hand the witness a document that's marked Applicant Exhibit 14, which is the supplemental testimony of Dalton S. Carr.

MS. BAIR: I'm sorry, did you say supplemental?

MR. PARRAM: Yes, this is Dalton Carr's supplemental testimony.

By Mr. Parram:

Q. I'm going to stand over here next to you. So in Mr. Carr's testimony at page 1, on to

page 2, he talks about Staff's proposed Condition 58.

MS. BAIR: I'm sorry, could you please tell me where you are in the supplemental testimony? All right. Thank you.

By Mr. Parram:

Q. So if you read in question 5, answer 5, Mr. Carr indicates that -- in that last sentence of his testimony in answer No. 5, that although Republic Wind imposes the limitation of the 41 dBA for those ten receptors, that Republic Wind can actually meet the 41 dBA threshold as long as it uses the NRO, noise reduced operation, mode. So to the extent that Republic Wind can do that, you agree with that?

A. Yes.

Q. Okay. Will you go to your amended prefiled testimony, I believe it's Exhibit -- Staff Exhibit 16?

A. Yes.

Q. And go to page 2, question 7, where it talks about you changing your testimony because of information that you discovered from case 19-1066-EL-BTX; is that correct?

A. Yes.

Q. Are you working on -- and the 19-1066-EL-BTX, that's the Republic Wind transmission

case, correct?

A. Yes.

Q. Are you working on that case?

A. Yes.

Q. Are you assigned as the individual to handle noise studies?

A. Yes.

Q. Okay. And the Republic Wind Application -- Transmission Line Application was filed before you filed your testimony in this proceeding; is that right?

A. Yes.

Q. And the information that you are claiming is new information was filed with the Board before you -- before this hearing started, correct?

A. It was filed with the Board before this proceeding, although it wasn't until Mr. Old's testimony that the evidence for the transmission case was admitted into this case.

Q. Right. But the information that you're talking about or relying upon for your amended prefiled testimony, Power Siting Board Staff had the Republic transmission line case in their possession before Staff filed their testimony in this case?

MS. BAIR: Objection, asked and

answered.

ALJ AGRANOFF: I'll allow it.

By Mr. Parram:

Q. Go ahead.

A. Yes. We had the data, but I had not evaluated the data in the transmission case. I had acknowledged that a noise study was done so we could file a letter of completeness in the transmission line case, but I hadn't evaluated the noise levels presented in that study before I filed the testimony.

Q. So you looked at the information before the completeness letter was filed?

A. Yes. But for example, I didn't take note of what the actual levels were, I just noticed that the noise report was done. And therefore, as far as noise goes on the transmission line case, my section was complete as far as completeness goes.

Q. So in the study in the transmission line case, how many monitors are involved in that case?

A. Three.

Q. When you looked at it for purposes of your completeness review, did you see how many monitors there were?

A. I don't remember, but I probably saw three, yes.

Q. And you saw that those three monitors were within the overall wind farm project footprint?

A. I wasn't sure at that time, because transmission lines can travel outside of a wind project area.

Often they start at a wind project substation, which is usually within the project area, and then sometimes, you know, go perhaps a mile outside of the wind project area until they get to an interconnection point.

So at that time I wasn't sure of their relationship between the transmission line monitoring location and the wind project area.

Q. It's not unheard of to have the transmission line footprint be within the footprint of the wind farm project?

A. No, usually they overlap quite a bit.

Q. And when they do overlap, do you rely upon the noise study from both cases?

A. As far as I can remember, this is the first wind transmission line case with a noise monitoring study. There's very little operational noises with transmission lines, so frequently transmission line cases won't include ambient levels because there's very little operational noise.

So no, I'm unfamiliar with monitoring locations on transmission lines as related to wind cases.

ALJ SANYAL: I have a clarification question. So, Mr. Bellamy, are you saying that transmission line cases usually don't -- transmission line applications usually do not include noise studies?

THE WITNESS: They will include a noise section, but transmission line cases -- I mean, electric transmission lines produce very little operational noise, so usually the applicant won't even address operational noise, or they might say in case of a malfunction, there might be some corona noise -- I'm trying to think of what I was saying.

So in the transmission line case usually the noise section consists of construction noise, because there's always construction noise in any kind of case, so that's what they will focus on.

And in transmission line cases, for example, we won't usually have a condition that says they have to adhere to ambient plus 5 because there's very little operational noise.

ALJ SANYAL: Going back to my question, do transmission line cases -- in the application are

there noise studies included or not?

THE WITNESS: No, not usually. Usually it's a section within the narrative of the Application, not a separate report done by a consultant.

ALJ SANYAL: Okay.

By Mr. Parram:

Q. So for the -- the noise monitors involved in the transmission line case are on the far western portion of the project area, correct?

A. Yes.

Q. And the three monitors that were used in the transmission line case noise report, noise study, those were -- those were all located to analyze that small corridor in the western area?

A. Yes.

Q. When you looked at those three monitoring locations, or when you concluded to -- when you decided to include those monitoring locations into your recommendation in your testimony, did you consider whether there was any traffic within the area, in that portion of the project?

A. I noted the location of the monitoring locations, and the locations seemed similar to other locations within the wind project noise study.

Q. Do you know the distance between each one of those three monitors?

A. No.

Q. Isn't it fair to say that those three monitors are more closely located than the other monitors are throughout the project area?

A. That's probably fair to say.

Q. And when -- did you consider the population density within the transmission line area when you decided to include those monitors in this project?

A. Yes. By looking at the map I could see how many residences were located in that area, so yes, I did notice the population.

Q. And before you decided to include those particular monitoring locations, did you consider how including those three additional monitoring locations into the initial seven that Republic looked at, how that may skew any of the -- skew the representation of the ambient nighttime sound?

A. I'm sorry, are you asking --

Q. Sure. Let me restate it.

Before you came to your conclusion to include the overall average of those three monitoring locations into the Republic Wind farm project

monitoring locations, did you consider whether or not that would skew the overall representation of the ambient nighttime sound for the Republic Wind farm project?

A. I'm sorry, you're asking if I thought it would skew?

Q. Did you consider that at all?

A. Yes. There is no -- in the wind noise monitoring -- or the wind noise study, there were no monitors on the western edge of the project, so it seemed appropriate -- if there is actual data from the western edge of the project that was actually in the project area, it made sense to include that data.

So I view it as an additional soundscape within the project area that is equally as valid as any of the other seven that were originally included.

Q. Did you consider how many turbines are located within that western portion?

A. Yes.

Q. And how many turbines are there?

A. There are -- between two of the monitoring stations there are three turbines, and then just east of the substation where the transmission line starts and where one of the -- where the eastern most noise monitoring location is

located, there are an additional four to seven turbines in the general area.

Q. So how many turbines are on the actual footprint of the transmission line?

A. I think three.

Q. So for that particular western portion, you have three monitoring locations for three turbines?

A. Yes. But I recommended taking the average of the three locations, and using that average as one additional data point to determine the overall wind ambient level.

Q. Have you ever recommended a dBA level that -- well, let me back up.

So if you go to page 3, question 9, your answer indicates that you're recommending a 40.5 dBA; is that correct?

A. Yes.

Q. Have you ever recommended an ambient nighttime dBA that was a -- less than a 1 dBA increment? Here you have a .5.

A. I don't recall. You know, in the previous case where I recommended the removal of a monitoring point because it was a heavy traffic area, it did change the ambient level, but I don't remember

by how much.

Q. Do you know if the human ear can notice a change in the sound level at .5 increments?

A. No. If you increase the sound level at .5 dBA, most people would not be able to notice it.

Q. So at the bottom of page 3, going over to the top of page 4, you have a table that you've included there. Can you explain what this table is supposed to demonstrate?

A. Yes. At the -- at 41 dBA ambient level, the Applicant has shown that zero non-participators would be affected by -- I'm sorry, zero non-participators would be impacted by noise levels ambient plus 5.

However, if the noise level were changed to 40.5, additional non-participating receptors would be impacted by the various turbine models proposed by the numbers that are stated in that table.

Q. So how many receptors would be impacted to the extent it would exceed the 40.5 --

A. It depends on which turbine the Applicant decides to use.

Q. And wouldn't it matter on the particular location of the turbine, because -- I'm trying to get

an understanding of -- let's say you have here for the Nordex N149 4.5 megawatts, that 32 receptors would be impacted, right?

A. Right.

Q. Is that based off the assumption that the Applicant would use that model throughout the project footprint?

A. Yes.

Q. So this table doesn't demonstrate the different potential impacts if there is a mix of models; is that correct?

A. No. And unless the Applicant specified which models were going to go into which locations, we couldn't determine that.

Q. Okay. Understood. Okay. So explain your recommendation for the Condition 60.

A. Okay. As I stated previously that at an ambient -- nighttime ambient level of 41 dBA -- which if you add 5 you get 46 dBA -- at that level, the Applicant has shown that alternate models would comply with that standard, so therefore, we didn't need a study prior to construction that showed that, because they have already shown that.

But if the ambient level of 40.5 is adopted, then the Applicant should show, by whatever

terms they want to use, that zero non-participators would receive -- always impact 5 plus ambient.

Q. So the purpose of this Condition is because prior reports have already indicated that the project would be able to meet the 41 dBA plus 5, but now with your additional recommendation there needs to be a subsequent filing to show that however the project is finally modeled, it will meet the 40.5 plus 5 dBA; is that correct?

A. Correct.

ALJ AGRANOFF: And how does that contrast from what is already in Condition 44?

THE WITNESS: Condition 44 states that operationally they cannot go above ambient plus 5. But without Condition 60, we would be taking their word for it, or hoping that they would comply, and we would prefer that they actually show that they can and will comply before construction.

ALJ AGRANOFF: Why don't we go off the record for a minute?

(Discussion off the record.)

ALJ AGRANOFF: Let's go back on the record.

By Mr. Parram:

Q. Earlier you indicated that your

recommended Condition 58 related to due process concerns, correct?

A. Yes.

Q. The individual that -- or one of the individuals that had one of these receptors were the one that actually brought it to Staff's attention, correct?

A. Correct.

Q. So this person was aware of the project?

A. Yes.

Q. And if this person would have known of the potential noise impact earlier, that wouldn't have changed Staff's initial recommendation for the 41 dBA ambient nighttime threshold, correct?

A. Correct.

Q. And it wouldn't have changed the overall recommendation for 5 dBA above the ambient nighttime?

A. Correct.

MR. PARRAM: No further questions, your Honor.

ALJ AGRANOFF: Thank you. Let's go off the record.

(Lunch recess from 1:00 to 2:00.)

ALJ AGRANOFF: Let's go back on the record. Mr. Parram, are you done?

MR. PARRAM: I'm done, your Honor.

ALJ AGRANOFF: Mr. Van Kley.

- - -

CROSS-EXAMINATION

By Mr. Van Kley:

Q. Good afternoon, Mr. Bellamy. Would you turn to the Staff Report, please?

A. Okay.

Q. Page 67.

A. Yes.

Q. I'm sorry, let's go first to page 36 of the Staff Report.

All right. Directing your attention to the top of the page under blade shear, you notice that the first sentence states that blade shear occurs when a wind turbine blade or segment separates from the rotor and is thrown or dropped from the tower, correct?

A. Yes.

Q. Okay. And is that your understanding of what blade shear is?

A. Yes.

Q. Other than the information provided by the Applicant in the Application in this case, did Republic Wind provide you with any other information

concerning blade shear?

A. You're saying outside of the Application narrative?

Q. Yeah, or outside of any of the exhibits, or the narrative of the Application.

A. I don't recall. I don't recall asking a data request on blade shear, but there could have been a data request to another -- I'm sorry, a response to another data request that could have included blade shear information, but I can't recall.

Q. The second sentence on page 36 of the Staff Report states that, "The Applicant asserts that past incidences have generally been the result of design defects during manufacturing, poor maintenance, control system malfunction, or lightning strikes." Do you see that sentence?

A. Yes.

Q. And you wrote that sentence?

A. Yes.

Q. Did you do any research as to what past incidences there may have been of blade shear that you're referring to in this sentence?

A. Yes.

Q. Okay. What research did you do?

A. I looked for studies on blade shear; you

know, for example, a study done by the firm Garrad Hassan that cites these things that the Applicant cites, and that's a generally referenced study on blade shear.

Q. Did you learn anything concerning the distances that blades or segments of blades have been known to travel from the turbine during those incidents of blade shear?

A. There are some studies on -- ballistic models on how far a blade can be thrown, and they vary. It's a difficult calculation to perform because there's so many variables that go into blade shear.

You know, you have to take into account the mass of whatever is breaking off, the shape, the wind conditions, the speed at which the blade is turning.

You know, some studies and some physics departments have tried to come up with a model, but I have not found one that is as reliable and has been used for other jurisdictions in trying to determine how far a blade can be thrown.

Q. Well, have you come across any information concerning how far blades or blade segments have been thrown?

A. Yes, I'm aware of the instances that have happened in Ohio.

Q. Okay. In those instances in Ohio, how far have the blades or segments of blades been thrown?

A. In Timber Road II, which I believe was in 2012, there was an incident in which a blade actually collided with another blade and both blades broke, and I believe the furthest piece of blade found was like 760 feet or so from the turbine base.

Another incident was Hog Creek. That was, I believe, April of 2018. That was a blade that came off due to a lightning strike, and in that case the blade fell to the -- right by the turbine base.

And the third one is Blue Creek, which happened in, I think, August of 2018, and in that case the furthest piece found was, I believe, 250 feet, and the applicant told us that no pieces have been found within 520 feet or so. So those are three instances in Ohio.

Q. Are you aware of instances in which it has been reported that segments of blades outside of Ohio have traveled as far as 1,640 feet from the turbine tower?

A. I'm not aware of that.

Q. Well, did you do any research to find out how far turbine blades or segments of turbine blades have traveled, outside of Ohio?

A. Yes, I've tried to find other instances of blade shear and data on how far they have been thrown, but evidence is very lacking, and the incidents are usually not well reported.

Q. Are you aware of an internet database called the Caithness Database of Turbine Incidents?

A. I am aware of it.

Q. Did you review that?

A. I did.

Q. Okay. Did you see instances recorded in that database of turbine blade segments traveled as far as 1,640 feet?

A. I don't remember that. I mean, it could be in there, but I don't remember every incident that is in that database. And I'm -- and I can't verify the accuracy of that database.

Q. Directing your attention back to page 36 of the Staff Report. In the first paragraph on that page under blade shear there's a sentence that starts on the fifth line with the words, "The turbines..." Tell me when you found that sentence.

A. Yes.

Q. Okay. It says in that sentence, "The turbines have the following safety features to address blade shear: Two fully independent braking systems, a pitch control system, and turbine shutdown at excessive wind speeds and at excessive blade vibration or stress. These safety features and the use of setbacks minimize the potential for blade shear impacts." Did you see those two sentences?

A. Yes.

Q. And you wrote those two sentences, right?

A. Yes.

Q. Okay. How long have these safety features been available for turbine models on the market?

A. I'm not sure, but I would say at least ten years. Garrad Hassan published a study in 2007 in which they cited that blade shear incidents have gone down due to the implementation of the safety features that I mentioned here. So it's been an industry practice at least ten years.

Q. And how long ago did the blade shear at the three Ohio turbine facilities occur?

A. Well, 2012 would have been seven years ago, and 2018 would have been last year.

Q. Okay. And what about the third one?
A. 2018 again.
Q. Stay on that page, and also go to the narrative of the Application.
A. What volume is the narrative?
Q. It should be in the binder marked December 26, 2018, and it would be the first part of the --
A. 1 of 3?
Q. -- of the Application.
A. Okay.
Q. Go to page 83 of the narrative.
A. Okay.
Q. Let's just go to page 84 of the narrative. And we'll start with the first paragraph on the top of that page.
Starting with the first full sentence on the first line, at the top of the page 84, that sentence reads, "It is anticipated that the wind turbines to be used --"
A. I'm sorry, I'm not on the same page as you.
ALJ SANYAL: So I think we're running into the problem of he's using the redacted version, and I think you're referring to the unredacted

version.

MR. VAN KLEY: Yes.

MR. PARRAM: Can you cite the section?

MR. VAN KLEY: Yes, the section is 4906-4-08 under Blade Shear.

THE WITNESS: I see the heading "Blade Shear".

By Mr. Van Kley:

Q. Okay. Then go to the third paragraph of that -- under that heading, and tell me when you find the first sentence that starts with the words, "It is anticipated."

A. Yes, I see, "It is anticipated."

Q. And that sentence reads, "It is anticipated that the wind turbines to be used for the facility will be equipped with two fully independent braking systems that allow the rotor to be brought to a halt under all foreseeable conditions. In addition, it is anticipated that the turbines will automatically shut down at wind speeds over the manufacturer's threshold." Do you see those two sentences?

A. Yes.

Q. Okay. Now, you were the Staff's reviewer for this section under blade shear, correct?

A. Yes.

Q. Okay. And I'm wondering whether you regard it is anticipated that -- that the measures in those two sentences will occur, is the same thing as an enforceable requirement that the equipment necessary to implement the anticipation in those sentences is actually required?

MS. BAIR: Objection, compound question.

ALJ AGRANOFF: Could you break it down, Mr. Van Kley?

MR. VAN KLEY: Yeah.

By Mr. Van Kley:

Q. Based on these two sentences, and their use of the word anticipated, is it your belief that there is any requirement in the Application that the systems described in these two sentences actually be installed?

A. It is my understanding that the safety systems that are mentioned here are standard safety systems on modern wind turbines, so it is our understanding that they will be included.

Q. Is there anything in the Application, though, that requires them to be installed?

A. I think so.

Q. Okay. Where do you see that?

A. The wind turbines are going to be certified to certain wind classes, and by a certification body such as Germanischer Lloyd. And that sort of occasion requires that certain controls be implemented and certain safety features be included. And if the turbines adhere to those certifications, then they will have these safety features included in them.

Q. Can you point to language in the Application saying that the turbine models that are used for the project are going to be certified?

A. Yes. If you go above the blade shear section to the prospects of high wind in the area, this section talks about international standards and that all turbines under consideration are designed to meet the standards, and are rated to specific IEC wind classes. So yes, all the turbines will be certified.

Q. Well, based on that paragraph, isn't it true that this paragraph only talks about certification of the turbines with respect to winds?

A. Well, the wind classes are -- they do vary according to wind speed. But the certifications are more than just wind speed, the certifications go into, you know, how the turbines are manufactured,

and the testing that goes on, and the safety features that are incorporated into the turbines. So it's more than just what wind speed the turbine is designed for.

Q. This paragraph doesn't require any certification for the installation of braking systems, does it?

A. I don't see braking systems mentioned in that paragraph, although the safety features of the turbines are, you know, part of their certification.

Q. Isn't it true that in the past the Board has required wind turbine projects to install braking systems as a condition of their certificates?

A. I don't know, but I think that's correct, that, you know, previous cases had included a condition like that.

Q. The Staff's recommended conditions for this case do not include any requirements to install braking systems, do they?

A. Well, Condition No. 1 says that the Applicant has to -- hold on a second, let me go to the Condition in the Staff Report so I know exactly what I'm citing.

Okay. Yes, Condition 1 says, "The Applicant shall install the facility, utilize

equipment and construction practices, and implement mitigation measures as described in the Application, and as modified or as clarified in supplemental filings."

So the Applicant has to construct the facility like they described in the Application. In the Application they describe it as the turbines will be certified, and therefore the turbines will be certified. The turbines will have to adhere to the safety features that are -- that the certifications require.

Q. Wouldn't it be a good idea to simply state in the conditions that braking systems have to be installed to make sure that they are actually installed?

MS. BAIR: Objection. The witness has answered this question, he just hasn't answered it the way the attorney would like him to.

MR. VAN KLEY: I don't think he's answered the question at all.

MS. BAIR: He's only answered it three times.

MR. VAN KLEY: I'm asking if it would be a good idea to make sure the Conditions clearly require braking systems to be installed. It's a new

question.

ALJ AGRANOFF: The witness can answer the question if he knows.

THE WITNESS: I am confident in the Applicant's assertion that the turbines be certified, and therefore will have the safety features that are included in the certification.

By Mr. Van Kley:

Q. Let's talk about shadow flicker for a little bit. You reviewed the Application's information about shadow flicker, correct?

A. Yes.

Q. And you know, as a result of your review, that the Application represents that the Vestas V150 produces the most shadow flicker, correct?

A. Yes.

Q. Okay. And that's based on the fact that this is the model that is identified in the Application as having the widest rotor?

A. That is correct.

Q. Okay. Now, there's another model that is also included as a possible turbine model for this project that's taller than the Vestas 150, correct?

A. Correct.

Q. Did the Applicant model the shadow flicker from that turbine model?

A. I can't remember, but I think they modeled -- well, before the June 2019 supplement which added the Vestas V136, I believe the only turbine model was the V150, which is the worst case scenario turbine.

Q. Well, if you can't remember whether the -- and then later there was another turbine model, at least one other turbine model, added to the array of turbine models that the Applicant states that it might use for the project, right?

A. Yes. I just mentioned that.

Q. Yeah. And one of those models, I believe, was the Nordex N149; is that correct?

A. I'm sorry, what is your question?

Q. Let's simplify this a bit for you. Go to Company Exhibit 1E please, which should be in the binder in front of you.

A. Okay.

Q. All right. Go to page 1 of that document.

A. Okay.

Q. And I'd like to direct your attention to Table 1.

A. Okay.

Q. Okay. And Table 1 includes three turbine models that the Applicant is considering using for this project, correct?

A. Yes.

Q. One of those turbine models is the Nordex N149, correct?

A. Yes.

Q. And the maximum total height for that turbine model is 602 feet, right?

A. Yes.

Q. The maximum height for the Vestas V150, according to this table, is 591 feet, correct?

A. Yes.

Q. Now, does this refresh your recollection as to whether or not the Applicant modeled the shadow flicker from the Nordex N149?

A. Well, like I said, I don't think they did.

Q. Okay. All right. So isn't it also true, then, that the greater the height of a turbine, the more shadow flicker it will cast than another turbine that is shorter, but has the same rotor length -- or rotor width?

A. Maybe depending on the terrain, but in

general, no. The differences in height -- on shadow flicker -- there's three things that produce shadow flicker; you have the sun, the turbine, and the receptor. If the turbine is taller, the sun is still going to have angles of attack on the receptor no matter what the height is.

So the biggest factor in considering shadow flicker is rotor diameter, and the Vestas V150 is one meter wider, and therefore has, I think, 20,000 square feet extra area that it casts a shadow.

So that 20,000 square feet produces a lot more shadow than an increase of nine feet, which is the difference between the Nordex 149 and the Vestas V150.

Q. Well, isn't it true that shadow flicker occurs as -- in the evening at least, as the sun is sinking down towards the horizon, and to an elevation where the turbine blades are turning between the sun and the receptor?

A. Yes, the sun has to be low in the sky for shadow flicker to occur.

Q. Okay. So for a taller model, a taller model will be between the falling -- the descending sun and the receptor earlier than a shorter model will, correct?

A. Yes. Like I said, the difference would be slight, though. The area that we're talking about for -- between the 149 and the 150 meter rotor diameter is a very large area.

So yes, if the same rotor diameter, a taller turbine may produce a little bit more shadow flicker, but the larger rotor diameter is going to produce a lot more than the smaller rotor diameter.

Q. Have you ever seen a shadow flicker study that compared the amount of shadow flicker from one turbine model that was taller but not as wide, as another turbine model that was wider but not as tall?

A. I can't recall.

Q. Let's go to the Staff Report, page 67, Condition 45. And Condition 45 states that, "At least 30 days prior to construction the Applicant shall submit a shadow flicker study showing that cumulative shadow flicker impacts will not exceed 30 hours per day (sic) at any nonparticipating sensitive receptor," correct?

A. Yes.

Q. So at the present time the Applicant has not submitted an array of turbine models that demonstrates compliance at all nonparticipating sensitive receptors with the 30 hours per year

standard, correct?

A. Yes.

Q. Let's go to -- back to the Application narrative, page 85.

A. Okay.

Q. I'd like to direct your attention to -- actually it's just one page, maybe two pages at the most passed the section we were looking at on blade shear, and we're going to look at the section on ice throw.

A. Okay.

Q. Under ice throw, go to the fourth paragraph.

A. Okay.

Q. And that paragraph starts with the words, "Impacts related to." Do you have that?

A. Yes.

Q. All right. Let's go to the third line of that paragraph to the sentence that starts with the words, "As ice builds." Tell me when you found that.

A. Okay.

Q. This sentence reads, "As ice builds up on the blades of an operating wind turbine, it can lead to vibration caused by the mass of the ice or

the aerodynamic imbalances." Do you see that sentence?

A. Yes.

Q. Now I'd like to direct your attention specifically to where it states in that sentence that ice can lead to vibration. And again, you wrote this sentence, right?

A. No, I didn't write the Application.

Q. I'm sorry, you reviewed this sentence?

A. Yes.

Q. Okay. Do you know whether the buildup of ice on turbine blades always leads to vibration?

A. No.

Q. You don't know?

A. I'm sorry. You could have ice accumulate on blades to a less enough extent that it does not lead to vibration.

Q. And when that occurs, that ice can break or slide off the turbine, right?

A. Yes.

Q. Let's go back to the Staff Report, page 67, Condition 44.

A. Okay.

Q. Now we're talking about noise, right? What is the meaning of the word "cumulative" as used

in this Condition 44?

A. Cumulative means the noise impacts from the Republic Wind project, but also any adjacent wind projects that may be built before Republic is built.

Q. All right. With respect to the third line of Condition 44, what is meant by the term project area ambient nighttime average sound level, LEQ?

A. Well, that is the -- I don't know how to describe this without using the words. It's the average sound level at night in the project area.

Q. Is that a project area-wide average?

A. Yes.

Q. Earlier in your testimony I believe you referred to NRO as an operating mode. Do you recall that?

A. I know what it is.

Q. Okay. What is it?

A. NRO is a mode in which the turbines can be operated at a lower noise level.

Q. It stands for noise reduction operation, or something to that effect?

A. Yes.

Q. Okay. And if this project is allowed to operate some of its turbines using NRO, how would the

Staff of the Power Siting Board know whether it's complying with any requirement to use NRO?

A. Well, one thing we could ask from the wind facility operator is a SCADA data that shows the NRO levels of the turbines that are required to use them.

Q. What is SCADA data?

A. SCADA is an acronym, and I don't know the definition of the acronym. But SCADA is a -- it's like a software program that keeps track of the operation of the wind turbines, so it will tell you how much power the wind turbines are producing, different operational impacts of the wind turbines, that kind of thing.

Q. Does every turbine produce SCADA data?

A. Yes.

Q. Okay. Is there any requirement in the Application or the conditions recommended by the Staff Report that Republic Wind preserve its SCADA data?

A. No, there's no condition that says that.

Q. Let's go to Exhibit E1 -- or 1E of the Application. You were just there a moment ago. And this time I would like to refer you to page 19 of the noise report that you will find in the second half of

this document.

ALJ AGRANOFF: What document is this, Mr. Van Kley?

MR. VAN KLEY: Company Exhibit 1E. It's the Supplemental Application of June 28, 2019.

THE WITNESS: I'm there.

By Mr. Van Kley:

Q. Okay. All right. Referring you to page 19 of that document, Table 2, this is the summary sound levels from the background sound monitoring done by the Applicant, correct?

A. Yes.

Q. And in order to come up with the project area ambient nighttime average sound level, the Applicant averaged the LEQ readings for night for each of seven monitoring locations, correct?

A. Yes.

Q. And on Table 2, that would be the fourth column from the right-hand side of the table, correct?

A. Yes.

Q. So each -- and the Applicant presented these seven locations for the background monitoring in its Application, right?

A. Yes.

Q. Okay. And each one of these seven locations, or the measurements -- let me start over.

The measurements at each one of these seven locations were given equal weight in the average for determining the project area ambient nighttime average sound level, correct?

A. Yes.

Q. Now, in light of that fact, why is it that in your supplemental testimony you proposed to average the measurements from the three monitoring stations that were used for the transmission line and make them one data point for purposes of averaging the nighttime sound level, instead of treating them as three data points?

A. One, they are pretty close together. Two, they represent pretty similar soundscapes, so it was my opinion that one average location on the western edge of the project would have been appropriate to include amongst the original seven for a new average ambient level.

Q. All right. In front of you on -- you should find LR Exhibit 12, which is Exhibit F, Noise Impact Assessment.

A. Yes.

Q. All right. You recognize this document

as a copy of the Noise Impact Assessment submitted by Republic Wind for the Republic transmission line case, correct?

A. Yes.

Q. And you reviewed this document before your testimony today?

A. Yes.

Q. Go to page 1 of that document.

A. Okay.

Q. All right. Now, the first paragraph of page 1 of that document has -- and its last sentence -- in other words, last sentence of paragraph 1, states that, "The proposed transmission line will span the approximately 4.8 mile distance between the collector and POI substation," correct?

A. Yes.

Q. Okay. Do you have any reason to disagree with that statement?

A. No.

Q. And now if you go to page 3 -- actually go to page 7, that will show it better.

A. Okay.

Q. Now, page 7, Figure 2 shows the monitor locations, correct?

A. Yes.

Q. And the western monitor was located close to the west end of the proposed transmission line?

A. Yes.

Q. And the east monitor was located close to the east end of the transmission line?

A. Yes.

Q. And then the middle monitor was located roughly in the middle between the two ends of the transmission line, correct?

A. Yes.

Q. So the west monitor is approximately 2.4 miles from the middle monitor based on the length of the proposed transmission line as stated on page 1, correct?

A. Approximately, yes.

Q. And the -- there's approximately 2.4 miles between the middle monitor and the east monitor for the same reason, correct?

A. Yes.

Q. Now, keep your finger on page 7 of LR Exhibit 12, and let's go back to Company Exhibit 1E, which is the Supplemental Application of June 28, 2019.

A. Okay.

Q. I would like you to take a look at page 6 of that report.

A. Okay.

Q. Now, do you see on page 6 of that report that has a scale?

A. Yes.

Q. All right. Based on that scale, can you tell me the approximate distance between the wooded area monitor shown on Figure 2 and the south boundary monitor shown on Figure 2?

A. Looks like about 2 miles.

Q. Okay. And based on your review of that page from Exhibit 1E, and page 7 of LR Exhibit 12, can you tell me the approximate distance between the wooded area monitor location, and the east monitor location?

A. It looks like it's about 2 miles.

Q. Okay. Now I'd like to direct your attention to LR Exhibit 12, page 6.

A. Okay.

Q. All right. And there's one paragraph on this page, and I'd like to read you the second sentence on that page, which states -- let's just start with the first sentence.

The first and second sentences state,

"Background sound level monitoring was performed at three locations near the proposed transmission line routes. Each site was chosen to characterize a soundscape along the transmission line route allowing identification of both overall sound levels and the sound sources that contribute to local soundscapes." Do you see that?

A. Yes.

Q. And you don't have any reason to disagree with those two sentences, do you?

A. No.

Q. Now, let's, staying on LR Exhibit 12, go to page 7.

A. Okay.

Q. And at the bottom of the page we have a paragraph in a discussion about the west monitor, correct?

A. Yes.

Q. And if you look at that paragraph, starting with the sentence that starts on the fourth line with the words, "County Road 15." Do you see that sentence?

A. Yes.

Q. It says, "County Road 15 was located approximately 130 meters (427 feet) to the east,"

correct?

A. Yes.

Q. And it's referring to the monitoring location being approximately 427 feet to the east -- or to the west of County Road 15, correct?

A. Yes.

Q. Now go to page 9. On the first paragraph under the heading Middle Monitor, you see a sentence that says, "The intersection between TR169 and TR164 is approximately 610 meters (2,000 feet) to the north," correct?

A. Yes.

Q. TR stands for township road, correct?

A. It looks like town road. The first sentence has town road, and parentheses, TR.

Q. Shouldn't that be township road?

A. I don't know. Maybe. I don't know how they label their roads.

Q. All right. At any rate, the sentence that I just quoted discusses two roads, correct?

A. Yes.

Q. And according to this sentence, the middle monitor is approximately 610 meters, or 2,000 feet, to the north of the intersection of those two roads?

A. Yes.

Q. Now go to page 11. Here you have some discussion of the location of the east monitor, correct?

A. Yes.

Q. Okay. Starting in the third line, I'd like to direct your attention to the sentence that starts with the words, "The monitor was located approximately 40 meters (131 feet) west of TR175 and 167 meters (548 feet) from the closest residence to the southeast." Do you see that?

A. Yes.

Q. And so that's saying to you that the monitor -- yeah, that's okay.

And then the next sentence says, "The intersection of TR14 and TR175 was located approximately 187 meters (614 feet) to the south/southeast," correct?

A. Yes.

Q. So that is saying that the east monitor was located approximately 614 feet from that intersection, correct?

A. Yes.

Q. And you have no reason to disagree with the statements made there, do you?

A. No.

Q. Okay. Going back to page 9, with respect to the sentence that I read you there, you have no reason to disagree with the information in that sentence?

MR. PARRAM: Your Honor, I want to have a standing objection with respect to Mr. Bellamy has not prepared the noise impact assessment report from the transmission line case.

To the extent that statements say what they say within the document, I believe you already have admitted this as an exhibit, but to the extent this witness -- he hasn't prepared and he can't verify the details from this document, and I would just ask a standing objection.

ALJ AGRANOFF: Mr. Van Kley.

MR. VAN KLEY: The fact that he hasn't analyzed noise for a transmission station versus analyzing noise for turbines has -- makes no difference, at least not with respect to the questions I'm asking here.

MR. PARRAM: Well, maybe to clarify, to the extent that Mr. Van Kley restates a sentence and says is that what that sentence means, correct, he can't say what a sentence means from a document that

he did not prepare.

ALJ AGRANOFF: I'm going to sustain the objection. The document does speak for itself, and it has already been admitted.

If you have a specific question with respect to the document and the sentences contained within, you can certainly ask the witness, but it doesn't seem to be of any value for him to confirm the document says what it says since it's already been admitted as an exhibit.

You can ask him a generic question whether there's anything in this report that he doesn't agree with, rather than going line by line.

By Mr. Van Kley:

Q. Okay. Keep your finger on LR Exhibit 12, page 7, and now I would like you to find Exhibit E to the Amended Application of December 12, 2018, which should be in one of the binders to the right of you. And this is from the Supplemental Application dated June 28, 2019.

Wait a minute, I think I goofed up here. Just a second. Yeah, I did goof up. Let me start all over again.

Keeping your finger on page 7 of LR Exhibit 12, then find Exhibit E of -- in the binders

to the right of you, of the Amended Application of December 26, 2018, which is the transportation study.

MS. BAIR: What exhibit is it to the Application?

MR. VAN KLEY: E, the transportation study.

By Mr. Van Kley:

Q. And once you get to that exhibit, go to Figure 2.

A. Okay. I'm there.

Q. All right.

ALJ SANYAL: Do you know what page it is on?

MR. VAN KLEY: It would be after all the narrative of that exhibit, and there's a bunch of figures after the narrative. It should be a yellow figure that looks like this (indicating.)

ALJ SANYAL: All right. Never mind, I found it.

MR. VAN KLEY: If you find Figure 1 you just have to go one more page and find Figure 2. They look pretty similar, I think.

By Mr. Van Kley:

Q. So are you on Figure 2 which is labeled Potential Routes, Project Area?

A. Yes.

Q. Okay. Good. Do you see in the project area -- which by the way, is shown by the blue lines, right?

A. Yes.

Q. Okay. The blue lines being the outline of the project area, correct?

A. Yes.

Q. Okay. Now, do you see that somewhere about -- well, it looks like about a third of the way to the left side of the exhibit, look for two red 17s and tell me when you find them.

A. Yes.

Q. Okay.

MR. PARRAM: I'm sorry, what is the map?

MR. VAN KLEY: Figure 2, Potential Routes, Project Area.

ALJ SANYAL: And then we're looking for the red 17.

MS. BAIR: Are you in E?

MR. PARRAM: I'm in E. Can you just give me a second?

ALJ AGRANOFF: And just so the record is clear, this particular map or diagram is as of what date?

MR. VAN KLEY: Well, it was included in the Amended Application of December 26, 2018.

MS. BAIR: But doesn't the document page say at the bottom right November 2018?

MR. VAN KLEY: Yes, it does.

ALJ AGRANOFF: Thank you.

MR. PARRAM: Okay. I'm there.

MR. VAN KLEY: Okay. Good.

By Mr. Van Kley:

Q. All right. Now, do you recognize the outline of the project area as being the current outline of the project area?

A. As far as I can tell. But there's a lot of indentations around the project area, so I can't verify that this map is completely accurate with other maps.

Q. Well, is there another map that you can -- that you're aware of in the Application that you can compare this to to determine whether it's the current map for the project area?

A. I mean, there's a lot of maps within the Application. I don't know which one -- I mean, without looking at them all, I'm just saying if there's an error on this map, I'm not aware of it.

ALJ AGRANOFF: So basically if I

understand correctly, then, Mr. Bellamy, what you're saying is that as of November 2018, you're not aware of any other changes that have taken place for the project area, assuming that this was the accurate map as of November 2018?

THE WITNESS: Yes.

By Mr. Van Kley:

Q. Okay. All right. So going back to the question that was on the table. Please find the two red 17s on Figure 2. Tell me when you see them.

A. I see them.

Q. Okay. And with respect to -- you see a red -- broken red circle to the left of the 17 that is furthest to the west?

A. Yes. Labeled 10?

Q. No, no, there's a circle labeled 17 on the west -- which is the western most of the two 17 circles.

A. Okay. I see the western most.

Q. Yeah. And I'm referring you to the circle itself rather than the number 17.

A. Okay.

Q. Can you tell me how close to that circle the eastern -- or the east monitor in the transmission noise report is located?

A. It looks pretty close. I don't know for sure.

Q. Okay. Well, earlier in your responses to Mr. Parram's questions you indicated that there were four turbines located not far from the east monitor. Do you recall that discussion?

A. Yes.

Q. Okay. And do you see the locations of those four monitors -- those four turbines on Figure 2?

A. Yes.

Q. And they are located to the southeast of the circle that I directed your attention to?

A. Yes.

Q. Okay. And you also mentioned that the middle monitor was not far from three additional turbine sites; is that correct?

A. No, I believe I said there are three turbines that are within the three monitors in the transmission line sound study. I don't remember saying which ones they were closest to.

Q. Okay. All right. Do you see the locations for three turbines --

A. Yes.

Q. -- that are shown on Figure 2, two on

the north side of east County Road 44 and one on the south side of east County Road 44, and located to the west of circle 10?

A. Yes, I see those three turbines.

MS. BAIR: Your Honor, I object. This document is in the record, it speaks for itself. It's just like reading the words again, except we're just pointing to different numbers on a map that is already in evidence. And the document speaks for itself.

MR. VAN KLEY: Very well may be true, but it's an introductory question to the next question I'm going to ask, which is to -- is to identify for me the location of the middle monitor compared to those three turbine sites.

I can't do that without making sure the record is clear as to what turbine sites on Figure 2 I'm referring to.

ALJ AGRANOFF: I'll allow the question. Do you need the question read back?

THE WITNESS: I believe I answered it.

By Mr. Van Kley:

Q. I didn't hear you answer it.

A. You asked do you see the three turbines, and I said yes.

Q. Okay. Very good. Can you tell me approximately how far from the -- those three turbine stations -- yeah, those three turbine sites the middle monitor was located?

A. I have no idea. You know, you're asking me to look at two different maps with two different scales, and one is a satellite image and one is a nonsatellite image. I have no idea how to measure that distance.

Q. All right. Okay. You can put that map aside.

Now go back to Company Exhibit 1E, which is the Supplemental Application of June 28, 2019, and I would like to direct your attention to the last page of that document. Does your copy of that page have a list of discrete receiver results?

A. You mean the last page of the noise study?

Q. Yes.

A. Yes, there is a page with receiver ID, different turbines, and the noise impacts from those turbines.

ALJ SANYAL: Are we referring to a table?

MR. VAN KLEY: Table 8, correct.

THE WITNESS: No, I don't see a Table 8 on the last page. Table A or --

MR. VAN KLEY: 8. It looks like it's the third from the last page in the document, since the last page is the filing receipts, and then the second-to-last page looks to be some sort of binder or something.

ALJ SANYAL: Is Table 8 also titled a Discrete Receiver Result?

MR. VAN KLEY: Yes -- actually it's not labeled Table 8. Apparently, I was looking at the wrong document. The document I'm -- or the page I'm looking at has receiver IDs 4264 through 4299.

THE WITNESS: Yes, I'm at that page.

By Mr. Van Kley:

Q. Okay. Now, this page is part of a table that contains the modeling results for noise impacts from turbines to nonparticipating receivers -- or receptors, correct?

A. Yes. I'm sorry, you said the noise impacts to who?

Q. Nonparticipating receptors.

A. I believe this table is both, because the page you're on, the -- all the receptors are participants.

Q. Okay. All right. Then let's go to -- yeah, you're correct. Go to the page -- it doesn't look like these pages are numbered, so find the page that starts on the top with Receptor 3623.

A. Okay.

Q. All right. So this page is part of a table that shows the noise levels expected at nonparticipating receptors 1 through 3,629, correct?

A. Yes.

Q. And these pages I just mentioned are part of Table 4, discrete receiver results for the critical design wind speed, correct?

A. Yes.

Q. What is meant by the critical design wind speed?

A. I don't know. This project doesn't use a critical design wind speed, so I'm not sure why the table was labeled like that.

Q. By a nonparticipating receptor, what is meant in the context of noise modeling, is a nonparticipating home, correct?

A. Usually.

Q. Well, in this case that is correct, isn't it?

A. Receptors can be places of business,

places of worship, hospitals, schools. So I imagine most of these are homes, but I'm not a hundred percent sure.

Q. Now go to page 19 of the same document you've been in.

A. Okay.

Q. Okay. Are you in the noise study?

A. Yes.

Q. Okay. Good. Page 1 is where we find Table 2, the summary sound levels from preconstruction monitoring, correct?

A. Yes.

Q. Okay. Now, the background sound measurements averaged for each of the seven monitoring stations ranged between 32 dBA and 51 dBA, correct?

A. Yes.

Q. The highest sound -- the highest average sound measurements for nighttime LEQ was 51 dBA at the mixed residential monitoring site, correct?

A. Yes.

Q. And that monitoring site was located in a community known as Flat Rock, correct?

A. Yes.

Q. How would you describe the land use of

the community of Flat Rock?

A. It's a village; there's houses, businesses.

Q. All right. And you were here for the testimony of Mr. Old, correct?

A. Yes.

Q. You heard him testify about the two train tracks that could -- where the train whistles could be heard from this monitor site?

A. Yes.

Q. And you heard him testify about the roads near this monitor site?

A. Yes.

Q. Are there any other residential communities within the project area that have the same land use with respect to being a residential community with two train tracks and roads?

MR. PARRAM: Can I have the question reread?

(Question read back.)

THE WITNESS: No, there's no residential community with two train tracks and roads exactly like mixed residential.

By Mr. Van Kley:

Q. Is there any other residential community

inside of the project area that has as much population density as Flat Rock?

A. I believe the location busy roadway has quite a few residences nearby, but probably not as dense as Flat Rock.

Q. Now, directing your attention again to Table 2 on page 19 of the noise report in Company Exhibit 1E. You see that the average nighttime LEQ for the wooded area was 32?

MS. BAIR: Objection, the document speaks for itself.

MR. VAN KLEY: Again, your Honor, I'm setting up the next question, just like before.

ALJ AGRANOFF: I'll allow the question.

THE WITNESS: Yes, the nighttime LEQ for the wooded area the table says is 32.

By Mr. Van Kley:

Q. Okay. Now, when you average in one -- or when you average the three transmission monitoring stations' results to treat them as one monitoring location, and you average it in to the seven nighttime LEQ results from the seven monitoring stations listed on Table 2, you come up with a project area ambient nighttime average sound level in LEQ of 40.5 dBA, correct? And if you'd like to refer

to your own testimony, Staff Exhibit 16, look at answer 9.

A. Yes. So yes, when you do the average it comes to 40.42, which I recommend rounding to 40.5.

Q. So in an area that is represented by the soundscape of the wooded area -- let me start over, I have another question first.

All right. And then calculating the project area ambient nighttime average sound level for the project as 40.5 leads you to a noise limit of 45.5, correct?

A. Yes.

Q. And that noise limit of 45.5 would apply even where the background level for the wooded area soundscape is 32 dBA, correct?

A. Yes.

Q. So the noise limit that you proposed in the Staff Report would allow the turbines to have a noise level of 13.5 dBA above the average nighttime LEQ for the soundscape represented by the wooded area, correct?

THE WITNESS: I'm sorry, could you repeat the question?

(Question read back.)

THE WITNESS: Yes. Correct.

By Mr. Van Kley:

Q. Now, are you familiar with what's meant by the L50 metric as stated in -- or as shown in Table 2 on Company Exhibit 1E?

A. Yes.

Q. And could you explain what it is?

A. L50 represents the noise levels that occur 50 percent of the time.

Q. Okay. Let me make sure that we have that clarified. So 50 percent of the time the noise would be above the L50 level, correct?

A. Yes.

Q. And 50 percent of the time the noise would be below the L50 level?

A. Yes.

Q. Okay. And the L50 level, according to Table 2 for the wooded area, do you see that's 27 dBA?

A. Yes.

Q. Okay. And that's for nighttime, right?

A. Yes.

Q. Okay. So if the turbine noise at that location is 45.5 dBA, then the turbine noise will be at least 18.5 above the background level of the L50 for 50 percent of the time, correct?

A. I'm not sure if I understand your question.

Q. Let me break it down for you. The nighttime noise limit as recommended in your report is 45.5 dBA, correct?

A. In my supplemental testimony, yes.

Q. Okay. 45.5 dBA minus 27 dBA is 18.5 dBA, correct?

MR. PARRAM: Objection, the document speaks for itself.

MR. VAN KLEY: Well, he asked me to break it down so he could understand it. I'm just breaking it down one element at a time.

MR. PARRAM: Your Honor, we have his recommended dBA in his testimony. We have the wooded area, L50, in the document which is in the record, too, so I don't think we need to go through the math exercise of each and every single one.

ALJ AGRANOFF: Why don't you just try to ask him the question that you were trying to get to?

MR. VAN KLEY: The original question that he didn't understand?

ALJ AGRANOFF: Yes.

By Mr. Van Kley:

Q. So given those two figures, isn't it

true that the turbine noise at 45.5 dBA in the wooded area would be at least 18.5 dBA above the L50 background for 50 percent of the time?

MR. PARRAM: Objection. The objection is to the form of the question with respect to the turbine noise. The witness testified what the noise limitation would be with respect to the project, which is proposed to be 45.5, not turbine noise.

MR. VAN KLEY: I disagree with that. I mean, the turbine noise -- yeah, all right.

ALJ AGRANOFF: Why don't you try to tie the numbers to the descriptions that are set forth in this particular figure?

MR. VAN KLEY: Okay. I thought I was doing that, but I got an objection that the table speaks for itself. We'll try again.

By Mr. Van Kley:

Q. All right. Let's do the math first, maybe that will help. 45.5 dBA minus 27 dBA is 18.5 dBA, right?

A. 45 and 27, is that what you're looking at?

Q. 45.5 dBA minus 27 dBA is 18.5 dBA?

A. Yes.

Q. Okay. And if you have a noise level of

45.5 dBA in the wooded area at night, that level would be at least 18.5 dBA above the L50 background for more than -- for at least 50 percent of the time, correct?

A. Only if the turbine is operating at its maximum sound power level all night, then yes.

Q. Okay. Very good.

MR. VAN KLEY: I have no further questions.

ALJ AGRANOFF: Mr. DeVine?

MR. DE VINE: No questions.

ALJ AGRANOFF: Redirect?

MS. BAIR: May we take a few minutes, your Honor?

ALJ AGRANOFF: Sure. Ten minutes. Would that give you enough time?

MS. BAIR: That is plenty of time. Thank you.

(Recess taken.)

ALJ AGRANOFF: Go back on the record. Ms. Bair, any redirect?

MS. BAIR: Staff has no redirect.

ALJ AGRANOFF: Thank you.

ALJ SANYAL: We do have some questions. Just give me a minute to get my thoughts in order.

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EXAMINATION

By ALJ Sanyal:

Q. Okay. Mr. Bellamy, I know we've heard today that you reviewed the noise assessment study that Republic prepared, correct, as part of your review of the Application?

A. Yes.

Q. So -- and did you note when you were reviewing the noise assessment study that there was no monitoring location on the western part of the project?

A. Yes, I noticed that.

Q. Did that cause any concern?

A. No.

Q. Why not?

A. I thought that the seven locations that they selected were a good representation of the project area. And if -- if my recommended adjustment were to be rejected, I would still feel the same way.

However, the new data just provides a more complete record. It's just extra data that we didn't have before, and in my mind it was appropriate to include in the record, and in recommending a new ambient level.

But in the Staff Report I don't note any problems with the seven locations, so I just think that eighth location would be more complete.

Q. But if it were not included, you would still think the seven existing locations would suffice?

A. Yes.

Q. And then I believe you've been asked this -- a version of this question, but I'm going to ask again just so the record is clear.

Why did Staff not review the information, the noise study information, included in the 19-1066-EL-BTX case as part of its review for this case?

A. It's not this case. And I don't think we're allowed to look at data of associated cases if it's not been admitted into the record for that case.

ALJ SANYAL: Those are the questions I have.

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EXAMINATION

By ALJ Agranoff:

Q. Good afternoon, Mr. Bellamy. With respect to the monitoring locations that were the subject of 19 -- Case No. 19-1066, I just want the

record to be clear based on your response as to whether or not all of those locations do fall within the project area in this case?

A. I believe it was Mr. Old that testified that they are included. And when I look at the map of the locations and the map of the project area, it looked like to me they are in fact in the project area.

Q. And I believe in response to some questions that Mr. Parram may have asked you, you were discussing the significance of monitoring locations being colocated to one another?

A. Yes.

Q. Could you please explain that for me so I understand?

A. If you wanted to skew the average ambient level one way or the other, you could put many locations in a noisy part of the project area, or many in a quiet part of the project area, and skew the results one way or the other. So that's what I mean by the locations shouldn't be too close to each other.

Q. Not that the close proximity would somehow change the recording of the noise levels?

A. No, no. No, the -- you could put two

noise monitors next to each other and they would record accurately.

Q. And again, just so the record is clear, in the western quadrant that we were discussing that has the monitors from the case 19-1066, how many turbine locations from this particular proceeding in the project area are within that quadrant?

MR. PARRAM: Can I have a clarification with respect to which proceeding?

By ALJ Agranoff:

Q. This proceeding.

A. So you're asking how many turbines are within like the transmission line ambient study area?

Q. That were -- how many turbines in this particular case are within the nearby proximity of the monitoring locations that are being discussed from case 19-1066?

A. Well, there was -- there are three turbines that are close to the middle monitoring location, and there was four that are close to the eastern monitoring location.

Q. And if you could please turn to page 3 of your testimony, of your supplemental prefiled testimony.

A. Okay.

Q. And specifically the answer to question 10. If you could please explain the difference -- or the reason for why your answer is just simply not that it's the 45.5 dBA.

A. Because our standard Condition, including what's currently in the rules, states that nighttime limit is an ambient plus -- nighttime ambient plus 5, but that the facility could operate turbines louder than that, as stated in the rest of the Condition, during the daytime.

Q. When you say as stated in the Condition --

A. Well, okay. So it says or the validly measured ambient LEQ plus 5 at the location of the sensitive receptor.

So if there was a sensitive receptor that had an ambient level louder than the project area ambient level, then the -- the facility could impact that receptor up to a 5 dBA plus whatever the local ambient level is at that location.

So if you had an area in the project that was, you know, much louder than the rest of the project area, the turbines would be able to operate at a louder level during the day at that location because it wouldn't raise the ambient level.

So the Applicant would have to show that it is higher at that level -- I'm sorry, at that location in order to operate at that higher level.

Q. Can you give me an example?

A. Let's say you had several residences that are close to a factory that produces, you know -- perhaps it makes the local noise level 10 dBA larger than the rest of the project area.

The residents in that area are already used to having a fairly -- or relatively louder dBA level, so the turbines that are affecting the residents in that area could potentially operate at a louder level because that localized area has a higher ambient level. But if the Applicant wanted to do that, they would have to show that.

Q. How would they make that demonstration?

A. They would have to put noise monitors at that location and create a localized ambient level for those specific receptors that they wanted to go above nighttime ambient plus 5.

Q. And is that type of scenario specific to this particular case, or is that the type of practice that is done in other --

A. This is a standard condition we use for every case.

ALJ AGRANOFF: Okay. Based on the questions --

ALJ SANYAL: I may have one more question.

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EXAMINATION

By ALJ Sanyal:

Q. I just have a -- I have a general question. Do you know if there is a difference between selecting noise monitoring locations for wind projects versus transmission lines?

A. I'm sorry, you're asking are there different procedures?

Q. Yeah.

A. I'm not aware of different procedures. Most transmission line projects don't do ambient noise modeling.

ALJ SANYAL: Okay.

ALJ AGRANOFF: Based on the questions that we had from the Bench, is there any followup from counsel?

MR. PARRAM: I have no questions.

MS. BAIR: I have no questions.

MR. VAN KLEY: No.

ALJ AGRANOFF: Thank you, Mr. Bellamy.

(Witness excused.)

MS. BAIR: Your Honor, I'd like to move for the admission of Staff Exhibit 15 and Staff Exhibit 16.

ALJ AGRANOFF: Any objections to either of those two exhibits?

MR. PARRAM: I'll just renew my objection with respect to Staff Exhibit 16 again for the record.

ALJ AGRANOFF: So noted. There being no objections, Staff Exhibits 15 and 16 shall be admitted as part of the record at this time.

(EXHIBITS ADMITTED INTO EVIDENCE.)

MS. BAIR: Your Honor, I have a question about LR12. As the cross-examination went on you referred to it as being admitted, and it was my understanding that LR12, the Noise Impact Assessment Study from the other case, it was just two pages of that noise assessment study.

ALJ AGRANOFF: That is correct.

MR. VAN KLEY: Well, it was -- it was the --

ALJ SANYAL: The raw data.

MR. VAN KLEY: -- the raw data and the location information was admitted.

ALJ AGRANOFF: Correct.

MS. BAIR: Thank you for that clarification.

ALJ AGRANOFF: Yes. And my reference to that was simply with respect to what we had previously determined.

MS. BAIR: Okay.

ALJ AGRANOFF: Anything else at this point other than from my end would be the briefing schedule?

MR. PARRAM: Your Honor, I did want to propose, we have at least -- well, one issue we would like to file rebuttal testimony on, specific with on aviation.

It's our intention to call back Witness Doyle to testify with respect to some of the information that came up in the testimony of Staff and Office of Aviation for ODOT about potential impacts on the Seneca County Airport.

We would request that we are able to file rebuttal testimony for just one witness and have the rebuttal hearing on that testimony.

ALJ AGRANOFF: And you said again this will be limited to aviation specific to the Seneca County Airport?

MR. PARRAM: Yes, your Honor. Can you hold off for one second?

ALJ AGRANOFF: Sure.

(Pause.)

MR. PARRAM: Your Honor, it is our intention to have limited aviation testimony, and only to specifically address some of the testimony regarding the Seneca County Airport.

There may be an issue with respect to Fostoria as well, but either way, it was all information that came up in the testimony of Staff, and we want to have an opportunity to rebut that. But it will be limited to aviation and it will be one witness.

ALJ AGRANOFF: Any comments from other counsel?

MS. BAIR: We might want to file surrebuttal.

ALJ AGRANOFF: We'll take it one step at a time.

MS. BAIR: That's what I thought.

ALJ AGRANOFF: What kind of time frames are you contemplating?

MR. PARRAM: Well, I think we can get the testimony filed this week sometime, and then if

the parties are available, have a hearing as soon as possible before we get to Thanksgiving.

ALJ AGRANOFF: I'm guessing that we're going to probably be wanting to do this right after Thanksgiving. I think that would be the more popular -- would we be able to have the testimony filed by this Friday?

MR. PARRAM: That's something we can do.

ALJ AGRANOFF: And then --

MR. PARRAM: And, your Honor, I would just like to clarify, I think everyone wants to be able to finish the hearing as soon as possible, and to the extent that other parties are available for next week, and there is a hearing room, and your Honors are available, we would again propose trying to have the testimony next week -- or the actual hearing next week, and we could file the testimony -- try to file even earlier than Friday, if that will help expedite the matter.

ALJ AGRANOFF: Let's go off the record.

(Discussion off the record.)

ALJ AGRANOFF: Based on conversations that we had off the record, it's my understanding now that the company will be able to have their rebuttal testimony filed by this Thursday.

MR. PARRAM: Yes.

ALJ AGRANOFF: Do you have a specific time, end of day, or looking at noon? Noon would probably work best to provide additional time.

MR. PARRAM: 1:00.

ALJ AGRANOFF: We'll split the difference. So 1:00 on Thursday for the filing of the rebuttal testimony, and that would be of Mr. Stance?

MR. PARRAM: Yes.

ALJ AGRANOFF: And then we will have our hearing on Monday --

MR. PARRAM: Mr. Doyle.

ALJ AGRANOFF: I'm sorry, Mr. Doyle. And then we will have our hearing on Monday the 25th at 10:00 a.m. here in 11-C.

Any additional questions? Okay. If not, thank you. And we'll see you on Monday the 25th.

(Thereupon, the hearing was adjourned at 4:25 p.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Monday, November 18, 2019, and carefully compared with my original stenographic notes.

Valerie J. Grubaugh

Valerie J. Grubaugh,
Court Reporter and Notary Public in and for the State of Ohio.

My commission expires August 11, 2021.

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Summary: Transcript Volume VII - In the Matter of the Application of Republic Wind, LLC, for a Certificate of Environmental Compatibility and Public Need for a Wind-Powered Electric Generating Facility in Seneca and Sandusky Counties, Ohio, hearing held on November 18th, 2019. electronically filed by Mr. Ken Spencer on behalf of Armstrong & Okey, Inc. and Grubaugh, Valerie