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1           **IN RE: BURRILLVILLE ZONING BOARD HEARING ON**  
2                           **ADVISORY OPINION PER THE EFSB**  
3                                   **ON**  
4                           **INVENERGY THERMAL DEVELOPMENT, LLC'S**  
5                                   **CLEAR RIVER ENERGY CENTER**  
6                                   **JULY 12, 2016**

7           MR. CLOUTIER: Okay. Now, we have Case Number  
8           16-05. Would the secretary read the notice as it was  
9           published, please.

10          MS. CARBONI: "Notice is hereby given that the  
11          Zoning Board of Review will hold a public hearing in  
12          the Burrillville High School Auditorium, . . ."

13          VOICE FROM THE FLOOR: Give her a mike.

14          MS. CARBONI: ". . . 425 East Avenue,  
15          Harrisville, Rhode Island, on July 12, 2016 at 7:00  
16          p.m., when all persons interested will be heard for  
17          or against the granting of the following application  
18          for a special use permit or variance under the Zoning  
19          Ordinance: Invenergy Thermal Development, LLC,  
20          applicant, and Algonquin Gas Transmission, LLC,  
21          owners of property located on Wallum Lake Road in the  
22          Village of Pascoag, Town of Burrillville, Assessor's  
23          Map 120, Lot 7; Map 135, Lot 2; Map 137, Lots 1, 2, 3  
24          and 21; Map 153, Lots 1 and 2; in an F-5 and A-80  
25          zones, has filed an application for an advisory

1 opinion per  
2 R.I. Energy Facilities Siting Board relative to  
3 whether the Clear River Energy Center, (CREC)  
4 (1) would be compliant with the Zoning Ordinance and  
5 (2) whether any variance should be granted and  
6 (3) whether a special use permit should be granted to  
7 exempt the facility from construction hour  
8 restrictions and  
9 (4) whether CREC will be compliant with the  
10 Burrillville Noise Ordinance, Chapter 16-Sections  
11 31-49, during the construction and operation of the  
12 facility, and, if not, should a variance be granted."

13 MR. CLOUTIER: Thank you.

14 MS. CARBONI: You're welcome.

15 MR. CLOUTIER: Now, with us tonight is the  
16 complete Zoning Board except for Mr. John Patriarca  
17 who's excused for work reasons. We have  
18 representatives from Invenergy here. We have the  
19 Court Reporter, Mr. Andy D'Angelo; our Building  
20 Official, Mr. Joe Raymond; and our legal counsel,  
21 Mr. Oleg Nikolyszyn. He's here to answer all our  
22 legal questions.

23 Those of you who have been to Zoning Board  
24 meetings, we're going to do this a little bit  
25 different this time. Normally, once the applicant

1 gives us their information that they think is  
2 pertinent to the case, then the Board asks questions.  
3 Tonight, instead of us asking questions first, we're  
4 going to let the audience ask questions. That way  
5 I'm hoping that that will avoid a lot of duplicate  
6 questions that either the Board or you have.

7 I respectfully say that you got to limit your  
8 questions, comments to five minutes. We're going to  
9 have the tablet timer over here. Mr. Raymond will  
10 keep that for us. I'm not -- we don't have a sign-up  
11 sheet like they did at the Planning Board meetings.  
12 What we're going to do is ask you to come up; and,  
13 the next person who wants to speak, just line up  
14 behind, and you can line up as many as you want, as  
15 long as you're going to wait; but the only thing is  
16 we're going to keep a list here, and we ask that you  
17 act -- excuse me, actually, what has got to happen in  
18 order to limit the time that we're here, each speaker  
19 comes up only just once. We will not hear you a  
20 second time. So, give us your comments and give us  
21 your questions, whatever it is. We'll hear everybody  
22 here. If we don't hear you tonight, we'll hear  
23 you -- we'll continue this; but we respectfully ask  
24 you to limit your comments to five minutes. Thank  
25 you. Ms. Noonan.

1 MS. NOONAN: Thank you. Good evening,  
2 Mr. Chairman, Members of the Board. My name is  
3 Elizabeth Noonan. I am an attorney from Adler  
4 Pollock & Sheehan in Providence, and I represent  
5 Invenergy in this matter, the applicant.

6 I have several people with me this evening.  
7 I understand that Board members have been present at  
8 prior hearings of the Planning Board, so you may  
9 recognize some of these faces. Up here with me I  
10 have Nicole Verde from my office. Ed Pimentel will  
11 be testifying this evening as a planner. Next to him  
12 is Maureen Chlebek, who will be testifying as to  
13 traffic. On the back here is Richard Beretta from my  
14 office; Mike Feinblatt, who is going to be available  
15 for questions on any matters that are in his purview;  
16 Alan Shoer from my office; and then John Niland from  
17 Invenergy.

18 So, tonight, in light of the fact that we've had  
19 numerous public hearings, while this is the first  
20 time in front of this Board, we do have a lot of  
21 testimony that's already been done; and not to, you  
22 know, overkill it, but what your Solicitor and I have  
23 agreed to is to enter in some joint exhibits. So,  
24 what I'd like to do is just at least identify those  
25 for the record now. Starting with Exhibit 1, which

1 is the, I guess, the notice from the EFSB and the  
2 request. It's a preliminary decision and order  
3 which therein lies out -- lays out the three issues  
4 that this Board is being asked to consider in its  
5 advisory capacity. So, that will be exhibit -- a  
6 Joint Exhibit 1.

7 THE CLERK: A.

8 MS. NOONAN: A, sorry, Joint Exhibit A.  
9 The second --

10 MR. NIKOLYSZYN: Excuse me, Ms. Noonan.

11 MS. NOONAN: Yes.

12 MR. NIKOLYSZYN: In the binder you gave me,  
13 there is no copy of the order.

14 MS. NOONAN: No, it's -- I'm referring to the  
15 documents that you had provided earlier that we  
16 talked about, joint exhibits, that one. Right?

17 MR. NIKOLYSZYN: I'm sorry, what I provided was  
18 a transcript of June 20th Planning Board hearing.

19 MS. NOONAN: Correct.

20 MR. NIKOLYSZYN: And the Department of Health  
21 decision.

22 MS. NOONAN: Was that Department of Health, or  
23 was that the -- I thought it was the advisory  
24 request.

25 MR. NIKOLYSZYN: It's the Department of Health.

1 MS. NOONAN: Oh, okay. I don't want to make  
2 that a joint exhibit right there. You want to put  
3 that in? It's a draft decision. You want us to put  
4 that in right now?

5 MR. NIKOLYSZYN: It's a draft decision?

6 MS. NOONAN: Yeah, it's not final yet. So,  
7 we'll be more than willing to address it. That  
8 hearing is August 9th, and we'll address it after  
9 that, but maybe take that one out for now.

10 MR. NIKOLYSZYN: I agree. If it's a draft,  
11 you're right.

12 MS. NOONAN: It is just draft. Thank you.  
13 So, let me go back to start again. We'll make the  
14 transcript of June 20th Planning Board Exhibit B, and  
15 then I have prepared two exhibits or packets to  
16 present to you. One is this one, which is a list,  
17 will be Exhibit C -- Exhibit B, I'm sorry, Exhibit B,  
18 which is a list of the experts and their resumes.

19 MR. NIKOLYSZYN: Ms. Noonan, just a correction  
20 for the stenographer, I believe we have marked the  
21 transcript as B.

22 MS. NOONAN: All right, I'm sorry. I'm getting  
23 confused. All right, the transcript will be  
24 Exhibit A. The CV's will be Exhibit B, and the  
25 larger spiral bound document that I gave you will be



1 Exhibit C.

2 MR. NIKOLYSZYN: Okay.

3 MS. NOONAN: Are we all on the same page?

4 THE CLERK: No, I have no idea what she's  
5 talking about.

6 MR. CLOUTIER: D becomes C. I believe B becomes  
7 A.

8 MS. NOONAN: The transcript is A.

9 MR. CLOUTIER: Everything backs up.

10 MR. NIKOLYSZYN: This will be B.

11 MS. NOONAN: The CV's are B.

12 MR. NIKOLYSZYN: And the bound --

13 MS. NOONAN: And the large spiral bound is C.  
14 Okay, thank you. Sorry for the confusion.

15 MR. NIKOLYSZYN: Does anybody have any  
16 questions? Do you want us to repeat that?

17 VOICE FROM THE FLOOR: Yes.

18 MR. NIKOLYSZYN: Okay. Invenergy submitted some  
19 exhibits for us to consider. I submitted an exhibit  
20 which is exhibit number -- well, lettered A, which is  
21 a transcript that was typed up by the stenographer of  
22 the Planning Board hearing that occurred on June  
23 20th. So, rather than rehashing what was testified  
24 to on June 20th before the Planning Board, we have  
25 the actual transcript which we are submitting and

1 using as evidence in this case.

2 Exhibit B are CV's, or Curriculum Vitae, expert  
3 credentials of the individuals that Invenergy is  
4 going to be presenting. That's to qualify them as  
5 experts, and what this is is just a list of their  
6 credentials. That's exhibit number -- lettered B.

7 And, finally, in a bound format is a Joint  
8 Exhibit C which contains reports from the Town's  
9 experts and from Invenergy's experts; and I will read  
10 them to you as to what they are, so that you will  
11 know what we are referring to. There are noise  
12 studies, and that's contained in this binder; and  
13 it's Tab 1, and under A is a noise study by Michael  
14 Theriault Acoustics. Tab B is also a report by the  
15 same individual, but it's called Transient Operation  
16 Noise Level Evaluation. Tab C is a noise study by  
17 the Town's consultant that you heard I believe three  
18 times in front of the Planning Board, David Hessler;  
19 and it's entitled, "Invenergy, Clear River Energy  
20 Center Facility Noise and Community Noise Impacts."  
21 Under Tab 2 are traffic studies. One is performed by  
22 McMahon Associates, and it's entitled, "Traffic  
23 Impact Study for the Clear River Energy;" and the  
24 second one is prepared by the Town's consultant,  
25 CDR Maguire, and it's entitled, "Clear River Energy

1 Center Traffic Impact Study Review." Finally, at  
2 Tab 3 are the air studies. One is prepared by  
3 ESS Group on behalf of Invenergy, and another one  
4 under Tab B is prepared by Eric Epner working for the  
5 company of Fuss & O'Neill. He was here a couple of  
6 times as well in front of the Planning Board on the  
7 last two occasions. And, finally, under Tab 4 is a  
8 planning report on behalf of Invenergy presented by  
9 Pimentel Consulting, Inc., and Mr. Pimentel is here.  
10 So, what we did is we bound all of these reports, the  
11 Town's reports and Invenergy's reports together just  
12 for ease of manipulation, basically.

13 MR. CLOUTIER: Thank you, Oleg.

14 MS. NOONAN: Thank you. What I'd like to do is  
15 just again sort of reiterate what we're here for,  
16 what we're requesting, and how we're going to  
17 establish what we need to to have these requests in  
18 front of you.

19 I read in the notice the first question that the  
20 EFSB wants addressed is whether the facility would  
21 meet the requirements of its respective Zoning  
22 Ordinances and whether any variance should be  
23 granted; and, in this case, the power plant itself is  
24 a special use permit in the F-5 zone, as well as some  
25 height variances that are needed for the project, and

1           some issues perhaps on the sound that we will  
2           address.

3           The next one is whether a special use permit  
4           should be granted to exempt the facility from  
5           construction hour restrictions; and the next one is  
6           whether Invenergy will be able to be in compliance  
7           with the Burrillville Noise Ordinance during  
8           construction and operation and, if not, whether a  
9           variance should be granted.

10          So, I want to start with the fact that most of  
11          these witnesses, except for -- well, all have  
12          testified under oath. Ed testified last night. So,  
13          I am going to have him give his testimony again,  
14          especially in the light of the special use permits  
15          and the variances that we're asking for; but, before  
16          I get to him, I want to point out that both Maureen  
17          Chlebek and Mike Feinblatt testified at the June 20th  
18          Planning Board hearing, and both were available for  
19          questions last night also at the Planning Board  
20          meeting. So, unless there's any specific area any  
21          Board member would like me to get into, I wasn't  
22          going to run through their testimony again, okay.

23          I do want to address noise because I don't have  
24          either a live expert, and I don't have the Town's  
25          expert. I'm sure you know that we have discussed

1 noise to a great length; and, while people may  
2 disagree, I believe that the experts have come to the  
3 conclusion that the plant can be operated at 43 dBA.  
4 It may need monitoring. It may need enforcement from  
5 the EFSB; but Mr. Hessler, the Town's expert, in his  
6 letter, which is at exhibit -- at Exhibit C, Tab 1-C  
7 is Mr. Hessler's letter dated May 26, 2016, wherein  
8 he states that he had read the two noise reports that  
9 were prepared by our expert, Mr. Hankard, who  
10 testified at the Planning Board hearing, and that,  
11 with the supplemental report that was done and that  
12 you have, both the original report at Exhibit C,  
13 Tab 1-A, and then the additional report at Exhibit C,  
14 Tab 1-B, it was Hessler's opinion that the 43 dBA  
15 could be met, all right. So, I think, at least from  
16 the expert perspective, that issue has been fairly  
17 well exhausted.

18 MR. NIKOLYSZYN: Before we move on, if I may ask  
19 a question? I'm sure that the people in the audience  
20 here would like to hear how is it specifically that  
21 you're going to implement the process that's outlined  
22 to make certain that the 43 dBA is met.

23 MS. NOONAN: I believe most of the  
24 recommendations and the updates that had to be done  
25 dealt with the process that is cooling in the plant

1 and that that can cause noise during the start-up.  
2 It's really the start-up period that's problematic.  
3 So, what essentially is happening is that there's a  
4 lot of what they call flagging, which is sort of to  
5 cover and buffer. Certain areas of it are enclosed  
6 which minimizes the sound. I think Mr. Hessler  
7 talked specifically about that, and then the fact of  
8 distance, muffling noise beyond that. So, I think a  
9 lot of those had to do with going back to the drawing  
10 board before -- between the October 2015 report and  
11 the March 2016 looking at some alternatives. There  
12 were some suggestions that were made by Mr. Hessler  
13 in his report on that; and, essentially, it comes  
14 down to how it's designed and what type of,  
15 essentially, if you will, buffer or covering is used  
16 to do this and, more importantly, our contractors  
17 that are hired to do this plan; and both Mr. Hessler  
18 and Mr. Hankard talked about the importance of the  
19 ones that are hired to do these plans and projects  
20 and how their guarantees are important to keep it in,  
21 and those are outlined in the report and have been  
22 addressed at length during the hearings.

23 MR. NIKOLYSZYN: If I may, I'm sure that most of  
24 the people in the audience would like to be assured  
25 that the guarantees that the contractor provided to

1           Invenergy are something that the Town can rely upon.  
2           Is it something that you can provide us with a copy  
3           of the contract guarantee that somehow we can review  
4           and make certain that the Town is protected, rather  
5           than just having --

6           MS. NOONAN: Well, it doesn't exist yet  
7           because -- because those aren't selected until the  
8           project goes forward, but I believe one of the  
9           conditions that's requested or conditions to do that  
10          Mike McElroy talked about last night was having all  
11          those conditions agreed to and made a part of the  
12          EFSB. So, there will -- there will be a contract,  
13          and portions of that may be able to be provided but  
14          certainly will be part of any EFSB conditioning on  
15          that, that they have to meet the 43 dBA. So --

16          MR. NIKOLYSZYN: As the Solicitor for the Town,  
17          I would like to somehow assure the Town's residents  
18          that they are being protected by the contract between  
19          Invenergy and the contractor. Can Invenergy somehow  
20          give us assurances that, when you actually have the  
21          contract, that the Town through its legal  
22          representatives can review it and do what we can to  
23          make certain that the Town is protected and not just  
24          Invenergy?

25          MS. NOONAN: I believe under the powers of the

1 special use permit, yes, you can condition that and  
2 make that something that we would have to provide to  
3 legal counsel, understanding that, you know, that  
4 would be provided.

5 MR. NIKOLYSZYN: And we can send that to the  
6 EFSB with that representation, that you will work  
7 with the Town so that the Town can be satisfied that  
8 the contractor is really going to live up to its  
9 obligations; and, in the event the contractor does  
10 not, the Town will have some sort of ability to  
11 enforce this contract at no cost to the Town?

12 MS. NOONAN: Certainly, we can provide -- you  
13 know, we agree to say a condition that we have to  
14 meet the 43 dBA and that you can, you know, that  
15 legal counsel can look at that contract; and I don't  
16 know about enforcement under the contract, to be  
17 honest, Oleg, but I think from the EFSB, you know,  
18 enforcement point of view, that can be hinged into  
19 that; but, certainly, you know, Invenergy has the  
20 ability to prosecute that if it's not in compliance;  
21 and, if the Town -- we're working with the Town,  
22 certainly we will do that.

23 MR. NIKOLYSZYN: Okay, thank you.

24 MS. NOONAN: So that on the noise, the other  
25 issue to talk about and was raised last evening had



1 to do with construction, noise during the  
2 construction phase. That is also set out in  
3 Mr. Hankard's report which is Exhibit C, Tab 1-A at  
4 Page 21, Section 3.2. He goes specifically into a  
5 discussion of the construction noise levels; and, as  
6 you know, under your ordinance, construction  
7 activities are exempt from the article, so long as  
8 they're done during the certain times of the day.  
9 So, those -- and that information is set forth in  
10 Mr. Hankard's October 2015 report. In reviewing the  
11 application that was submitted to the EFSB and in  
12 speaking with Mr. Niland, we generally plan to run  
13 construction crews during the regular working hours,  
14 7:00 to 3:30, generally. There may be occasions,  
15 particularly during the concrete pouring, where there  
16 may be need for additional shifts on that; but,  
17 beyond that, that's where we are in terms of the  
18 construction hours and the noise.

19 With that, I think what I'd like to do is have  
20 Mr. Pimentel essentially tie together the testimony  
21 that he has relied upon. He can tell you what he has  
22 looked at; and, again, I know you were there last  
23 night at the hearing, but I think Mr. -- in this  
24 round, Mr. Pimentel will be focusing on your  
25 requirements for the special use permit and the

1 variance. So, I'm going to start off with  
2 Mr. Pimentel, whose CV is at Exhibit B-5.

3 MR. CLOUTIER: One thing, sir. We have to swear  
4 you in before you testify. Would you raise your  
5 right hand, please.

6 **EDWARD PIMENTEL**, first having been  
7 duly sworn, testified as follows:

8 MR. CLOUTIER: State your name, please, for us.

9 THE WITNESS: It's Edward Pimentel, that's P, as  
10 in Paul, I-M-E-N-T-E-L.

11 MR. CLOUTIER: Thank you.

12 **DIRECT EXAMINATION BY MS. NOONAN**

13 Q Mr. Pimentel, can you give this Zoning Board a brief  
14 summary of your qualifications that are also set  
15 forth at Exhibit B-5?

16 A I have both a Bachelor's and a Master's in urban and  
17 community planning, receiving both my degrees from  
18 the University of Rhode Island. I've been a  
19 nationally-certified planner since 1994. I've been a  
20 municipal planner and zoning officer working for  
21 municipal government for my entire 25 years in the  
22 field, also started a consulting business  
23 approximately 15 years ago. I wear both hats.  
24 Currently, on the municipal side I'm a zoning officer  
25 interpreting zoning codes and comprehensive plans and

1           doing enforcement. On the consulting side, I've done  
2           projects all over the State of Rhode Island and  
3           Southeast Mass. The last project I did in  
4           Burrillville I believe was the Navigant Credit Union.  
5           There might have been something since then, but I  
6           believe that was the last one I worked on in the Town  
7           of Burrillville. I've presented before zoning boards  
8           and planning boards on thousands of occasions,  
9           literally, several times a month; been before every  
10          level of court, have testified. Coincidentally, we  
11          just had a big ruling and decision in the Supreme  
12          Court that involved an enforcement case of mine, so  
13          I've been involved in all aspects of zoning.

14                 MS. NOONAN: Mr. Chairman, I would like to move  
15                 Mr. Pimentel as an expert in the field of land use  
16                 planning.

17                 MR. CLOUTIER: Would you explain where the  
18                 Navigant Credit Union building is in Burrillville?

19                 MR. PIMENTEL: The Navigant Bank?

20                 MR. CLOUTIER: Yes.

21                 MR. PIMENTEL: Oh, I'm sorry, it was in North  
22                 Smithfield. I apologize. It was North Smithfield.

23                 MS. NOONAN: May I still qualify him as an  
24                 expert?

25                 MR. CLOUTIER: Yes.

1           THE WITNESS: I have done several residential  
2           developments in Burrillville. That I can swear to.

3   Q    Mr. Pimentel, can you explain what work you undertook  
4           as part of the request that I made to you to do an  
5           analysis of the Invenergy project and, in particular,  
6           the Zoning Board portion of that?

7   A    Sure. So, the first step I took was to get a real  
8           grasp of what the subject proposed development was,  
9           and the reason for that would be to -- when I'm  
10          reviewing the Zoning Ordinance and the Comprehensive  
11          Plan is then to excerpt that which I think is  
12          applicable and pertinent to the development.  
13          My objective was to determine what the respective  
14          goals and objectives were from both the Zoning  
15          Ordinance, as well as the Comprehensive Plan,  
16          I think what we have been referencing as the siting  
17          guidelines, but I'll refer to as goals and  
18          objectives.

19                So, I first reviewed the Zoning Ordinance  
20                because I had to determine how the use was classified  
21                within the ordinance and then what would be the  
22                applicable description of the appropriateness of that  
23                use pursuant to your code; and, when I reviewed the  
24                code, I concluded that it is a use permitted by  
25                special use in the pertinent residential district,

1 residential F-5 district.

2 Now, a special use permit -- I want to read this  
3 out of your code first and then break it down, and it  
4 states, when a use is permitted by special use,  
5 ". . . requiring a special use under the applicable  
6 provisions of this chapter may be permitted by the  
7 Zoning Board of Review following a public  
8 hearing . . .", and we've had several before the  
9 planning and now before your Zoning Board and the  
10 public, ". . . only if, in the opinion of the Board,  
11 such proposed use and its location on the site meets  
12 with the following requirements." I want to stop  
13 there for a second. There's been plenty of case law  
14 in regards to the granting of special use permits.  
15 So, a community has the authorization to determine  
16 whether a use is permitted as a matter of right. So,  
17 you just pull a building permit; (B) it's allowed by  
18 special use, which is now referenced in the condition  
19 of permitted land use or (B) it's prohibited in the  
20 Town; and then there's also accessory uses, but they  
21 have to be attached to a principal use. What has  
22 been determined in regard to the special use by case  
23 law is that a conditionally-permitted land use is a  
24 determination by the municipality that the use is,  
25 in fact, permissible, subject to reasonable

1 conditions of approval. So, we have to go through  
2 the uses that are found, and they're laid out here;  
3 and, if it's concluded that they meet those, it's  
4 deemed conditionally permitted. It is a permissible  
5 land use; distinctive difference than when you're  
6 seeking a variance, whether it be use or dimensional,  
7 you're departing from the regs.

8 So, having said that, then you can move on.  
9 "The granting of the special use permit will not  
10 alter the general character of the surrounding  
11 area . . .". What I typically do in addressing this  
12 particular standard, which is the principal standard  
13 in granting a special use permit to satisfying the  
14 Board, is I do a thorough neighborhood analysis by  
15 both visiting the site, reviewing the Comprehensive  
16 Plan, reviewing the neighboring properties, and  
17 getting a really good, distinctive feeling as to  
18 whether the proposal in question will fit into that  
19 particular property in the neighborhood and how it  
20 would impact the surrounding land uses.

21 As I noted in my report, and I've got a full  
22 report in a summarized version, was I did a full  
23 analysis including the placement of the operation in  
24 relationship to the surrounding -- the immediate  
25 industrial operation, the gas line, and then the

1 residential neighbors; and that, of course, was my  
2 biggest concern because clearly the public is going  
3 to have concerns about the operation locating in this  
4 particular area; and what I determined was, given the  
5 distances of the operation from neighbors, given the  
6 vast acreage surrounding the site . . . and, in fact,  
7 most of it is in public hands, so the development  
8 potential is probably nil . . . that this site would  
9 not only be well suited and visually screened; but,  
10 when I visited the site, I even looked up/down the  
11 road and took photographs. I couldn't even see the  
12 existing operation, so, say the gas line; and, if  
13 this is properly situated and if it operates as it's  
14 being proposed to function, that it will have no  
15 impact on the character of that neighborhood, the  
16 residential neighbors, given distance, given  
17 screening and buffering.

18 I know that there was concerns or expressions  
19 stated yesterday about, well, but this is a rural  
20 community. It's primarily residential; but the  
21 reality is, when I did my analysis, I crunched the  
22 numbers down. The Town of Burrillville is primarily  
23 residential, but that's just the character of what it  
24 is. So, the Town is, approximately, right now it is  
25 96.1 percent residentially-zoned, if you look at all

1 the residential designations. So, less than four  
2 percent is any other zoning designation, that's  
3 Number 1. If you look at the F-5 district just  
4 singularly, that comprises 74 percent. So,  
5 three-quarters of the Town is zoned F-5. So, the  
6 likelihood that one of these uses laid out in your  
7 use schedule, which includes other industrial uses as  
8 well, by the way, for example, telecommunication  
9 towers and so forth, the likelihood is they are going  
10 to end up locating in an F-5 district by special use,  
11 just given the quantity of acreage in the Town.

12 Furthermore, if you look at just the developable  
13 acreage in Town presently, you're looking at the  
14 residential. Development-wise, if you considered  
15 that which has been developed, that which has  
16 constraints and has no suitability for further  
17 development, the remaining acreage, once again, the  
18 vast majority is in your residential zone, 95.3  
19 percent of what's remaining. 80.6 percent is all in  
20 the F-5 district. So, the likelihood of experiencing  
21 one of these types of uses in your F-5 district is  
22 very likely. If this use was treated like a use  
23 variance, I'd have a different opinion right now, but  
24 it isn't. It's a conditionally-permitted land use.

25 So, the next step I took was to determine



1 whether there were any specific performance standards  
2 associated with this particular land use. What  
3 communities have done, and especially since a ruling  
4 several years ago when there was a new decision  
5 about, when you seek special use and dimensional  
6 relief, to make it work. After that, communities  
7 really re-worked their ordinances, I worked on some  
8 of them, and said, "We're going to pull out those  
9 uses that we deem appropriate by special use, but  
10 we're going to apply specific performance standards,"  
11 and the reason why they did that was they wanted that  
12 particular use to have to meet these performance  
13 standards; otherwise, they would trigger a use  
14 variance. So, that was the next step I took. There  
15 were no specific performance standards attached with  
16 this particular land use. So, what I did was I  
17 relied on your Comprehensive Plan and the pertinent  
18 goals and objectives that I excerpted that I deemed  
19 appropriate and applied those as siting guidelines.

20 For example, air quality is noted in your  
21 Comp. Plan. Noise is noted, both as one of the  
22 general standards for the special use and it's in  
23 your Comp. Plan, water quality and so forth, the  
24 things that the other experts have been addressing,  
25 things that I, as a municipal planner, would rely on

1 in preparing my report from a consultant's  
2 perspective and as your own Town Planner,  
3 Mr. Kravitz, was relying on reviewing it from the  
4 Town's perspective to make sure they're being  
5 properly addressed and, therefore, why peer review  
6 would come into play to make sure our experts are  
7 addressing these in an appropriate fashion.

8 Having reviewed the conclusions of both our own  
9 experts and the peer review, it was my conclusion,  
10 from a Comprehensive Plan perspective, that we were  
11 meeting all of the requisite goals and objectives;  
12 and those conclusions are in my report.

13 But, getting back do the standards for the  
14 special use permit, so, as I noted, the first one  
15 would be the general character of the area. I did a  
16 full analysis of the neighboring surrounding land  
17 uses. I think the use is appropriately sited, well  
18 buffered. I don't think there would be any intrusion  
19 on the character of the neighborhood from a visual  
20 perspective, from a noise perspective. We're making  
21 guarantees on the record that it won't; and, by the  
22 way, as counsel already stated, right in your  
23 ordinance you can impose these as conditions on  
24 noise.

25 Next would be the intent or purposes of both the

1 ordinance and the Comprehensive Plan. That's why I  
2 did a thorough analysis of your Comp. Plan.

3 I excerpted 30 pages of things that I felt were  
4 either well suited or addressed this particular  
5 development to those that were just remotely  
6 addressing it; but I wanted to make sure I had my  
7 hands on all the data, and I incorporated some of  
8 that into my report. Then you go into the more  
9 specifics. Many of these have been addressed by the  
10 other various experts, things like appropriate  
11 ingress and egress, making sure there's sufficient  
12 off-street parking, addressing things like setbacks  
13 and so forth.

14 So, really, the only other one I want to get to  
15 is really getting to the issue of -- it would be  
16 setbacks and the dimensional criteria. We have  
17 stacks that are associated with the operation.  
18 It can't function appropriately without these stacks;  
19 and it would appear that these stacks would exceed  
20 the maximum height limits of your ordinance, much  
21 like a telecommunications tower. The height limits  
22 really address more of a character of building size,  
23 whether it be residential, industrial, commercial,  
24 not taking into consideration ancillary uses that  
25 would come with an industrial operation. That's why

1           there was nothing in the regulations that could  
2           support something of this height, similar to a  
3           telecommunications ordinance, and I went through that  
4           as well. Therefore, I think it's ancillary and  
5           accessory, and without it the special use permit  
6           cannot function. So, I think it's very appropriate;  
7           and, if you look in your code, you do have the  
8           ability -- you've addressed this pursuant to that  
9           Newton decision; and that is, if you feel that the  
10          special use permit is appropriate being conditionally  
11          permitted and that it could not function with the  
12          particular deviation, dimensional relief deviation,  
13          then yes, it is appropriate to approve both; and your  
14          code allows for that.

15                 So, I've had discussions with counsel, too,  
16                 on the issue of noise. We will be meeting the  
17                 43 decibel level. I think there was an issue of  
18                 octaves and so forth. With that, if you look at your  
19                 Chapter 16, it actually notes that's by special use.  
20                 So, really, the only dimensional deviation that I  
21                 determined was in regards to the height. I don't  
22                 think there is any other variances required, at least  
23                 in my professional opinion; and I believe we meet all  
24                 of the standards for the granting of a special use  
25                 permit. Once again, and I have to hammer this home,

1 it is a conditionally-permitted land use.

2 MR. NIKOLYSZYN: May I ask a question?

3 MR. CLOUTIER: Yup.

4 MR. NIKOLYSZYN: Mr. Pimentel, in preparing with  
5 the Board here for tonight's meeting, I did some  
6 legal research with respect to the issuance of a  
7 special use permit; and, in 2013, the Rhode Island  
8 Supreme Court case of Lloyd vs. Zoning Board of  
9 Review for the City of Newport, --

10 THE WITNESS: Yes.

11 MR. NIKOLYSZYN: -- the Supreme Court stated  
12 that, "Any decision by a zoning authority granting or  
13 denying a special use permit must be based on a  
14 finding that the proposed use or extension or  
15 alteration of an existing use, quote, 'is in accord  
16 with the public convenience and welfare,'" end quote,  
17 is that correct?

18 THE WITNESS: That is correct.

19 MR. NIKOLYSZYN: Do you believe that's a proper  
20 standard to be applied by this Board?

21 THE WITNESS: Curiously enough, I know the case  
22 very well because we had to argue it last month.  
23 I was in the City of Newport. That particular case  
24 involved I believe it was a hotel. The case I was  
25 arguing was something that relied on that case. The

1 situation there was they had a preexisting legal  
2 nonconforming land use of the property. This  
3 particular operational proposal we're proposing is  
4 not -- first of all, it doesn't exist, so that's not  
5 even applicable; and, secondly, this would be allowed  
6 by special use, so this is conditionally permitted.  
7 What was happening there was there was modifications  
8 to that use; and somebody challenged it, saying if  
9 you have a grandfathered use, and that's what we  
10 refer to as a preexisting land use, if we have a  
11 grandfathered use, the objective of zoning over time  
12 is to hopefully abolish, to do away with  
13 nonconforming uses, grandfathered uses. So, they  
14 challenged the decision there because they felt that  
15 the modifications that were being instituted  
16 intensified that grandfathered use, and what the  
17 courts concluded in that particular case was that the  
18 changes or the alterations didn't apply directly to  
19 the intensification of the use. They were doing  
20 improvements, like landscaping improvements, decking,  
21 things like that. And you know why that all came  
22 about? That all came about because of the Newton  
23 decision, and I believe that was the City of Warwick.  
24 Back then, people would regularly grant special use  
25 permits in conjunction with variances; and somebody

1 challenged it, because by the very nature, if you're  
2 seeking a special use permit, as I've been arguing  
3 all night, it implies that we comply with your entire  
4 ordinance. And, if we don't, how can you deem it a  
5 conditionally-permitted land use? That resulted in  
6 the findings -- that's true, you should be able to  
7 seek dimensional regarding Newton. Since then that  
8 turned the entire Rhode Island on its head, and all  
9 39 cities and Town's were scrambling, saying,  
10 "How do we do this? We've always been doing this."  
11 The State Legislature altered the enabling  
12 legislation to allow the municipalities to adopt the  
13 language which Burrillville already has. Newport has  
14 not, and that was the problem there. Burrillville  
15 has. That says, you know what? If you want to apply  
16 specific performance standards to your particular  
17 uses that are permitted by special use, . . . the one  
18 I've been addressing all night, because I'm very  
19 familiar, I've put up dozens and dozens of towers.  
20 If you look at your Tower Ordinance, there are all  
21 performance standards that apply to it . . . if you  
22 want to do that, then those become the standards by  
23 which they must meet, and then perhaps you can  
24 deviate from something outside; and that's why I  
25 specifically looked for that because that's how

1 communities have addressed it post Newton, post the  
2 adoption of the enabling legislation. Burrillville  
3 has adopted it. The standard now: If you feel that  
4 the use is appropriate, given the standards for the  
5 granting  
6 of the special use, . . . these are not deviations;  
7 we're not seeking a departure; this is not a  
8 variance . . . then can the relief you're seeking  
9 under the dimensional, would that be required to make  
10 that function? And, if so, then they can be sought  
11 conjunctionally, prior to the standard that's applied  
12 now when you adopt the language of the enabling  
13 legislation.

14 MR. NIKOLYSZYN: Do I understand you correctly  
15 then that what I quoted to you that the zoning  
16 authority must find that the proposed use is in  
17 accord with the public convenience and welfare is not  
18 the proper standard to be applied here?

19 THE WITNESS: Health, welfare and safety is  
20 appropriate under all circumstances always.

21 MR. NIKOLYSZYN: So, that is the proper standard  
22 for this Zoning Board to consider?

23 THE WITNESS: Anytime you proceed before the  
24 Zoning Board, you must satisfy the Board that the  
25 health, safety and welfare of the public, of the



1 community is served.

2 MR. NIKOLYSZYN: And public convenience as well?

3 THE WITNESS: And public convenience. But just  
4 be aware that that standard was being applied  
5 differently because there they were arguing that they  
6 were intensifying a nonconforming use, too. So,  
7 that's all I'm saying. You got to be careful on that  
8 particular case because there they were intensifying  
9 a use that was prohibited but was grandfathered, was  
10 protected.

11 MR. NIKOLYSZYN: Mr. Pimentel, I don't wish to  
12 argue legalities with you. I just want to --

13 THE WITNESS: But I do agree with you, yes.

14 MR. NIKOLYSZYN: The standard as I quoted to you  
15 is something that this Board should apply?

16 THE WITNESS: Absolutely. Generally speaking,  
17 yes, I agree.

18 MR. NIKOLYSZYN: And you briefly mentioned, I  
19 believe, if I heard you correctly, that, in granting  
20 a variance, the court also used this language:  
21 "That the granting of the requested variance will not  
22 alter the general character of the surrounding area  
23 or impair the intent or purpose of the Zoning  
24 Ordinance or the Comprehensive Plan upon which the  
25 Ordinance is based." Is that an accurate criteria

1 for this Board?

2 THE WITNESS: It is, absolutely.

3 MR. NIKOLYSZYN: Thank you, sir.

4 MS. NOONAN: Just to add a legal point on that,  
5 that last language you read is directly quoted in  
6 your Ordinance. Public welfare and convenience is  
7 not directly in your Zoning Ordinance, but I think I  
8 agree with Ed that it encapsulates pretty much all of  
9 everything that is set forth in your special use  
10 permit standards specifically.

11 MR. NIKOLYSZYN: Thank you.

12 MS. NOONAN: And then, just in terms of height,  
13 there are -- we listed in our application that there  
14 are several other structures that do require relief.  
15 They exceed the 50-foot height on that, but he's  
16 addressed that in his testimony. This evening we  
17 have all these experts here. I have one more --

18 MR. NIKOLYSZYN: Excuse me, Ms. Noonan, before  
19 we leave that topic, I totally forgot. I marked it  
20 in my notes, but I forgot. That smokestack variance  
21 relief requested, I understand and our expert agreed  
22 that you do need 200 feet, let's say, to make certain  
23 that the air is dispersed appropriately; but there  
24 was some question with respect to the surrounding  
25 area that's very high up, such as I understand

1 Buck Hill is somewhere around 160 feet higher than  
2 the plant itself is going to be. So, is the  
3 smokestack being 40 feet higher than the residents  
4 that are located on Buck Hill, is that, in  
5 Mr. Pimentel's opinion, sufficient to protect the  
6 general welfare of the public?

7 MS. NOONAN: I would take that from two aspects  
8 and maybe have Mike Feinblatt, who did the air  
9 analysis, his report is in there along with your peer  
10 review, and have him address sort of from the air  
11 quality which is what -- the purpose of the  
12 smokestacks; and then Ed can add that into his visual  
13 discussion which is already in his report. Mike,  
14 you'll need to be sworn in.

15 **MIKE FEINBLATT**, first having been  
16 duly sworn, testified as follows:

17 MR. NIKOLYSZYN: State your name, please, for  
18 us.

19 THE WITNESS: Mike Feinblatt, F-E-I-N-B-L-A-T-T.

20 **DIRECT EXAMINATION BY MS. NOONAN**

21 Q Mr. Feinblatt, I just wanted to, I guess, introduce  
22 you to this Board. I'm sure they've seen you before  
23 at other hearings, but his resume is before you as  
24 part of Exhibit B; and I believe it is Number 4. So,  
25 I was wondering, Mike, if you could just give this

1 Board a little bit of your background, particularly  
2 in regards to this question and the air issue.

3 A Yes, I've been an environmental consultant for about  
4 25 years. I've been working with the ESS Group for  
5 almost 25 years. I'm a vice-president of the  
6 company, and I have a particular expertise in air  
7 quality.

8 Q Mr. Feinblatt, you've been involved with this  
9 project; and, in fact, ESS was the entity that put  
10 together the EFSB application, correct?

11 A That's correct.

12 Q Did you follow the Solicitor's question regarding the  
13 smokestacks in relation to surrounding residences at  
14 a higher level, if you can address that?

15 A Sure. One of the primary tenets of the air quality  
16 analysis is predicting what the ambient air  
17 concentrations will be in the area surrounding the  
18 smokestacks. So, what we have is what's called an  
19 air dispersion model program that we run. What we do  
20 is we establish a receptor grid around the site  
21 emanating from the stacks going out 50 kilometers;  
22 and you, literally at 10 degree intervals around the  
23 site, you have a receptor grid that goes out, and it  
24 covers all the area surrounding the stacks.

25 The model itself incorporates the local geography,

1 including the elevation of the land. So, every  
2 receptor is basically put into the program at its  
3 elevation, and it takes in consideration how its  
4 relative elevation to the stacks would affect the  
5 dispersion of pollutants. You know, the idea is to  
6 have tall stacks to emit the pollutants as high as  
7 you can so that it takes them as long as possible to  
8 get to the ground, so they have time to mix with the  
9 cleaner ambient air; so, by the time it gets to the  
10 ground, the concentrations are as low as possible.  
11 That's the reason why you have tall stacks. So, if  
12 you have surrounding areas that are a higher  
13 elevation, you could expect that you would have  
14 higher concentrations because they don't -- the time  
15 that it takes for it to hit the ground is not as  
16 lengthy as it would be for a lower area, but the  
17 model takes that into consideration. So, what you do  
18 is you basically run the model at every one of these  
19 receptor locations and see what the maximum impact  
20 value is for each pollutant, and then you compare  
21 that to the National Ambient Air Quality Standards.  
22 So, as long as the maximum concentration at any  
23 location within 50 kilometers of the site is below  
24 the ambient air quality standard, it's presumed that  
25 it's below the air quality standard at every

1 location. So, the model, because it incorporates  
2 elevation into its analysis, although you again  
3 would, you know, expect to see higher concentrations  
4 at an elevated location, that was included and  
5 incorporated into the analysis we did; and what we  
6 found was that the concentrations even at those  
7 locations were in compliance with the National  
8 Ambient Air Quality Standards, meaning that they're  
9 protective of human health and the environment.

10 Q And, Mr. Feinblatt, as part of the permitting process  
11 through Rhode Island Department of Environmental  
12 Management, this specific concern about elevation  
13 differences, that is going to be addressed, as you  
14 said, as part of your modeling, but is that also part  
15 of the air permit?

16 A Well, it's addressed in the air permit by the air  
17 modeling. I mean that's really -- you know, it's all  
18 about air quality. I mean there are lots of  
19 different air pollution control regulations that  
20 regulate different things, but in the end what  
21 they're all intending to do is protect air quality.  
22 So, that, really, the key to the whole thing is  
23 design the plant with the right emission controls  
24 with the right dimensions of stacks, so that the  
25 emissions from the plant will not impact air quality

1 beyond the levels that would be deemed to be safe by  
2 the EPA; and the air model analysis makes that  
3 demonstration.

4 MS. NOONAN: Again, I would just note for the  
5 Board that you have the air studies of Mike's outfit,  
6 the ESS Group. That's at Exhibit C, Tab 3-A; and  
7 then you also have the Fuss & O'Neill peer review,  
8 the experts hired by the Town, and that's set forth  
9 at Exhibit C, Tab 3-B. If there aren't any more  
10 questions for Mike, then I will have Ed take the seat  
11 again and address that. Ed, if you can just address  
12 the visual question?

13 MR. PIMENTEL: Clearly, from the land use  
14 Planner's perspective, because it is one of the  
15 pertinent siting concerns and guidelines is visual  
16 impact on the surrounding neighborhoods; and I know  
17 this Board probably has extreme -- extensive  
18 experience in this. There's already a  
19 telecommunications tower sited on the property in  
20 question for the gas line; and that is the approach  
21 taken here is the typical approach taken when you're  
22 going to introduce a structure of great stature, of  
23 greater stature than allowed under the Ordinance; and  
24 the approach is to either suspend a balloon or crane  
25 or to have an object for which you can get an idea of

1 the image; and then you superimpose to the  
2 prospective height, and then you do visual  
3 simulations from various vantage points; and that was  
4 the approach taken here as well. It was one of the  
5 main reports I looked for as a land use planner  
6 because I knew it was going to be one of the premiere  
7 concerns, clearly, for the public. It would be one  
8 of mine, if I was a neighbor and, secondly, as  
9 required by your regulations; and it is in the  
10 report. If you look at from the visual simulations,  
11 only in certain rare vantage points -- once again,  
12 given the vast surrounding acreage and the angle of  
13 the structure given, tree canopy distances, and so  
14 forth, people have a tendency to believe that, if you  
15 have a tall structure, you should be able to see it;  
16 but the reality is angles make a difference. Also,  
17 distances and the obstructions between and along  
18 these distances make a difference. So, where you  
19 would expect to see something and you're thinking  
20 200 feet in the air, placed correctly, only in  
21 certain rare circumstances will you even see; and the  
22 visual simulations will testify to that -- attest to  
23 that fact. And, like I say, we do this all the time  
24 with towers; and then, depending on certain angles,  
25 if there are concerns, we try to mitigate those.



1 I didn't see any mitigation measures that were  
2 required here. I mean we're surrounded by several  
3 thousands of acres; primarily, the vast majority is  
4 in public hands.

5 MS. NOONAN: Thank you, Ed. A further question  
6 is: Just based upon your report, your analysis, the  
7 fact that you were present at both Planning Board  
8 hearings where testimony was given, correct?

9 MR. PIMENTEL: That is correct.

10 MS. NOONAN: Do you have an opinion as to  
11 whether or not this proposed project meets this  
12 Town's Zoning Ordinance requirements for a special  
13 use permit and the dimensional variance for height?

14 MR. PIMENTEL: I do. I think we've properly  
15 addressed all the standards for the granting of the  
16 special use permit. I, as a land use consultant,  
17 clearly, I am also relying on the conclusions of  
18 various experts. Some of those standards are more  
19 engineering in nature, and that's what I rely on;  
20 and, secondly, I believe we meet the burdens of the  
21 granting of the variances for the stacks, because  
22 that's what we indicate when we seek a dimensional  
23 deviation. Those are burdens, and I believe we've  
24 satisfactorily addressed those as well.

25 MS. NOONAN: And, if I'm correct, you had

1 prepared your initial report for me prior to any of  
2 the peer review reports coming in or testimony, and  
3 so my question is: Did your opinion change or alter  
4 upon receipt of any of the information from the peer  
5 review experts from the Town?

6 MR. PIMENTEL: No. I was actually in attendance  
7 the entire evening on June 20th listening to the  
8 entire peer review testimony, jotting down notes and  
9 so forth. I went back and re-reviewed my report,  
10 both the full report and the Executive Summary, to  
11 see if there was anything I felt I needed changing;  
12 and I felt everything had been satisfactorily  
13 addressed, both from our own experts as well as the  
14 peer analysis.

15 MS. NOONAN: Thank you.

16 MR. NIKOLYSZYN: Can I ask, before we move on?  
17 I understand your opinion, but can you explain your  
18 opinion how the granting of the special use permit is  
19 in accord with the public convenience?

20 MR. PIMENTEL: When I reviewed the Comprehensive  
21 Plan, I excerpted pages upon pages of goals and  
22 objectives, even including information that was  
23 obtained when they did the survey in public; and the  
24 convenience part comes -- concerns such as high  
25 utility bills, convenience such as economic

1 development impact, and a high concentration on the  
2 residential tax base; and I mean I could excerpt -- I  
3 could read quotes into the record, but things such  
4 as -- your Comprehensive Plan notes that one of its  
5 strengths, this is the Town of Burrillville, is the  
6 presence of the large utility companies and electric  
7 and associated distribution and transmission lines;  
8 and there was quote after quote of this, including  
9 those from the public when they did the survey, and  
10 it's in my report. I didn't make these quotes up.  
11 I took them out of the Comprehensive Plan. And there  
12 were concerns about the vast utility bills,  
13 dependency on residential tax base because the Town  
14 of Burrillville has limited commercial and industrial  
15 land resources; and it even notes, those that do  
16 exist, many of them are constrained for development.  
17 That's why I did the statistical analysis of what  
18 remains. So, the Town of Burrillville is trying to  
19 realize large economic development on very limited  
20 land resources, other than those that are  
21 residentially based. So, that's why I felt it would  
22 meet that standard.

23 MR. NIKOLYSZYN: And, following up on that, how  
24 would the granting of this requested special use  
25 permit not alter the general character of the

1 surrounding area or impair the intent or purpose of  
2 the Zoning Ordinance or the Comprehensive Plan of the  
3 Town?

4 MR. PIMENTEL: The two standards that I applied  
5 from a land use perspective once again would have  
6 been visual intrusion -- actually, I'm going to say  
7 three. There would be visual intrusion. So, a  
8 resident -- a resident's senses are going to be  
9 impacted in one of three ways. They're either going  
10 to see something that impairs their ability to enjoy  
11 their surroundings or feel devalues their property  
12 values. Secondly will be the noise impact. You hear  
13 it; it disturbs you. And thirdly would be the air  
14 quality. I know it's a concern of the public. So,  
15 from the air quality and the noise perspective, I'm  
16 clearly relying not only on our own experts but on  
17 the peer review analysis, that: (A) we can meet the  
18 criteria, the standard, where we're not going to  
19 deviate; we're not getting by any of the regulations.  
20 Number 2, the air quality is going to meet not only  
21 as required; we're going to have to get the necessary  
22 State and Federal permits; but, even in your  
23 Comprehensive Plan, it talks about ensuring that it  
24 meets regional standards, and that's been testified  
25 once again, too, by both experts on both sides; and

1           then, of course, the third, the visual intrusion.  
2           Something I'm always concerned about when I consult  
3           in a telecommunications tower is to see placement of  
4           it, see what the surrounding resources are and  
5           screening it, and then what the distances are to  
6           residents. So, I feel from that perspective we're  
7           not impairing the character of the neighborhood; and,  
8           therefore, we've addressed the goals and objectives  
9           of the Comprehensive Plan.

10           MR. NIKOLYSZYN: And I'm not going to beat this  
11           horse to death any further, but right now would it be  
12           fair to state that the general character of the  
13           surrounding area is pristine, clean air, clean water,  
14           a national park, basically?

15           MR. PIMENTEL: I would agree with that, but that  
16           statement implies -- well, that statement would imply  
17           that this operation somehow will alter that with the  
18           word clean and all those other components. Once  
19           again, I have a Bachelor's and Master's in community  
20           planning, not in engineering, air quality and so  
21           forth. I, too, rely, whether I'm wearing the hat as  
22           a consultant or I'm wearing Mr. Kravitz' hat, because  
23           I've been doing municipal planning for 30 years, too,  
24           is I rely on my peer review analysis, too, if I'm  
25           wearing Mr. Kravitz' hat. If the evidence that's

1 presented indicates that the standards are going to  
2 remain the same, we're going to meet those standards;  
3 and we have to meet those standards because,  
4 remember, beyond this we have to get all the permits,  
5 State and Federal; and the answer is it will remain  
6 clean and pristine, if it's properly placed and  
7 functions and operates as presented; and that's why  
8 there's the checks and balances. There's checks and  
9 balances of having to go before the Zoning Board, the  
10 Planning Board, the Siting Board, and then all of the  
11 conditions that are approved that are imposed  
12 thereof.

13 Once again, I tell this Board, and I bring it  
14 up, and I brought it up at the Planning Board last  
15 night, just had a big case before the Supreme Court,  
16 similar situation. Operation promised up and down it  
17 would meet X, Y, Z. It didn't, and the enforcement  
18 arm took over. An operation of this magnitude, I am  
19 telling you that that's not going to happen.

20 MR. NIKOLYSZYN: Thank you.

21 MS. NOONAN: I have no further witnesses for  
22 this evening, and they are available for questions  
23 from anyone.

24 MR. CLOUTIER: We intend on hearing all of the  
25 testimony, and then we go into questions. Are you

1 done with your complete testimony tonight?

2 MS. NOONAN: I am with one exception of -- I  
3 believe I have all my testimony in, yes.

4 MR. CLOUTIER: So, now we can start entertaining  
5 questions from the crowd.

6 MS. NOONAN: You may, yes.

7 MR. CLOUTIER: One thing I didn't mention,  
8 before you testify I have to swear you in. Yes, sir?

9 MR. NIKOLYSZYN: And whoever placed those  
10 speakers on here, can that person step forward,  
11 please.

12 MR. CLOUTIER: Whoever set the speakers up,  
13 would you come forward, please.

14 MR. NIKOLYSZYN: We'd like to know what the  
15 purpose of the speakers are.

16 VOICE FROM THE FLOOR: I think he's going to  
17 give a demonstration of noise pollution.

18 MR. NIKOLYSZYN: Unless that person is an expert  
19 in noise, we're not going to allow somebody to come  
20 in here and start blowing noise. Just won't do it.

21 MAN FROM THE FLOOR: I think it's below 43  
22 decibels.

23 WOMAN FROM THE FLOOR: Will the noise bother  
24 you?

25 MR. NIKOLYSZYN: If it's what I think it is,

1           which is what happened to the Town Council  
2           approximately a month ago, it was not dBA's that was  
3           played. It was megahertz.

4           MAN FROM THE FLOOR: Well, I think it needs to  
5           be displayed because that's what we're going to hear  
6           on a daily basis.

7           MR. NIKOLYSZYN: These are not megahertz -- I'm  
8           sorry, these are not dBA's that are going to be  
9           screeched at us, but megahertz, which is completely  
10          different than what we're discussing. So, we're not  
11          going to allow that. I just want you to know that.

12          MAN FROM THE FLOOR: I think the gentleman just  
13          stepped outside.

14          MR. CLOUTIER: Wait a minute. We have a  
15          gentleman at the mike. Yes, sir, would you state  
16          your name, please, and spell it for us.

17          MR. PERREAULT: My name is Robert Perreault,  
18          that's P-E-R-R-E-A-U-L-T. I live at 20 Stewart,  
19          S-T-E-W-A-R-T, Court, and that's in Harrisville.

20          MR. CLOUTIER: Michelle, if you don't get it,  
21          let me know. Last name, please?

22          MR. PERREAULT: Perreault, P-E-R-R-E-A-U-L-T.

23                         (Mr. Perreault was not sworn.)

24          MR. CLOUTIER: Thank you.

25          MR. PERREAULT: My first question is about the



1 Department of Health thing that was not entered  
2 into -- as evidence. My question is everything we  
3 get from Invenergy is tentative, preliminary. We  
4 have yet to see a full plan from them, but we're  
5 supposed to take that; but, if the Department of  
6 Health gives us something that's preliminary, it's  
7 supposed to be ignored. So, I want to know why that  
8 wasn't included in, first of all.

9 MS. NOONAN: The reason is that it is a draft at  
10 this point that only came out yesterday.

11 MR. PERREAULT: Isn't that what we get from you  
12 constantly is a draft?

13 MS. NOONAN: I am answering your first question,  
14 if I may finish.

15 MR. PERREAULT: Okay.

16 MS. NOONAN: And that was a draft that's now  
17 open for public comment, and there's a hearing on  
18 August 9th. There is additional information that  
19 needs to be provided that the Department of Health, I  
20 believe, did not have when it made some of its  
21 recommendations. We will provide comment to them,  
22 and we will address that Department of Health  
23 advisory when it is final.

24 MR. PERREAULT: How come we have to address what  
25 you're giving us before it's final, and we have to

1 wait -- you get to wait until the Department of  
2 Health is final? That seems to be a double standard.

3 MR. NIKOLYSZYN: May I? Sir, we're not trying  
4 to keep this away from anyone. As a matter of fact,  
5 this will become an exhibit as soon as it becomes  
6 final; and I understand on August 9th is when the  
7 hearing is going to be held, and I believe it's going  
8 to be held here by the Department.

9 MR. PERREAULT: I just feel -- I understand what  
10 you're saying, but I just still feel it's a double  
11 standard that we have to take their preliminary stuff  
12 when they say, well, we haven't got it finished; but,  
13 when someone else offers something that's  
14 preliminary, it gets ignored.

15 MR. NIKOLYSZYN: Sir, this Board will meet  
16 again.

17 MR. PERREAULT: Okay.

18 MR. NIKOLYSZYN: And this report from the  
19 Department of Health will become final. We can  
20 address it at that point. So, it's not that we're  
21 trying to stop you from addressing it. Let's just  
22 air it out properly, that's all.

23 MR. PERREAULT: Okay. And my second thing is I  
24 know they wanted a variance on the low noises, I  
25 guess the ones that supposedly that the human beings

1 can't hear. Anyway, Buck Hill is a wildlife  
2 management area. We have several State parks. We  
3 have a Quaddick that -- you know, Connecticut does.  
4 We can't hear these things, but the wildlife can.  
5 It will affect them in negative ways. Part of what  
6 we're trying to do is, obviously, these lands were  
7 set aside for a specific use, and that was to protect  
8 wildlife. Placing this plant here will impact that  
9 wildlife; and, thus, I feel that variance should not  
10 be given because it interferes with previously-set  
11 uses we put aside for land.

12 MR. NIKOLYSZYN: Mr. Chairman, may I respond?

13 MR. CLOUTIER: Go ahead.

14 MR. NIKOLYSZYN: Sir, I'm not disagreeing with  
15 you at all. The Facilities Siting Board has directed  
16 numerous State agencies, as well as local boards, to  
17 address different issues. What you are referring to  
18 is a directive part -- is a directive from the Siting  
19 Board to DEM and asking DEM to address oil storage  
20 facilities' impact upon withdrawal of groundwater,  
21 impact on fish and wildlife. So, that issue that  
22 you're bringing up is something that DEM would be --

23 MR. PERREAULT: I know, but they're asking you  
24 for the variance.

25 MR. NIKOLYSZYN: Right, but you're using the

1 impact on fish and wildlife as that's something that  
2 DEM will be deciding.

3 MR. PERREAULT: I still believe that you still  
4 have to consider that in your process because it has  
5 to do with the current use of the land and how it  
6 will impact the current use of the land, the  
7 conservation plan that is set out in the Burrillville  
8 charter.

9 MR. CLOUTIER: We hear you, and I assure you,  
10 those things are going to be under our consideration.

11 MR. PERREAULT: Okay, thank you.

12 MR. CLOUTIER: We're not going to ignore that  
13 kind of thing.

14 MR. PERREAULT: Thank you.

15 MR. CLOUTIER: Is the person who set the  
16 speakers up on this stage here?

17 MR. SCOTT: Right here, and it's very relevant  
18 to the demonstration.

19 MR. CLOUTIER: It's not.

20 MR. SCOTT: Yes, it is. Yes, it is, because it  
21 says Algonquin and Invenenergy. I have live --

22 MR. CLOUTIER: You have what?

23 MR. SCOTT: I have live video feed of Algonquin  
24 doing a pressure release. How are you going to  
25 suppress our voice? Are you going to suppress our

1 voices?

2 MR. CLOUTIER: Sir, the noise coming from Walnut  
3 Hill Road, whatever --

4 MR. SCOTT: They're talking about their  
5 buffering, that it's not going to be seen, it's not  
6 going to be heard, okay. I have live video of  
7 Algonquin doing a pressure release. It's about 30  
8 seconds long. If I have to listen to it with my  
9 family, I think you should have to listen to it, too.  
10 It's nothing fake. It's reality, okay. It's real,  
11 and I think you can bare with it. I think you  
12 should. That's fine, I'll go to Channel 6, I'll go  
13 to Channel 10, I'll go to Channel 12, and I'll tell  
14 them how you want to keep suppressing our voice. I  
15 think you need to listen to it. It's very relevant  
16 to the demonstration tonight, yes, it is.

17 MR. CLOUTIER: You're welcome to go to whatever  
18 outlet that you want to.

19 MR. SCOTT: I'm going to shut up. We're going  
20 to plug it in. We're going to play it to you.

21 MR. CLOUTIER: You're welcome to go to whatever  
22 outlet wants to listen to this, but we don't want to  
23 listen to this. We're not going to listen to this.

24 MR. SCOTT: You don't want to listen to it? So,  
25 it's not a variance?

1 MR. CLOUTIER: No, we're not going to listen to  
2 this.

3 MR. SCOTT: I got a letter in the mail saying  
4 it's about Algonquin and about the compressor station  
5 and about Invenergy. You don't want to hear what a  
6 live, real factual pressure release sounds like?  
7 That's not good? You can't hear it? They want to  
8 hear it.

9 MR. CLOUTIER: We don't need to.

10 MR. SCOTT: You want to hear it?

11 VOICE FROM THE FLOOR: I want to hear it.

12 MR. SCOTT: Right. They want to hear it. You  
13 don't want to hear it.

14 MR. CLOUTIER: Correct.

15 MR. SCOTT: So, you don't want to hear it?

16 MR. CLOUTIER: Correct.

17 MR. SCOTT: Well, we want to. We want to. You  
18 got the people in this Town want to hear it right  
19 now, no big deal, 30 seconds.

20 MR. CLOUTIER: You are entitled to your opinion,  
21 sir. We are not going to --

22 MR. SCOTT: So are these guys. Those are their  
23 opinions. They don't even know what town they're  
24 working in. They're experts, and they don't even  
25 know what town they're working in, okay. I think you

1 need to plug them back in and let the people hear  
2 what the truth is. Stop suppressing the truth.

3 MR. CLOUTIER: Sir, would you raise your right  
4 hand, please.

5 **K E N N E T H W. P U T N A M, J R.,** first  
6 having been duly sworn, testified as follows:

7 MR. PUTNAM: My name is Kenneth W. Putnam, Jr.,  
8 75 years old. I was born on the Wallum Lake Road  
9 just below this plant, and I want to -- I have to ask  
10 a little understanding here because I've been waiting  
11 to talk; and, because I'm old, I forget what I'm  
12 going to be asking, but I would like to ask this  
13 gentleman here that has gone up there and said  
14 everything is hunky-dory. Now, you people up there  
15 on the Board are for us. You're our Board, and we  
16 respect you, and we're waiting for your opinion on  
17 this; but this gentleman here says everything is  
18 hunky-dory up there. I want to know if he asked DEM  
19 and the wildlife organizations what they thought of  
20 that, and I want to know if he walked up there and  
21 saw that that's a swampy area; and does he know that  
22 that's the highest -- one of the highest points,  
23 which Buck Hill is the next to the highest point in  
24 Rhode Island; and I want to know if he realizes that  
25 water travels downhill; and water, when it travels

1 downhill, it goes into Boxer's Pond on the Jackson  
2 Schoolhouse Road, which in turn goes down into a  
3 brook approximately eight to 10 feet wide. It goes  
4 right through my property into Wilson's Pond. And do  
5 you understand that, with these smokestacks that  
6 you're talking about, they claim that they have 52  
7 pollutants in there. The higher up them go, the more  
8 that pollution is going to go. And do you also take  
9 into consideration that in the wintertime when it's  
10 snowing out, we're -- I don't care how tall they are.  
11 Where do you think all that pollution is going to go?  
12 Right down into the ground. Because we have such  
13 beautiful animal life up there. What do you think is  
14 going to happen to them? You know, it's --

15 I've only got common sense. I never went to  
16 school. I've been a builder for 50 years; but common  
17 sense tells me that this here is just not right, just  
18 not right, especially with all the parks around, with  
19 Wallum Lake right there. They drink the water, and  
20 they bathe the people there with the fresh water.  
21 You got Connecticut is getting involved now. They're  
22 worried about it over there on the other side of the  
23 border. They're everything right there, and you're  
24 in the center.

25 Now, also, did you take into consideration that,



1 in 1986, the person that was in charge of DEM said,  
2 "No, you cannot build that power plant there"? No.  
3 Somebody took the authority away from Burrillville  
4 that we cannot say no to people up there in the State  
5 house, which is our Governor, right. She wants this  
6 power plant here. She really wants it. She's going  
7 to veto, if the Senate approved it the other week on  
8 it. She said, "If they approve it, I'm going to veto  
9 it." So, she definitely wants it up there, right.

10 I'm losing my train of thought now. I'm getting  
11 on her because -- I'm going to go to something else.  
12 I'm going to go to something else, and maybe that  
13 will come back. I have heard through the meetings  
14 that we've had that this company is not going to be  
15 responsible for that water line coming and going if  
16 it breaks. It's going to be the responsible (sic.)  
17 of Burrillville. Also, I heard that, if that is  
18 true, if they have any problems with sewerage down  
19 there with -- this is a forced pump going to go down  
20 in there. If they have any trouble with it and it  
21 causes any sewer problems in any of those houses,  
22 they're not going to be responsible for this either.  
23 There's so many things that we have not heard of what  
24 really is going on. You give us this; you give us  
25 that; but nothing really means anything, and what you

1           come around and said tonight that everything looks  
2           hunky-dory up there is just unbelievable. I can't  
3           believe it. I can't. I can't. I mean just my  
4           common sense tells me the height of them pipes that  
5           you're talking about at Buck Hill, there's no way  
6           that they're below -- I mean above them. There's no  
7           way that them pipes are above them houses up there.  
8           Now, if that pollutants is carrying 51 miles away --  
9           31 miles, excuse me, 31 miles, 52 pollutants, what's  
10          going to happen? It's going to be in them  
11          neighborhoods up there, plus the neighborhood all  
12          around the place there. So, I don't know what else I  
13          can say. I can't remember what I was going to say  
14          about the other part there.

15                 I do fear that these oil fellers that's going to  
16                 come up with these tractor trailers up our road,  
17                 traveling through, that's not going to be good; but,  
18                 besides that, if there is an accident with one of  
19                 these oil trucks and big, big money, they say they're  
20                 not responsible. They're going to be private people  
21                 driving them oil trucks up. So, who is going to  
22                 carry the burden then? Burrillville is going to,  
23                 right on our backs. They're not going to because  
24                 it's not their oil trucks.

25                 MR. CLOUTIER: Can you wrap it up. Can you wrap

1 it up, sir.

2 MR. PUTNAM: Yes, I can. Thank you.

3 MR. CLOUTIER: Thank you. Raise your right  
4 hand, please.

5 COLEY O'ROURKE, first having been  
6 duly sworn, testified as follows:

7 MR. CLOUTIER: State your name, please.

8 MR. O'ROURKE: Coley O'Rourke, Pascoag.

9 MR. CLOUTIER: Last name?

10 MR. O'ROURKE: O'Rourke.

11 MR. CLOUTIER: Spell your last name.

12 MR. O'ROURKE: O'R-O-U-R-K-E.

13 MR. CLOUTIER: Thank you.

14 MR. O'ROURKE: I just have a question in regards  
15 to the visual impact of this plan. You talked about  
16 the smokestacks. I did not hear them once talk about  
17 the illumination of this plant, what the lighting  
18 will be like. If he's deemed an expert, then I don't  
19 know what I am.

20 MR. CLOUTIER: Would you raise your right hand,  
21 please, sir.

22 DAVID BRUNETTI, first having been  
23 duly sworn, testified as follows:

24 MR. CLOUTIER: State your name, please, and  
25 spell your last name for us.

1           MR. BRUNETTI: My name is David Brunetti,  
2           B-R-U-N-E-T-T-I, Harrisville, Rhode Island. Just had  
3           a couple of questions. I wasn't aware we were going  
4           to have an opportunity to talk tonight. So, just the  
5           first one is: Is this the only meeting in which the  
6           public will be able to provide comment and/or ask  
7           questions, or will there be more hearings going  
8           forward for such an opportunity until you make your  
9           advisory opinion?

10          MR. CLOUTIER: We will be having another meeting  
11          because we are going to be relying, not solely, but  
12          we are relying -- we rely on the Planning Board for  
13          their expertise, and they're having more meetings.  
14          Their hearings are not complete, so we have to wait  
15          for them to get more information to us on their  
16          opinions on this case before we can --

17          MR. BRUNETTI: Okay, thank you. The other  
18          question I have is: This is in regard to time lines  
19          for hearings and the provision of advisory opinions.  
20          So, for this I want to refer to the letter of  
21          March 31st, 2016 from the Town Manager that's  
22          actually on Mr. Oleg Nikolyszyn's letterhead. So, I  
23          have the document right here. I just want to make  
24          sure that this document or parts thereof have not  
25          been superceded by other documents. This is the

1 March 31st, 2016 letter from the Town Manager. So,  
2 basically, it gives a timeline for all the activities  
3 here; and I just want to point out three, and please  
4 correct me if this has been changed. So, just to  
5 pick out three of them, this says May 6, 2016,  
6 "Combined Master/Preliminary Application is due."  
7 Is that still correct?

8 MS. NOONAN: That has been filed.

9 MR. BRUNETTI: Thank you. Then it says June 6.

10 MR. CLOUTIER: Sir, did you address this to the  
11 Planning Board last night?

12 MR. BRUNETTI: I made a comment. I didn't  
13 receive a response.

14 MR. CLOUTIER: Did the Planning Board give you  
15 the information that you requested last night?

16 MR. BRUNETTI: I didn't get a response. I know  
17 one comment was made while I was talking, but I  
18 didn't catch it, so I'm not sure if that was --

19 MR. CLOUTIER: They have all the information.  
20 They have all the dates, and I think they explained  
21 as to why all of these dates were not met. There  
22 were meetings that were combined. There were some  
23 meetings that were delayed. I think they gave you  
24 all of the dates that have reset.

25 MR. BRUNETTI: I don't know where that document

1 is. If you can point me in that direction, that  
2 would be great.

3 MR. CLOUTIER: I think the information is  
4 on-line.

5 MR. BRUNETTI: It's on-line, okay. And I'm only  
6 asking this question to make sure that the Zoning  
7 Board and Planning Board and Town Council get all the  
8 information they need on a timely basis to make the  
9 advisory opinions; and, obviously, you're aware that  
10 September 9th is the goal for you guys. And have you  
11 seen the preliminary plan? Has the Planning Board  
12 seen the preliminary plan? And when will, most  
13 importantly, the hearing on the preliminary plan take  
14 place?

15 MR. CLOUTIER: I can ask the Town Planner. When  
16 is the next meeting, Tom? We appreciate your  
17 concern, sir.

18 MR. KRAVITZ: The next meeting we've decided to  
19 be August 15th.

20 MR. CLOUTIER: Thank you.

21 MR. BRUNETTI: And will the preliminary plan be  
22 discussed at that meeting?

23 MR. KRAVITZ: No.

24 MR. BRUNETTI: So, when will the preliminary  
25 plan be discussed? Because you, obviously, need this

1 information before you make your advisory opinion on  
2 September 9th, and the Planning Board needs to give  
3 you guys their opinion before that. It was supposed  
4 to be July 1st.

5 MR. CLOUTIER: As it was explained last night  
6 when you asked the same questions, we're not going to  
7 have all the information that we want. We're not  
8 going to have all the information that we need.  
9 We're going to somehow have to come up with an  
10 advisory opinion because everything has to be in by  
11 September 7th. We're not going to have all of the  
12 information. We're going to do the best we can with  
13 what we have.

14 MR. BRUNETTI: So, obviously, there wasn't any  
15 contingency set up in the agreement to allow for  
16 delays in that timeline, or is that not the case?

17 MR. CLOUTIER: I don't -- I can't -- we can't  
18 tell the State how to set their timeline. The EF --  
19 we have to meet their deadline. We're going to do  
20 the best we can with what we have when we have it.  
21 We're going to meet again August --

22 THE CLERK: 23rd.

23 MR. CLOUTIER: On this subject, we are going to  
24 meet August 23rd. Hopefully, we have it. You know,  
25 we're going to deal with whatever information we have

1 at that time. We picked August 23rd. As you heard  
2 the Town Planner say, their meeting is August 15th.  
3 So, we'll listen to what testimony they get at the  
4 August 15th meeting. We'll try to digest that, in  
5 addition to what we're getting in the meantime, and  
6 come up with an advisory opinion as best as we can.

7 MR. BRUNETTI: Okay.

8 MR. CLOUTIER: That's the best I can do for you,  
9 sir.

10 MR. BRUNETTI: Thank you. For the 30 seconds, I  
11 have to make one more comment. This is in regards to  
12 the report by Professor Timmons. He made -- he  
13 attended the recent climate conference in Paris.  
14 Two key points: The first is the opinion is that  
15 there should be no more fossil fuel power plants  
16 constructed after 2017; and the goal is that, by  
17 2030, there would have been a hundred percent switch  
18 off of fossil fuels to renewable. So, with this  
19 plant that's not going to happen.

20 MR. CLOUTIER: Raise your right hand, please,  
21 sir.

22 **NORMAN DESJARLAIS**, first having  
23 been duly sworn, testified as follows:

24 MR. CLOUTIER: State your name, please, and  
25 spell your last name.



1 MR. DESJARLAIS: Norman Desjarlais,  
2 D-E-S-J-A-R-L-A-I-S.

3 MR. CLOUTIER: Thank you.

4 MR. DESJARLAIS: First off, I'd like to thank  
5 this committee for being here tonight and listening  
6 to us. Second, I'd like to thank for the really  
7 special microphone that was supplied to make us sound  
8 like Donald Duck like these folks sound like the  
9 voice of God. Thank you. I'm sure that's just  
10 another coincidence because they have so many.

11 I've heard a ton of testimony. I'm not going to  
12 come up here tonight, and I'm not going to rehash all  
13 the testimony. I just have couple of things to say  
14 and a couple of quick questions.

15 Number 1, since when do we need a bunch of  
16 lawyers to come in from out-of-state and tell us what  
17 our zoning is about, what's allowed and what isn't,  
18 and then the little hint of the Supreme Court and  
19 litigation that, you know, "Your zoning, it already  
20 permits this, and you better let us to it." You know  
21 what? We know what the intent of our zoning is, and  
22 shame on you folks. I don't know if it was  
23 intentional or not; but, if it wasn't, you better  
24 start tightening up the zoning in this Town. The  
25 whole purpose of zoning is to protect like kinds of

1 property. Three states, Rhode Island, Massachusetts  
2 and Connecticut, have been working for decades to  
3 purchase and protect land in conjunction all in that  
4 zone with the sole purpose of preservation. The last  
5 200 acres, approximately, it's a little less, that  
6 the State of Rhode Island purchased was purchased;  
7 and Janet Quirk herself said, "This is the most  
8 important piece of land, the most important parcels  
9 in the entire state that need to be protected."

10 There's something wrong when you folks think you can  
11 come in and build this here and there will be no  
12 impact. Are you kidding me? We know what our zoning  
13 laws mean. We don't need them; we don't need the  
14 lawyers. I appreciate their input; but, let's face  
15 it, this is a for-profit. This has nothing to do  
16 with need; and, if it was needed, build the thing on  
17 a current brown site. They keep talking about all  
18 these plants that are closing. Great. Build it  
19 there. The infrastructure is there. What are they  
20 trying to pull here? You people know better.

21 And you people have no choice. You've got to  
22 deny this zoning variance or whatever the heck it is,  
23 whatever they want to call it. I don't care what the  
24 zoning twists are that they throw into it. They want  
25 to make a scene, they want to bring us to court, let

1           them. We're behind you if you do that. This Town  
2           will support any court action; and, even if the EFSB  
3           has been paid off, we don't care because, you know  
4           what, if they approve this, they've gone beyond their  
5           bounds by their own charter. We'll fight you all the  
6           way to court. You may build this thing some day, but  
7           it's going to be a long, long, long, long time before  
8           we do that.

9           So, now I want to basically ask one question.  
10          Why not a brown site? Anybody?

11          MR. CLOUTIER: Why not what, sir?

12          MR. DESJARLAIS: Why not a brown site? Why not  
13          an existing brown site? Why not an existing plant?  
14          They're all through the region. Are we just going to  
15          keep building in pristine land that's supposed to be  
16          protected? At what point do we stop? When it's all  
17          gone? There are plenty of locations for this. They  
18          try to twist it. Oh, we're just against fracking.  
19          Oh, we're a bunch of crazy hippies that just don't  
20          understand industry. I was told today I was  
21          "a foaming at the mouth liberal over it," until I  
22          explained to the gentleman; and he's in the electric  
23          industry, has been his whole life, lives in nearby  
24          Connecticut. Once I explained the details of this  
25          plan, he did a complete 180, let me tell you, and

1 he's in the industry. People all over Rhode Island  
2 are getting involved in this. This is not a  
3 Burrillville issue. These bond issues have had to be  
4 approved by the entire State of Rhode Island. Every  
5 community approved them. Providence -- and we looked  
6 up the numbers the other day. Providence, roughly,  
7 80 percent approval on a bond rating to buy land in  
8 Burrillville that nobody -- half these people have  
9 never seen and probably never will; but they  
10 understand the importance of this land. We all do,  
11 and to have a company like this come in clearly for  
12 profit and bowl it over with bulldozers, if this is  
13 allowed to happen, then there is no more democracy;  
14 and God help you, because people across this country,  
15 we're really paying attention now. We've been asleep  
16 for a long time, but we're waking up.

17 And let me tell you about experts. The  
18 difference between a paid expert and our folks here,  
19 we have the degrees. We have people in water, air.  
20 We have all of this. We have electrical engineers;  
21 we have all of this. The only difference is they're  
22 from somewhere else and are getting paid for this.  
23 That's what an expert is. Thank you.

24 MR. CLOUTIER: I just want to address one thing  
25 of his comments. I hope everyone is aware that we're

1 not being asked to okay this project. All we're  
2 being asked to do is give an advisory opinion. It's  
3 not up to us. It's not up to us to grant this.

4 MAN FROM THE FLOOR: You talk down to us all day  
5 long.

6 MR. CLOUTIER: Yes, sir. Would you raise your  
7 right hand, please.

8 **N I C H O L A S C O O K**, first having been duly  
9 sworn, testified as follows:

10 MR. CLOUTIER: State your name, please.

11 MR. COOK: Nicholas Cook.

12 MR. CLOUTIER: Last name?

13 MR. COOK: Cook, C-O-O-K.

14 MR. CLOUTIER: Thank you.

15 MR. COOK: I have a question for Oleg regarding  
16 the sound. On May 25th, about -- at the Town -- at  
17 the Town Council meeting, about an hour, eight  
18 minutes into the meeting, you told me, "Bring my  
19 speakers here. This is the place to play the sound."  
20 Now, why is it that I came here and you're telling me  
21 I can't?

22 MR. NIKOLYSZYN: Sir, first, I said bring it to  
23 the Planning Board; but, regardless, --

24 MR. COOK: Well, it was the Planning and Zoning  
25 Board.

1           MR. NIKOLYSZYN: Can you tell me whether you  
2 plan on playing dBA's or megahertz?

3           MR. COOK: Frequency, which is hertz.

4           MR. NIKOLYSZYN: Frequency. Frequency is  
5 megahertz, totally different from dBA's. It has  
6 nothing to do with the sound of this plant, nothing  
7 whatsoever.

8           MR. COOK: It's still equivalent.

9           MR. NIKOLYSZYN: It is not equivalent,  
10 absolutely not.

11          MR. COOK: It still creates the low hum that --

12          MR. NIKOLYSZYN: I have talked with our expert  
13 about this ad nauseum. He started laughing at me  
14 when I told him what you said. He said don't do it.  
15 They just don't compare. It's not the same thing.  
16 It's --

17          MR. COOK: It still creates the low hum, though.

18          MR. NIKOLYSZYN: If it was the dBA's that you  
19 were planning on playing, I would have no objection;  
20 but megahertz is just a complete -- completely  
21 different sound. That's not what's going to be  
22 generated by the plant.

23          MR. COOK: Well, if somebody has a dBA meter  
24 here, I can certainly tone it -- I am sure the police  
25 officer --

1 MR. NIKOLYSZYN: I do.

2 MR. COOK: Do you have a decibel meter?

3 MR. NIKOLYSZYN: Absolutely, I do.

4 MR. COOK: Because I'd be more than happy to  
5 play it at 48 -- at 43.

6 MR. NIKOLYSZYN: I'll tell you what this sound  
7 is right here.

8 MR. COOK: Well, I can create the sound.

9 MR. NIKOLYSZYN: I'll tell you without that  
10 sound what it is.

11 MR. COOK: Well, you were listening to me  
12 speaking at 50 or 60 hertz, right, or decibels; but,  
13 if I were to create the low hum, it's going to be a  
14 lot different.

15 MR. NIKOLYSZYN: I bought an app., a dBA app.  
16 Sometimes --

17 MR. COOK: They have them for free, by the way.

18 MR. NIKOLYSZYN: Right now without speaking,  
19 I'll let the Chairman tell us what it is. Let's not  
20 speak.

21 MR. CLOUTIER: Roughly, 55.

22 MR. NIKOLYSZYN: 55 dBA's without speaking.

23 MR. COOK: No, that's just average "A" weight  
24 around, I don't know, I'm going to guess 800 to a  
25 thousand hertz. Now, if I can play the low

1 frequencies at 55, you're going to hear that a lot  
2 more than sounds in a room.

3 MR. NIKOLYSZYN: Megahertz just does not  
4 compare, sir. It's apples and oranges or worse.

5 MR. COOK: But I can play -- what I'm saying is  
6 I can play 60 hertz, between 20 and 60 hertz, which  
7 is the low end frequency that they're asking for a  
8 waiver from, and you can tell me when I hit 43.

9 MR. NIKOLYSZYN: Sir, I can tell you right now,  
10 as we speak, we're at 80, 83 dBA's, as we're  
11 speaking.

12 WOMAN FROM THE FLOOR: You're talking, and  
13 that's 83?

14 MR. NIKOLYSZYN: That's correct.

15 WOMAN FROM THE FLOOR: And you're complaining  
16 about 43. We're complainig about 43. I don't  
17 understand.

18 MR. NIKOLYSZYN: No. What I'm --

19 WOMAN FROM THE FLOOR: Something's wrong with  
20 your app.

21 MR. NIKOLYSZYN: No, I'm not the only one. What  
22 I'm getting at is megahertz -- plain megahertz is not  
23 the same as dBA. That's why we don't want to allow  
24 it. It's not the same.

25 MR. COOK: All right, whatever.



1           WOMAN FROM THE FLOOR: If your phone is at 83  
2 and these are too high --

3           MR. CLOUTIER: We're not going to entertain --

4           MR. SCOTT: John Anthony Scott, 1015 Wallum  
5 Lake, S-C-O-T-T. So, I keep hearing a lot about your  
6 beliefs and your opinions.

7           MR. CLOUTIER: Sir.

8           MR. SCOTT: What? John Anthony Scott, yes,  
9 under oath, yup.

10          MR. CLOUTIER: I haven't sworn you in yet.

11          MR. SCOTT: Okay, let's do that.

12          **J O H N A. S C O T T**, first having been duly  
13 sworn, testified as follows:

14          MR. SCOTT: John Anthony Scott. Okay, let's go.

15          MR. CLOUTIER: Go to it.

16          MR. SCOTT: Yeah, because I mean he under oath  
17 was telling us he was working on a building in our  
18 Town that wasn't even here. So, anyway, I keep  
19 hearing all these beliefs and opinions from their  
20 experts; and I understand we live in the home of the  
21 brave and, you know, land of the free, so I support  
22 the First Amendment; but the bottom line is when it  
23 comes to my health, my family, and, you know, the  
24 Town I love and the State I love, I'd like to see  
25 some facts; and I have it right here, okay. So, I'd

1           like to play my 30-second of a pressure release at  
2           Algonquin, okay, because that is exactly what you're  
3           looking for; and, if you told him he could do it, it  
4           should be okay right now. We're the taxpayers.  
5           We're paying you. We'd like to hear it, okay.  
6           Sounds good. Sounds good. Sounds right. Okay?

7           MR. CLOUTIER: The Solicitor --

8           MR. SCOTT: June 15th, I came home, and it  
9           sounded like a jet was about to hit my house, okay.  
10          That was the first pressure release. Okay, my wife  
11          went out for the second one and videotaped it.  
12          It's 30 seconds long. I don't think it's going to  
13          kill us. Please, I'm not dealing with you. Where we  
14          at? Where are we at?

15          MR. CLOUTIER: Can we have the security stop  
16          this.

17                   (Whereupon, the police officers  
18                   moved toward Mr. Scott.)

19          MR. SCOTT: It's so funny. You work for us.  
20          You work for us, Ray? You work for us.

21          MR. CLOUTIER: The Solicitor has explained why  
22          he doesn't want this.

23          MR. SCOTT: No, he just said he couldn't do it  
24          with what he was told. I am playing the exact facts,  
25          and I'm not giving you my beliefs or my opinions.

1 This is reality. Unbelievable. Okay, so, you're  
2 suppressing our First Amendment rights. I'm going to  
3 make sure I tell the news channels that. I'll post  
4 it all in the social media. God bless you guys.  
5 Unbelievable, a joke. What we should have done was  
6 we should have charged admission for a comic show  
7 with you guys tonight. I'm going, I'm going. I'm  
8 leaving. That's awesome, a joke, a joke, seriously.  
9 Unbelievable.

10 (Whereupon Mr. Scott left with the speakers.)

11 MR. CLOUTIER: Thank you for your cooperation.  
12 Yes, ma'am, raise your right hand, please.

13 **A V A W O O D S**, first having been duly sworn,  
14 testified as follows:

15 MR. CLOUTIER: State your name and spell your  
16 last name.

17 MS. WOODS: Ava Woods, W-O-O-D-S. First of all,  
18 I also have a video of the same sound that John  
19 heard. I live approximately -- he lives much closer.  
20 I'm sure he experienced it much worse. What I  
21 experienced about a half a mile to a quarter of a  
22 mile away was my home shaking, my dog going crazy.  
23 I didn't know what it was. I, too, thought there was  
24 a jet hitting my home. The first one I was afraid to  
25 move. I didn't know whether to run to the cellar.

1 I didn't know whether to run out of my house. I was  
2 scared to death.

3 The second time it happened, I, too, ran outside  
4 with my phone and took a video of it. What I found  
5 out later that week was that Algonquin was releasing  
6 gas into the air, okay. So, not only was I being  
7 violated by the noise, but I actually stood out there  
8 and took whatever onslaught of gas that was coming my  
9 way. That's just concerning what John had to say.  
10 We are not protected.

11 When a company continues to come in under the  
12 radar like Invenergy is doing, you know, 19 percent  
13 ammonia instead of the 20, so we don't need to go for  
14 any kind of variance for that. All of a sudden, they  
15 can drop the dBA's to 43, skirting the EPA study by  
16 segmenting -- segmenting the project. Invenergy is  
17 not responsible for the oil, you know, should we have  
18 an oil spill. They are not responsible for the  
19 ammonia, if we're going to have an ammonia spill.  
20 They're not responsible for the water, the  
21 MBTE-contaminated water. This company is continuing  
22 to go under the radar. And do you know what happens  
23 when planes go under the radar in war? There's a  
24 bomb that's usually dropped, and we are going to be  
25 the guinea pigs for Invenergy's newest project.

1           I am not an expert in noise, but I do possess  
2 expert ears, expert heart and expert eyes. What my  
3 ears hear is a low hum or a loud jet-like sound that  
4 shakes my house. I'm a quarter of a mile to a half a  
5 mile away. What my heart feels -- and, when I speak  
6 "my," I'm talking for my neighbors as well. What my  
7 heart feels is a constant sound wave from low  
8 frequencies now that are emanating from Spectra.  
9 As I told you, I have this on video.

10           What my eyes see right now are forest. I see  
11 wildlife. I also have a video of a bald eagle that  
12 landed in my tree on my property. What I do not see  
13 right now are smokestacks. What I do not see right  
14 now are vapors or smoke from this company.

15           Testimony last night stated that there would be  
16 trucks every three minutes coming down Wallum Lake  
17 Road during peak times. I live approximately three  
18 miles from 44; and, when I wake up in the mornings, I  
19 can often hear the trucks going down 44. Tell me  
20 what Spectra, combined with Invenergy, combined with  
21 trucks every three minutes on Wallum Lake Road which  
22 is located approximately a mile and a half from my  
23 home, is going to sound like. How convenient is that  
24 for us, Mr. Expert.

25           The dispersions of pollutants. What about when

1           it rains and snows? I'm sure probably a majority of  
2           you do not know where I live. I live on 300 Olney  
3           Keach Road. It used to be called trail; somehow it  
4           got switched to a road. I live in the middle of  
5           George Washington State Park. I invite you all to  
6           come up and see where I live. I am the only house on  
7           that road, and we are not being represented by this  
8           Town or by any of the boards; and I'm -- and, if you  
9           come into the park and you -- if you look where the  
10          Invenergy is going, and then there's a section of  
11          woods which is George Washington Park, and then there  
12          is my home; and so there's, you know, this big thing  
13          with the stacks going up, and then it's got the trees  
14          will, you know, prevent it from coming down there;  
15          and then when it snows, all that pollution, all  
16          that -- the gas, all the gas, all of that is going to  
17          come right down into my property, as well as my  
18          surrounding neighbors.

19                 I moved to this piece of property because of the  
20                 light pollution of Ocean State Power Plant. My  
21                 husband and I were abutting property owners when  
22                 Ocean State Power Plant went in. The light pollution  
23                 that has yet to be addressed is what finally drove us  
24                 away. The noise was constant; but, when I put my  
25                 kids to bed at night and got them up to watch the

1 stars at night, I couldn't see the stars; and that's  
2 when we moved. So, they're not addressing  
3 everything.

4 So, my health and my neighbors' health, safety  
5 and welfare is being greatly affected already; and  
6 I'm begging you, please, to look earnestly and hard  
7 at this issue and be concerned for the citizens of  
8 our town. Thank you all.

9 MR. CLOUTIER: Thank you. Would you raise your  
10 right hand, please.

11 **STEPHANIE SLOMAN**, first having  
12 been duly sworn, testified as follows:

13 MR. CLOUTIER: State your name and spell your  
14 last name.

15 MS. SLOMAN: My name is Stephanie Sloman,  
16 S-L-O-M-A-N. Kind of fast, but don't let anybody  
17 know about that. I just have a couple questions and  
18 a comment. The first question I have is: Why use  
19 ESS Group, excuse me, to do a plume study instead of  
20 an air dispersion model? Where's Mike?

21 MR. FEINBLATT: Right here. What do you mean by  
22 a plume study?

23 MS. SLOMAN: Well, if the emissions come out of  
24 a stack, it doesn't just go put (making a sound).  
25 It goes in the direction of the wind. So, why wasn't

1 a plume study done? Because it's going to be a --  
2 the reality is it's going to be a concentrated plume  
3 going in a certain direction at a certain speed,  
4 depending upon the direction of the wind and the  
5 speed of the wind. It's not going to be just a big  
6 huge 50 kilometer, you know, round, perfectly round  
7 thing.

8 MR. FEINBLATT: When you do the dispersion  
9 modeling, you take actual meteorological data from  
10 the last five years, and you model every hour of  
11 actual meteorological data. So, you actually run the  
12 model at every single wind speed and direction that's  
13 occurred in any hour in the last five years. So, it  
14 runs each one of those different wind conditions  
15 separately; and, among all those different conditions  
16 at all those different receptors, it gives you what  
17 the highest impact will be. So, it takes that into  
18 consideration.

19 MS. SLOMAN: Okay. So, it doesn't take into  
20 consideration that the average wind speed up here is  
21 9.3 miles per hour; and the direction, it comes from  
22 the northwest to the southeast?

23 MR. FEINBLATT: It models every wind speed in  
24 every direction that's occurred over the last five  
25 years.



1 MS. SLOMAN: But that's not reality, though. Is  
2 it reality?

3 MR. FEINBLATT: Yes.

4 MS. SLOMAN: No, it's a model. It's a model.

5 MR. FEINBLATT: I don't think you understand  
6 what I'm saying.

7 MS. SLOMAN: Oh, I do understand what you're  
8 saying.

9 MR. FEINBLATT: It's a model. It models every  
10 wind speed in every direction that's occurred over  
11 the last five years.

12 MS. SLOMAN: I would just like to see something  
13 in the application that is not so much a model but is  
14 based more on reality. That's all I'm saying. You  
15 answered my question, thank you.

16 MR. FEINBLATT: Okay.

17 MS. SLOMAN: Thank you. Excuse me, and I just  
18 wanted -- this air dispersion study included Spectra  
19 and Ocean State Power?

20 (Mr. Feinblatt nodded in the affirmative.)

21 MS. SLOMAN: Okay. How high will the air  
22 emissions rise from your stack before it disperses?

23 MR. FEINBLATT: It depends on the wind  
24 conditions. Under very strong wind conditions, it  
25 will disperse more rapidly.

1 MS. SLOMAN: Right.

2 MR. FEINBLATT: Under low wind conditions, it  
3 will sort of just --

4 MS. SLOMAN: So, what will be the average? You  
5 know, we'll use the --

6 MR. FEINBLATT: I don't have that number.

7 MS. SLOMAN: Okay, excuse me. Also, in  
8 Invenergy's application, Oleg, it says that the site  
9 is 570 feet above sea level, and Buck Hill is 770.  
10 They don't actually say Buck Hill, but they say 4,400  
11 meters from the site northwest, so I'm assuming that  
12 it's Buck Hill. So, the stack and Buck Hill are  
13 going to be equal, if we can believe what is in  
14 Invenergy's application that, you know, Mike did.  
15 I hope you don't mind that I'm calling you Mike.  
16 I can't pronounce your last name.

17 MR. FEINBLATT: It's my name.

18 MS. SLOMAN: I know. I feel like I know you,  
19 reading everything. Okay. Now, as far as noise  
20 goes, excuse me, Invenergy is going to agree to 43,  
21 not a problem, because they know that Spectra, even  
22 though it's recommended by FERC to 55 dBA, they could  
23 do 57, they could do 60, because they're so close  
24 there's not going to be any way for us to tell  
25 whether it's at Spectra, the compression station, or

1           Invenergy. There's not going to be any way.

2           The other thing I wanted to just talk about --  
3           nobody really wants to talk about, I guess, is the  
4           hydrogen gas. That is very, very explosive. That  
5           goes off; now you got the natural gas and methane,  
6           another very explosive thing. You know, then you got  
7           the ammonia. I don't know, it's pretty scary, okay.  
8           That's all I have to say. Thank you.

9           MR. CLOUTIER: Thank you. Raise your right  
10          hand.

11          ROBERT WOODS, first having been duly  
12          sworn, testified as follows:

13          MR. WOODS: My name is Robert Woods, 300 Olney  
14          Keach Trail, Pascoag. I'd like to start off about  
15          addressing the advisory opinion; and many times so  
16          far at the Planning Board and with the Town Council  
17          and even here tonight about the advisory opinions,  
18          and this is only an advisory opinion. Well, I know  
19          that, if my son was to come up to me and say, "Dad, I  
20          have a matter that is very important to me, a matter  
21          that's going to affect my health, safety and welfare,  
22          and I want your opinion," I think I would get all the  
23          information possible, and then some, before I gave  
24          him that opinion. So, when we think about the  
25          advisory opinion, I would say to you, you should have

1 the mindset that this is an approval and go along  
2 those lines, instead of compromising and keep saying  
3 it's an advisory opinion.

4 I'm a little disappointed that we don't have our  
5 experts up here. We have all this testimony that  
6 they're entering into the record with experts, and  
7 they're just getting our rebuttals which really  
8 doesn't count for a whole lot; however, I think we're  
9 a lot more accurate because we have the hands-on  
10 experience because we live here, and we've lived here  
11 for a long time.

12 MR. CLOUTIER: In speaking with our experts last  
13 night --

14 MR. WOODS: We were speaking with your experts  
15 last night.

16 MR. CLOUTIER: We asked them if they wanted to  
17 come, and they declined the option of coming. This  
18 is on them, that they feel -- they feel as though  
19 they've given us all the information that they have.  
20 They feel as though they have given us all the  
21 information that they can. They feel as though  
22 they've given us all the information that the people  
23 want to hear. They feel as though the people are not  
24 listening to them any more, once they've given that  
25 opinion. So, for that reason -- those reasons, they

1 respectfully declined to come tonight.

2 MR. WOODS: Well, Trump says it so perfectly,  
3 "You're fired." That's what I'd be saying to them.  
4 Listen, this is very important to us that the experts  
5 are here. We have people talking in expert terms  
6 that I think, you know, they owe you a  
7 responsibility, not just us to be here; and that's my  
8 advisory opinion.

9 When Mr. Pimentel is talking about a special use  
10 permit -- and, you know, your credentials are  
11 certainly admirable, and so much so it's very easy to  
12 put a spin on it. I think what your job really is,  
13 as a land use professional working with Invenergy, is  
14 trying to fit a square block into a round hole; and,  
15 to pick and choose and to put a spin on certain  
16 things or to change a word here and there, you've  
17 done a great job. I can say that.

18 But the truth is a special exception is not a  
19 permitted use, or they wouldn't be here tonight.  
20 They'd be down at the Building Inspector's office  
21 getting a permit. So, a special use -- and case law  
22 really does talk about special uses on many  
23 occasions, and it does say that it is not a permitted  
24 use. You have to go to the Zoning Board to see if  
25 you fit the criteria that's established and see if it

1 does fit or doesn't fit; and they may impose  
2 conditions on it. You put a little spin on it and  
3 make everybody think, well, so they already have a  
4 right to do it. No, they don't, and that's why we're  
5 going through this whole process.

6 One of the first things you mentioned in the  
7 criteria is that it will not alter the character of  
8 the surrounding area. So, when you were asked how  
9 you were going to meet that by the Town Solicitor,  
10 Mr. Nikolyszyn, you said, well, you know, we want to  
11 think about the distance it is off the road, and it's  
12 parked over there into the woods quite a ways.

13 No one is going to see it. We're going to screen it,  
14 and, you know, they own a lot of acreage up there,  
15 hundreds of acres, actually. So, in my opinion, it  
16 doesn't have no impact. Well, that's not the  
17 criteria, about how far it is off the road or whether  
18 we can see it or not or whether it's screened.

19 I mean the visual I had when you were you talking  
20 was, you know, you're pitting lipstick on a pig and  
21 saying, "Oh, this fits perfectly," and that's not the  
22 case, and we all know that. It's in an F-5 area.

23 The "F" doesn't sound -- stand for funny, okay.

24 It stands for farming. And you know what fits into  
25 that area? Farming and like businesses for farming,

1 not an industrial use like this plant.

2 When we think about your plant, you know, we  
3 hear everybody talking about the noise and the  
4 different sounds they're hearing right now that's  
5 bothering them. That's Algonquin; and, really, you  
6 know, we're trying to segment Algonquin from  
7 Invenergy, but the truth of the matter is this: --  
8 I'm sorry, I got to go a little bit longer.

9 MR. CLOUTIER: Please try to wrap it up, sir.

10 MR. WOODS: I will. Algonquin is a  
11 nonconforming use; and I think, you know, the Zoning  
12 Officer, Joe Raymond, would attest to that fact.  
13 It was grandfathered in, and it was there before  
14 zoning. Expansion of a nonconforming use is not  
15 permitted; but, again, you know, usurping the  
16 authority of the municipality, FERC has found within  
17 its wisdom to grant them an expansion, and that's  
18 what we're experiencing today. Invenergy doesn't own  
19 any -- I don't believe, actually, owns property there  
20 at this point. You know, I'm sure they're working on  
21 dividing the property and probably want to buy it,  
22 but they have no standing there on property at this  
23 point; but this plant, this power plant and Algonquin  
24 are going to be combined in some way. Okay, you  
25 know, actually, Algonquin is an energy facility, the

1 fact that it is a compressor station for gas, natural  
2 gas. So, taking -- looking at Algonquin saying that  
3 it's a nonconforming use, I would think that  
4 Invenergy is not a special use, but a nonconforming  
5 use.

6 MR. CLOUTIER: Last point.

7 MR. WOODS: My last point.

8 WOMAN FROM THE FLOOR: Let him talk.

9 MR. WOODS: You know, everybody has got 15 to 20  
10 minutes to talk, and we only get five. Last thing I  
11 want to say is that the enabling legislation gives  
12 the authority to the zoning boards to do certain  
13 things, and one of them is not to make a  
14 determination whether they need a variance or not.  
15 That job, that gentleman on the end is the one that  
16 makes that determination; and, just a point of order,  
17 that asking the Zoning Board whether or not they need  
18 a variance is out of order. Thank you very much.

19 MR. CLOUTIER: Thank you, sir. We're going to  
20 take, before you -- I'm sorry, we're going to take  
21 five. We'll hear you. Then we'll take five minutes.

22 MS. FAGAN: Kerri Fagan.

23 MR. CLOUTIER: Raise your right hand.

24 **K E R R I F A G A N**, first having been duly  
25 sworn, testified as follows:



1 MS. FAGAN: I have two points I'd like to make.  
2 I think they're both directed to Oleg; and one is,  
3 you know, I've been to many meetings, as many folks  
4 here; and, you know, especially at the Town Council  
5 meetings, we hear -- well, it's not on the agenda, so  
6 we can't talk about it. Other people that might want  
7 to have heard it aren't able to come. I wasn't able  
8 to come to the meeting last night. So, to come here  
9 today and hear you continually try to quiet people  
10 down saying, "We discussed it last night. We  
11 discussed it last night," well, not everybody was  
12 here last night, so that was one thing that I wanted  
13 to bring up.

14 And then, Oleg, I'm trying to -- I'm having a  
15 hard time I guess understanding dBA's. You said with  
16 your app. you just measured us speaking at 87 dBA's?

17 MR. NIKOLYSZYN: Yes.

18 MS. FAGAN: Yes. So, we're fairly confident  
19 that Invenergy can do all that they need to do and  
20 keep it under 43 dBA's, so it would be less than  
21 silent?

22 MR. NIKOLYSZYN: I personally can't answer that.  
23 I'm not an expert. All I can do is rely upon our  
24 expert's opinion.

25 MS. FAGAN: How about your opinion as our Town

1 Solicitor? If this is 87 DBA's, do you believe that  
2 they can do what they need to do under 43?

3 MR. NIKOLYSZYN: You know, I rely upon our  
4 expert's opinion. If he believes so -- if it's  
5 constructed the way he wants or suggests, and I  
6 understand that Invenergy has committed itself to  
7 doing that, then yes, I do believe it.

8 MS. FAGAN: Okay. And I would just like to  
9 echo, you know, what Bobby just said up here that it  
10 is very disappointing that our Town experts that we  
11 are paying for and we hired aren't here tonight for  
12 those of us that weren't here last night. I think we  
13 were expecting them to be here tonight and to be able  
14 to listen to them. Thank you.

15 MR. CLOUTIER: We understand. We're all  
16 frustrated. We'll take 10 minutes. We'll be back in  
17 10 minutes.

18 (Recess.)

19 MR. CLOUTIER: We're back in session. Before we  
20 get started, I have one very simple announcement, and  
21 I have to apologize. I jumped the gun, and we booked  
22 our next meeting, our follow-up meeting to this one,  
23 on August 23rd; and for various reasons that date is  
24 not available to us. So, we will go one week more  
25 into the future. We're going to go August 30th in

1 this facility. Thank you. I'm sorry for the  
2 confusion, but it wasn't working out for the 23rd.  
3 That's my fault. I apologize. Yes, ma'am, would you  
4 raise your right hand, please.

5 **S U Z A N N E D U M A S**, first having been duly  
6 sworn, testified as follows:

7 MR. CLOUTIER: State your name, please.

8 MS. DUMAS: My name is Suzanne Dumas, and I live  
9 on Wilson Reservoir, and I have a couple of questions  
10 for Mr. Pimentel. I was wondering just how long have  
11 you been in your field of expertise?

12 MR. PIMENTEL: I acquired my Master's Degree in  
13 1994. I worked on my Master's for several years.  
14 I did most of my studies in the University of  
15 Florida. I worked in Florida three or four years,  
16 came back and finished my studies at the University  
17 of Rhode Island. So, I have been in the urban  
18 planning field officially with my Master's since  
19 1994, but I have been in the field since the early  
20 90's.

21 MS. DUMAS: Okay. In all those years of  
22 expertise, sir, have you ever been involved with the  
23 planning of or seen a mega power plant placed in a  
24 national park corridor?

25 MR. PIMENTEL: No, I've never worked on a

1 project of this scale.

2 MS. DUMAS: Okay, thank you.

3 MR. CLOUTIER: Would you raise your right hand,  
4 please.

5 **JAN LUBY**, first having been duly sworn,  
6 testified as follows:

7 MR. CLOUTIER: State your name, please.

8 MS. LUBY: Jan Luby, J-A-N, L-U-B-Y.

9 MR. CLOUTIER: Can you speak more into the mike.

10 MS. LUBY: Jan Luby. You got my name? Like  
11 ruby with an "L". Also, I just, you know, wanted to  
12 address Mr. Pimentel. I see you're feeling better  
13 tonight. That's nice.

14 MR. PIMENTEL: Thank you.

15 MS. LUBY: You weren't here to hear a lot of our  
16 comment last night, and there's not as many people  
17 here tonight; but you say you're an urban planner,  
18 and then you said you walked around the neighborhood  
19 up there. It's woods up there, and you walked around  
20 the wetlands up there when you walked around the  
21 neighborhood?

22 MR. PIMENTEL: Well, walking. I mean I traveled  
23 through the neighborhood onto the site, traveled the  
24 roadway surrounding it.

25 MS. LUBY: You drove around?

1 MR. PIMENTEL: Yes.

2 MS. LUBY: So, you didn't actually go up in  
3 those woods or anything?

4 MR. PIMENTEL: I walked in the immediate area of  
5 where Spectra is, and then I drove -- clearly, the  
6 houses are distanced from one another. It's not an  
7 urbanized environment where --

8 MS. LUBY: Right, it's not an urban area at all.

9 MR. PIMENTEL: Right, I would agree.

10 MS. LUBY: Okay, and your expertise is more in  
11 urban planning?

12 MR. PIMENTEL: No, my field is in community  
13 planning. I got a Master's Degree in community  
14 planning. There is no distinguishing between  
15 somebody who works in a rural area versus an  
16 urbanized area.

17 MS. LUBY: Okay. I just also wanted to address  
18 the health and welfare aspect. I started a creative  
19 writing group at Jesse Smith Library with a friend in  
20 2008; and this young lady started coming, and she  
21 lives by the other power plant that we have in town;  
22 and one day she started telling me about how all the  
23 people in her neighborhood . . . and you're all  
24 locals; you probably know these folks . . . were  
25 either cancer survivors, or one -- each household in

1           that neighborhood either had a death, a cancer death,  
2           someone who had survived cancer, or someone who is  
3           dealing with cancer right now; and I thought -- this  
4           was almost a year ago, and I thought she was  
5           exaggerating; and I said you're kidding me. She said  
6           no, and she started naming all of the households in  
7           that neighborhood. So, I would just like to point  
8           out that our welfare is at stake, and it would  
9           definitely alter the general character of the area.  
10          You all know that; you're locals. So, I would just  
11          urge you, please, to, because you're not -- I mean it  
12          took -- last night, the Planning Board was saying  
13          that they don't even have a readable map, plan drawn  
14          up. I mean they couldn't even read it as of last  
15          night. They still didn't have that. So, now they're  
16          going to send them that; but I would just say,  
17          because you don't -- you're not going to -- it's a  
18          rush decision that you have to make; and I know that  
19          you're not deciding on whether there's going to be a  
20          power plant or not, that that's the Energy Facility  
21          Siting Board; but, in any variance in any zoning  
22          issues, I would please ask you to err on the side of  
23          caution. Thank you.

24                 MR. CLOUTIER: Thank you. Raise your right  
25                 hand, please.

1                    **LYLE WALKER**, first having been duly  
2 sworn, testified as follows:

3                    MR. CLOUTIER: State your name, please.

4                    MR. WALKER: Lyle Walker, W-A-L-K-E-R.

5 My questions are in regards to the sound. The sound  
6 test that you guys did that's before the 20-acre  
7 construction laydown and before the driveway is put  
8 in, in regards to that, is the driveway 24 feet wide  
9 as it's listed in the plan?

10                   MS. NOONAN: I believe that's still the proposed  
11 plan, yes.

12                   MR. WALKER: Still the proposed plan. Do you  
13 feel that the 20-acre construction laydown and the  
14 driveway being put in will affect the sound level at  
15 the residences directly opposing that? Being that  
16 this driveway and that laydown appear to only sit to  
17 one side of the facility is my point to that. There  
18 will be several residences only in that direction.

19                   MS. NOONAN: I will say the same thing that your  
20 Solicitor did. I am not the noise expert, and  
21 neither noise expert is present this evening.

22                   MR. WALKER: Okay. Wasn't he available last  
23 night? That's why I have some questions. That may  
24 have been asked last night, so I apologize for that.  
25 Hang on just a second. If the project is put on-line

1 and the noise levels are above what the Town has  
2 suggested, the 43 dBA, John came to my house back in  
3 August of last year, which, as one of the abutters,  
4 they kind of walked around the neighborhood; and we  
5 asked them the same questions. What would you do if  
6 the sound levels are above what they're supposed to  
7 be? And we were told they would simply put up sound  
8 barriers. Is that still some sort of plan, or is  
9 that the buffering?

10 MS. NOONAN: I'm not sure exactly when  
11 Mr. Niland was at your house, but there were changes  
12 made in the design as we went through this process  
13 and the peer review process. So, you know, yes,  
14 there probably have been changes to the plan since  
15 then to get it down to the 43 because it was  
16 originally at a higher level.

17 MR. WALKER: Okay, thank you. The other thing  
18 is I would challenge Mr. Pimentel, as he said he  
19 walked around the neighborhood and looked at  
20 everything and doesn't think it will affect things  
21 visually, I challenge you to come sit at my kitchen  
22 table where the current variance sign is visible from  
23 my kitchen table and determine whether that will  
24 affect the impact of the neighborhood. Thank you.

25 MR. CLOUTIER: Raise your right hand, please.



1                    **I R E N E W A T S O N**, first having been duly  
2 sworn, testified as follows:

3                    MR. CLOUTIER: State your name, please.

4                    MS. WATSON: Irene Watson, 303 Jackson  
5 Schoolhouse Road.

6                    MR. CLOUTIER: Spell your last name for us.

7                    MS. WATSON: W-A-T-S-O-N.

8                    MR. CLOUTIER: Thank you.

9                    MS. WATSON: Okay. So, I might need some of  
10 your help on this because I know there are the five  
11 parts that have to be done for a special use permit,  
12 and one of them is concerning safety and well-being  
13 of the community. If I'm wrong, please just say to  
14 me. I was trying to keep notes. The other one is  
15 the character, the rural character of the Town.  
16 One of them has to do with the convenience of the  
17 residents of the Town, is that true?

18                    MR. NIKOLYSZYN: That's one of them.

19                    MS. WATSON: Yes. And one of them is the  
20 height, something to do with the height of the stack?

21                    MR. NIKOLYSZYN: There's a request for variance  
22 with respect to exceeding the 50-foot allowance, from  
23 50 feet to 200 for the smokestacks, yes.

24                    MS. WATSON: Okay. And then what's the fifth  
25 one? There were five. Do you remember what the --

1           there were five things. No?

2           MR. NIKOLYSZYN: I believe it was --

3           MS. WATSON: Okay, thank you. First of all, I'd  
4           like to say that, you know, I know everyone is  
5           talking about their credentials up here; and, you  
6           know, I do have a Master's Degree in science. It is  
7           in the science of nursing, but I have been a nurse  
8           for 37 years as well. So, you know, some of us do  
9           have some education as well. I just wanted to point  
10          that out.

11          And I remember in one of my classes on  
12          psychology, specifically, we were, especially in  
13          nursing, we were taught to -- that, you know, we were  
14          asked -- we were looking at a picture and asked to  
15          describe what we saw in the picture, and everybody  
16          had to write it down; and then at some point, you  
17          know, we all had to say what we saw; and there were  
18          many of us that saw very different things; and, as  
19          nurses, the point was to be able not to judge people  
20          on what they say or what they think and that everyone  
21          is coming from a different perspective. So, in that  
22          I will say that, as far as the character of the Town,  
23          I know Mr. Pimentel feels that putting a power plant  
24          in the middle of public property that is about 4,000  
25          acres next to, as we know, Boy Scout camps and

1           campgrounds and whatnot is not affecting the  
2           character of the Town, and I would like to  
3           respectfully say that I disagree with that; that I  
4           see a totally different picture when I look at  
5           something like that. I think that putting it in the  
6           middle of it is going to ruin the character of the  
7           area.

8           I also do feel that the safety is an issue.  
9           I think that the noise -- and I know we've had  
10          testimony, some of you have heard it, about the  
11          noise, and even the Department of Health saying that  
12          it increases cortisol levels and increases, actually,  
13          heart attacks from inflammation, as well as other  
14          things, including asthma.

15          As far as the variance on the height, I'd just  
16          like to say something; that I remember, 12, 14 years  
17          ago when we built our house on Jackson Schoolhouse  
18          Road, my husband and I had to go for a variance; and  
19          we had to go for a variance because we had a barn  
20          that's 29 feet tall; and, you know, everyone was  
21          worried that this was going to affect the rural  
22          character, and it's a farm; but now there doesn't  
23          seem to be a problem with having 200-foot stacks.  
24          It's just funny the way things change over time.

25          And, as far as the convenience, I was reminded

1 of this today when I was listening to the Department  
2 of Transportation's expert last night saying that it  
3 wasn't going to be a problem, and people weren't  
4 going to re-route and go other places; and I remember  
5 today I had to take my horse to a hospital, and I had  
6 to go on Route 98; and, of course, I couldn't do that  
7 because of the bridge that's out. So, I had to take  
8 another road, and I was very surprised at how many  
9 cars were taking that alternate route because that  
10 bridge was out; and it just had me thinking that, you  
11 know, when there are quite a few cars on Route 100  
12 coming through Chepachet and coming through Pascoag,  
13 that I do, again, looking at the same picture that  
14 maybe someone else is looking at, I see a lot of  
15 diversion of traffic, so much so that today my  
16 80-year-old mother is -- her name has finally come up  
17 to be put on elderly housing; and she has some  
18 choices, and one of them is Bradford Court; and then  
19 she's also on the list for Gloucester and Colonial in  
20 North Smithfield; and, today, as a family when we  
21 were all deciding where she should possibly go, I  
22 have to tell you that I said to my sister, "I don't  
23 know. I don't know if we want her at Bradford  
24 Court," even though it would be closer for us,  
25 because we both live in town, to have her at Bradford

1 Court. I don't know if I want her there because I  
2 said, oh, my God, the routes are going to change, and  
3 there's going to be so many cars; and I don't know  
4 what the construction is going to be, and she is  
5 80 years old. You know, I don't want her to have,  
6 you know, her golden years, as she refers to it,  
7 listening to that kind of traffic; and I said, you  
8 know, even the Gloucester one, the back of the house  
9 is going to be right on Route 100; and that's where  
10 all of those cars are going to go. So, I just -- you  
11 know, I guess what I'm trying to say is that, you  
12 know, we're all impacted in various ways by this; and  
13 some of us are able to express it one way, others  
14 another; and I hope that everyone takes into  
15 consideration that, you know, we all try the best  
16 that we can with what we're doing. We, a lot of us  
17 here, want the same thing, but we don't want this  
18 plant. That's no particular secret, but I hope you  
19 take that into consideration and what it will do for  
20 not only the children, but all the way up through the  
21 elderly. Thank you.

22 MR. CLOUTIER: Thank you, ma'am. Raise your  
23 right hand, please.

24 KATHRYN SHERMAN, first having been  
25 duly sworn, testified as follows:

1 MR. CLOUTIER: State your name, please.

2 MS. SHERMAN: Kathryn, K-A-T-H-R-Y-N, Sherman,  
3 S-H-E-R-M-A-N. I'd like to thank the Board for  
4 hosting tonight's event. I know it's very  
5 frustrating. It must be very difficult for you on  
6 this side of the table, as it is for us in the  
7 audience. We've heard a lot of things over the last  
8 few months. I want to assure you that I live those  
9 on a daily basis. I live directly across the street  
10 from Algonquin and across the street from the  
11 proposed power plant. My husband and I have lived  
12 there for 27 years. My husband is a 100 percent  
13 disabled Vietnam veteran. We live there because we  
14 choose to. My family, we've grown up in  
15 Burrillville. My husband left when he went to  
16 Vietnam. He came back injured, and we've since lived  
17 in Burrillville the rest of his life.

18 We enjoy living in this community; but, if this  
19 power plant is sited there, we will have no other  
20 option but to leave Burrillville. I'd ask you to  
21 look at all the information before you and the  
22 misinformation that's been provided, the inaccurate  
23 information that's been provided and the missing  
24 information. There is no way that someone could have  
25 walked through the neighborhood in Burrillville on

1 Wallum Lake Road and determined, wow, this would be a  
2 perfect spot for a power plant. I don't care what  
3 the credentials are. From life experience I can tell  
4 you, from all of you who live in Burrillville, you  
5 just know that that's not true.

6 I also have a Master's Degree. I didn't just  
7 stop my education. I have a Master's Degree in  
8 public administration; but, as several residents have  
9 already said, common sense plays a bigger role. The  
10 noise from Algonquin Gas keeps us up every night.  
11 I've been up since two o'clock this morning because  
12 of the roaring from Algonquin. I've asked the Town  
13 on repeated occasions to do something about it, and I  
14 have to applaud the Town Council and Oleg in writing  
15 a letter on May 31st to FERC finally trying to  
16 address their noncompliance with the Federal EPA  
17 regulations. According to Algonquin, they exceed the  
18 55 decibel level required. How anyone could consider  
19 giving a variance, an Ordinance, a special permit,  
20 call it what you will, to another facility that is  
21 just going to add noise is incomprehensible to me.  
22 When you look at the facts and you deal with reality,  
23 these are lives that you're dealing with.

24 One of the purposes of the Zoning Board is to  
25 promote public health, safety, and general welfare.

1 I'm requesting that you take all of that into  
2 consideration, with the very limited information that  
3 you have before you, and write your advisory opinion.

4 The Department of Health came out with a very  
5 strongly-worded opinion regarding the noise in that  
6 area. I don't know what time the expert walked  
7 through the neighborhood, but I'm sure he heard the  
8 noise.

9 A few other points I'd like to bring out.  
10 An example of the misinformation that's given or the  
11 incomplete information that's given is that we're  
12 told that their trucks will come, and they'll be  
13 regular size trucks. We're not to worry about the  
14 trucks that come. Well, I'm not a truck expert, but  
15 it's my understanding that trucks are weighted by  
16 gross vehicle weight ratings, so we should be able to  
17 tell what size trucks will be traveling through our  
18 town.

19 We also should be able to pay attention to when  
20 this plant plans to operate. The concrete that needs  
21 to be poured in the Town's fourth set of data  
22 requests asks that question regarding the concrete  
23 pouring, and the answer in part states that  
24 foundation will -- "Foundation will be designed to  
25 match the volume of concrete that can be hauled



1 within the extended daily truck window between  
2 2:00 a.m. and 4:00 p.m." Now, we've heard that the  
3 noise and the start-up and shutdown of this facility  
4 can last anywhere from 40 minutes to two hours, and  
5 at one point the noise expert said it could be as  
6 high as between 90 and 110 decibels. He indicated  
7 that the shutdown would be at 11:00 p.m.,  
8 approximately, and start-up would be around 5:00 a.m.  
9 The concrete trucks will be coming at 2:00 a.m.  
10 Doesn't sound like something I would want in my  
11 neighborhood, and I'm sure no one else would either.

12 I will only need one more second. They also  
13 speak about when the crews will be working. There  
14 will be a small set of crew, according to Invenergy,  
15 tradesman that will work a swing shift during peak  
16 construction. That will be between 5:30 p.m. and  
17 3:30 a.m. So, if you're not sleeping when this plant  
18 gets sited, come on over because I'm sure the  
19 neighbors and I will be up.

20 The last point I want to make is with regard to  
21 what's going to happen if they don't meet their  
22 requirements. We've heard, "Just call the police."  
23 So, in other words, we'll pay the fine. Let me be  
24 clear. This is a science experiment. They have  
25 never built a facility like this before. Their

1 modeling is just that, modeling; and the modeling is  
2 done in the light most favorable to them. If this is  
3 the light most favorable to them and it's only a  
4 model, you'll wonder what the truth is; but Invenergy  
5 in their own data set in questions 4-37 that the Town  
6 submitted wanted to know what -- "Please explain your  
7 proposal for what will be done if the plant is in  
8 violation of Town Ordinances, especially as it  
9 relates to noise, water, air and property  
10 devaluation." The answer is, "In the unlikely event  
11 that it is determined that the facility is in  
12 violation of any Burrillville Town Ordinance,  
13 Invenergy will work with the Town to resolve and  
14 correct the violation as expeditiously as possible."  
15 Really? They are going to work with you to fix it,  
16 after the fact that it's built?

17 Now, we've heard testimony that, oh, the Siting  
18 Board is going to fine them. The building will  
19 already be built. The plant will already be  
20 operating. You need to think very seriously about  
21 not allowing any special use permit to allow this  
22 this facility to be built because, once it's built,  
23 we're going to have a hell of a time correcting it.  
24 I thank you for your time. I appreciate the work  
25 that you do.

1 MR. CLOUTIER: Thank you. Good evening. Raise  
2 your right hand, please, sir.

3 MR. SYLVESTER: Yes.

4 **THOMAS SYLVESTER**, first having  
5 been duly sworn, testified as follows:

6 MR. SYLVESTER: My name is Thomas Sylvester,  
7 S-Y-L-V-E-S-T-E-R. I live at 283 Church Street in  
8 Pascoag, Rhode Island. I wish to talk about how the  
9 power plant will affect the health, welfare and the  
10 character of the surrounding area. I've been  
11 involved in scouting for over 12 years. I spend my  
12 time at the youth camps. I volunteer. I go up, and  
13 I greet youths from all over the area, Rhode Island,  
14 Worcester, Massachusetts, who come out to be able to  
15 be out in nature and see what they normally can't.  
16 Like, for instance, at nighttime out there now you  
17 can actually see the stars. You can see the glow of  
18 Woonsocket off in the distance. You can see the glow  
19 of Worcester off in the distance, Webster. When you  
20 light up 65 acres of land in such a close proximity,  
21 you will take that away from them.

22 I have regularly hiked those woods, the woods  
23 that you drove through to do your study of it. Do  
24 you know that there are lots of beavers out there?  
25 There are beaver ponds. We have been told previously

1 with the beaver ponds that we had that we'd have to  
2 leave them alone. If you notice in some of the  
3 aerial views, the beaver ponds actually flood back  
4 out into the easements before the electricity  
5 easements, the electricity easements. I'd like to  
6 know, if any of the beavers come in your area when  
7 they set up shop and it starts to flood onto your  
8 property, will you kill them; or how will you deal  
9 with them, if you have any issues with wildlife?

10 You spoke of the height of the stacks. One of  
11 the nice points that was made is that it would be so  
12 much similar to the height of Buck Hill itself. Then  
13 come out to Cub World. Cub World is exactly that;  
14 it's for Cub Scouts, young kids. It is basically at  
15 the top of Buck Hill. It is at the pinnacle. It is  
16 up by the fire tower. During the summer, we actually  
17 have a youth camp with children who have heart  
18 conditions. I don't know how the heart-conditioned  
19 children will want to come out to be gassed by the  
20 new power plant that you're going to put in. I don't  
21 know how this will affect our ability to be able to  
22 actually pay and maintain and upkeep our property for  
23 the rest of the year.

24 I'm sure -- well, one thing I'd like to talk to  
25 you also is about the sound. I have worked for the

1 past 24 years selling consumer electronics, speakers,  
2 amplifiers. I talk all day long, and I sell  
3 speakers. People ask me, "Gee, you know, I want it  
4 to sound a certain way." I say to them, you know,  
5 "Do you want it to be pleasant sounding? Do you want  
6 it to scare women and children? How loud do you want  
7 it to be?" So, when you start talking decibels and  
8 frequencies and hertz, a 20-decibel sound travels  
9 much further than a higher frequency sound. The  
10 frequency range that they are proposing will go much  
11 further than if you were to say at the speaking or  
12 talking audience tone. As evidence I would give, if  
13 you have a diesel truck out in the front of your home  
14 across the street delivering oil three houses down,  
15 do you hear the rumbling of the truck? Do you hear  
16 the squeaking of the door? No, you don't. You hear  
17 the rumbling. The low frequencies, the attenuated  
18 low frequencies will travel far distances.

19 Also, as part of that, up at the camp, when the  
20 youth come, one of the ways that we show them that  
21 it's spring is not by looking at the calendar; oh,  
22 it's a calendar day, it's spring; the equinox. No.  
23 Listen for the peepers. Can you hear the peepers?  
24 The sounds that you will be masking will be the  
25 sounds of nature. This will be the effect in the

1 changing of the character of the surrounding area.

2 Also, from the stack there has to be odors. The  
3 springs of nature will be masked.

4 One of the things I'd like to respond to,  
5 somebody had mentioned 110 db. 110 db is almost like  
6 the decibel frequency, excuse me, the decibel  
7 loudness of lightning. You're in that general  
8 ballpark when you go up to -- 110 is loud, okay.  
9 That's all I wanted to say. Thank you.

10 MR. CLOUTIER: Would you raise your right hand,  
11 please.

12 MS. LUSSIER: Oh, sorry.

13 **CYNTHIA LUSSIER**, first having been  
14 duly sworn, testified as follows:

15 MR. CLOUTIER: State your name, please.

16 MS. LUSSIER: Cynthia Lussier, L-U-S-S-I-E-R,  
17 and I live at 150 Old Wallum Lake Road. I'm always  
18 impressed by people's advanced degrees and certainly  
19 congratulate people for taking the time to spend that  
20 many years in school in getting them; but I think in  
21 this case I think we have to give a little bit more  
22 credence to the people who sit here tonight as  
23 audience members and consider them experts in their  
24 field. They live here. They've chosen to live here.  
25 I was born in this Town, and I've lived here my

1 entire life, grew up three miles away from where my  
2 house is now situated. So, I think when I looked at  
3 the Comprehensive Plan and I looked at the people  
4 sitting on your board and I placed my trust that you  
5 will make the best decision on our behalf; and I  
6 think when I read it, and I listened to some of my  
7 fellow residents tonight, I thought about some of the  
8 testimony that the Invenenergy experts gave and talked  
9 about lowering our taxes and lowering our electricity  
10 rates; and, honestly, none of that is true.

11 You know, let's be honest. If we get 20 million  
12 dollars a year or whatever it's going to be in the  
13 tax treaty, it's not going to lower our taxes. It  
14 didn't lower our taxes when we got it from Ocean  
15 State Power, and it's not going to lower our taxes  
16 when we get it now. In fact, you know, kudos to the  
17 Town Council. Our tax rates are pretty darn good  
18 here in this Town for the services and for the  
19 quality of life that we have. Our electric rates,  
20 they're not going to go down. They're just not.  
21 It's a fallacy. The fact that these people are  
22 creating energy that's going to be sold off to the  
23 grid is going to have no impact at all on our  
24 electricity rates. So, again, it's this casting of  
25 misinformation that we should be thanking them for

1 coming, you know, that causes me to stand here  
2 tonight, instead of being at my F-5 zone where I have  
3 three horses who are constantly affected by the noise  
4 that we hear already. One of my horses happens to  
5 be -- you know, I'm sure many of you do know, many of  
6 you don't know; but some horses are more sensitive  
7 than others. So, one of mine is especially sensitive  
8 to noise, and sometime ago you heard some folks talk  
9 about one night when there was particularly -- two  
10 instances with particularly loud noises; and one of  
11 my horses was terribly spooked by that and suffered  
12 an injury that I'm still treating to this day that's  
13 cost me several hundred dollars in veterinary bills  
14 and caused her pain, unnecessarily and needlessly.  
15 When I go out at night to check on her at 11 o'clock,  
16 which is what I do every night, I hear the noise now.  
17 When I go out there, you know, we heard experts say  
18 you're not going to hear anything. Well, you know,  
19 it's totally forested now; and, when I go out there  
20 on it used to be every Thursday night, I'm not  
21 exactly sure what Thompson's -- Thompson Speedway's  
22 schedule is now; but you could hear those cars as  
23 clear as a bell, and I'm a mile away from the  
24 Invenergy site. So, I don't know just how far that  
25 is, but there are two enormous hills in between there



1 and my house; and I can hear them as clear as a bell.  
2 When they have fireworks, I might as well just be in  
3 the back yard. They might as well just be in my own  
4 back yard because they're so loud. So, whatever --  
5 whatever the science is behind the noise traveling or  
6 not traveling, we must live in some sort of an odd  
7 zone because it does travel. I don't know, I'm not  
8 an expert on sound, but I know what I hear.

9 I think the power plant folks were asked for a  
10 secondary source of water. They were asked to  
11 provide a secondary source of water; and, as far as I  
12 know, and I can -- you know, maybe they can answer if  
13 they've determined where that secondary source of  
14 water might be.

15 MS. NOONAN: I think I said last evening those  
16 comments were made in recommendations in the peer  
17 review, and we are looking at alternate sources; and  
18 we don't have enough information to advance it to the  
19 public, but we will; and we have taken that to heart  
20 at the peer review comments, and we're looking at it,  
21 and we'll get it to the Town as soon as we have it.

22 MS. LUSSIER: Okay. So, the reason I ask that  
23 is because somebody must have -- a couple of weeks  
24 ago at one of these meetings, somebody floated out  
25 perhaps using Wallum Lake as a secondary water

1 source. I'm not sure if that came from your expert  
2 or if it came from our expert, but somebody is  
3 floating that around; and I think, you know, you all  
4 need to know that someone is talking about it; and,  
5 you know, I think that needs to be brought into  
6 consideration when you're making your determination.

7 I think I also wanted to just mention about the  
8 traffic survey; and I mentioned I have a couple of  
9 horses, and sometimes we go down to Goddard Park for  
10 a trail ride. Coming home there is a particular  
11 corner that I always get a little nervous about, and  
12 that's the corner on High and Church; and I cannot --  
13 I have an F-150 pickup truck that I pull a horse  
14 trailer with, and I cannot make that corner if  
15 there's a car there. I can't. It's just not  
16 possible without going over the curb. So, I have to  
17 wait until that line is completely cleared, so that I  
18 can go well into the other lane and then make my  
19 turn. So, I don't know how the trucks are going to  
20 do that so easily; but, you know, maybe that's a  
21 question that you can have for them as well.

22 MR. CLOUTIER: Ready to wrap? Wrap up, please.

23 MS. LUSSIER: Yeah. So, I guess I would just  
24 follow up with this: I don't know how -- you  
25 mentioned earlier, Mr. Chairman, that you were going

1 to do the best you could to give an advisory opinion  
2 based on the information that you had, is that  
3 correct?

4 (Mr. Cloutier nodded affirmatively.)

5 MS. LUSSIER: So, I would suggest to you that  
6 that's not acceptable. You can't give an opinion, if  
7 you don't have the information that you have.  
8 In good faith you can't. If you've asked for  
9 information and it's being -- either you're being  
10 stalled purposely or not, whatever the reason is that  
11 you're not getting the information that you need to  
12 make an informed decision, then you simply can't make  
13 a recommendation that this proposal go forward.  
14 It's just -- it's not fair to any of you, and it's  
15 not fair to any of us; and I will wrap with that.  
16 Thank you.

17 MR. CLOUTIER: Thank you. Has everybody come  
18 up? Has everybody come up who is going to come up?

19 **J E R E M Y B A I L E Y**, first having been duly  
20 sworn, testified as follows:

21 MR. CLOUTIER: State your name, please.

22 MR. BAILEY: Jeremy Bailey. I live on Wallum  
23 Lake Road in Pascoag.

24 MR. CLOUTIER: Last name, please?

25 MR. BAILEY: Bailey, with a B, B-A-I-L-E-Y.

1 Since we're throwing out credentials tonight, I have  
2 a Master's Degree in engineering. The years that I  
3 used to work, I started out working for Department of  
4 Defense contractors; and I've worked on some billion  
5 dollar proposals that we've essentially sold to the  
6 military, primarily the Army. What I can tell you is  
7 every proposal we've ever worked on -- as a young  
8 engineer, I was naive. I didn't realize why this was  
9 happening. I would always wonder why -- I forgot,  
10 frequencies. I always wondered why the proposals  
11 were always rosy colored and, quite frankly, a  
12 stretch of the reality of what we could meet; and I  
13 realize the point of that was to then sell our  
14 products to the customer, in this case being the  
15 military. Once we sold them this product, they  
16 brought it to our attention that, for one reason or  
17 another, the specs. were not met. We always seemed  
18 surprised, apologetic; and we worked to fix those  
19 problems and to make those products work within the  
20 specs. that we sold them to. Sometimes we could;  
21 sometimes we couldn't. But, now, the product was  
22 already sold to the customer, and anyone whosever  
23 worked with the military knows that they have to go  
24 through great lengths to approve certain products.  
25 So, they would spend a great deal of time, money and

1 effort to work with us to make these products meet  
2 their specifications. Then when we couldn't, we  
3 would have to go apply for something called an  
4 exception, and we'd have to get an exception. So,  
5 they would have to use our products that mostly met  
6 the specs. Okay, this sounds very familiar to what  
7 I'm hearing here; and Invenergy is basically already  
8 admitting that, you know, they're going to break our  
9 Noise Ordinances, whether or not we give them a  
10 variance, which I strongly oppose, in case I run out  
11 of time. They've already admitted that in their data  
12 request, as Mrs. Sherman just spoke about it there.  
13 They already said, "Well, you have a Noise Ordinance  
14 that you can enforce." So, and as we all know how  
15 well that Noise Ordinance works in regards to  
16 enforcing Spectra and their compliance.

17 All right, that's enough about that. Let's talk  
18 about vibrations and noise. So, to be clear, and I  
19 know you guys know this, but I want to make it clear  
20 that the rest of us realize this. There is a  
21 difference between the A-weighted noise frequencies  
22 and the different frequency bands; and, from my  
23 understanding, I was a little late tonight, that  
24 they're seeking -- they claim they're going to meet  
25 the A-weighted; however, they're seeking a variance





1 to me everything that the Department of Health -- and  
2 we've listened to Irene Watson talk about many times  
3 before. So, when it comes to giving a variance for  
4 the noise, I want you to take a serious look. This  
5 is a very serious thing. I want you to say no  
6 because we don't want those low frequencies.

7 We're already trying to deal with a problem we  
8 have there today, and I want to make sure that the  
9 language you use is strong; and I'm going to wrap it  
10 up by a quick example. We appreciate a letter that  
11 our Town recently wrote to FERC in regards to Spectra  
12 Energy, and in one of the instances they put -- in  
13 one of the paragraphs, they put, "Burrillville  
14 residents who live in the vicinity of the compressor  
15 station have expressed concerns about the noise and  
16 vibration." Now, if I'm some entity that is not  
17 familiar with Burrillville, when I read that, I think  
18 to myself, "Ah, it affects a couple of residents.  
19 That's not really a big deal." I want you to use  
20 very strong language because I believe all of you are  
21 being our neighbors and being reasonable; and, to  
22 properly do your job, you are going to basically  
23 advise against any of these variances; but I'd like  
24 you to use very strong language while you advise  
25 against them. For example, the paragraph that I just



1 read, you could rewrite it in another way; for  
2 example, "The lives of thousands of residents have  
3 been severely negatively affected by the excessive  
4 noise and vibrations. Their right to quiet and  
5 peaceful enjoyment has been stripped away from them  
6 by the blatant disregard for Burrillville's Noise  
7 Ordinance." So, you can see how, when you read it  
8 that way, to me, if I wasn't familiar with the  
9 situation up there, I'd go, "This is a serious  
10 situation. We really need to look at this."

11 So, I'd urge you that -- I already know that you  
12 guys are going to come out in opposition of giving  
13 these variances because it's just the right thing to  
14 do. It just makes sense, but I want to make sure  
15 that your language is strong enough because your  
16 advisory opinion does matter, as Mr. Woods spoke  
17 about earlier. It does matter. So, please do so in  
18 your opinion. Thank you.

19 MR. CLOUTIER: Thank you for your suggestions.  
20 Raise your right hand.

21 **D E N N I S A N D E R S O N**, first having been  
22 duly sworn, testified as follows:

23 MR. CLOUTIER: State your name, please.

24 MR. ANDERSON: Dennis Anderson, the usual way  
25 with an "O". NDSU, top of the class, MBA; we're into

1           credentials.

2           I want to stay focused on kind of what your  
3           primary job is, which is really involving the special  
4           use permit and the variances and the testimony.  
5           So, I'll start with just a question, I guess,  
6           with the guy we know as Mike. When you do that  
7           model, . . . and I throw the credentials out  
8           only that I do understand what you're talking  
9           about . . . what's the base line in all these  
10          receptors? Because I think what you measure into is  
11          the contribution of something new and holding it up  
12          against the standard for these 50 odd pollutants, but  
13          I'm trying to get to: What's the base line in this  
14          environment? You don't have to go the whole  
15          50 kilometers. Just in the immediate Burrillville  
16          area, is there a base line of all these 50 some now,  
17          the world as we know it today, that we can compare it  
18          to this acceptable world of tomorrow?

19                 MR. FEINBLATT: Th.

20                 E EPA has established ambient air monitoring  
21                 stations all over the country that are constantly  
22                 measuring ambient air concentrations, and that data  
23                 is available to be used as the existing background  
24                 for this analysis. So, there are no monitors right  
25                 now in Burrillville. What's available in Rhode

1           Island are monitors in Providence and North  
2           Kingstown. Those are -- using those values as  
3           background values is conservative because those are  
4           in downtown urban areas. So, by using -- assuming  
5           that that is the background concentration in  
6           Burrillville and you're still complying with the  
7           standards, you're making a conservative assumption  
8           because it's very clear that the background  
9           concentrations in Burrillville will be much lower  
10          than the concentrations being measured right now in  
11          Providence.

12           MR. ANDERSON: Okay, agreed. So, let's go with  
13          where there is one. So, on an order of magnitude  
14          basis, what is the existing in Providence; and what  
15          would the new be for the most egregious of the  
16          pollutants?

17           MR. FEINBLATT: It's different for every  
18          pollutant, but right now it would be --

19           MR. ANDERSON: Order of magnitude.

20           MR. FEINBLATT: The entire State of Rhode Island  
21          is in compliance with the standards. It's different  
22          for every pollutant. There is no order of magnitude.  
23          Every one is different.

24           MR. ANDERSON: And it's probably irrelevant  
25          being in Providence because we're a whole lot closer,

1 and I would submit that our base line for all of them  
2 is very close to zero now and that, whatever it will  
3 be, even though it's below the standard, it is orders  
4 of magnitude higher than it is now.

5 MR. FEINBLATT: No, that's not true.

6 MR. ANDERSON: It's not true?

7 MR. FEINBLATT: No.

8 MR. ANDERSON: That we're not close to zero on  
9 all these pollutants now?

10 MR. FEINBLATT: No. Air pollution travels large  
11 distances. Right now New England is being affected  
12 by emissions from Pennsylvania and Ohio and New York.  
13 It doesn't matter whether an area has urban sources  
14 or industrial sources. Pollution travels great  
15 distances. So, there are pollutants --

16 MR. ANDERSON: So, a minute ago, Burrillville is  
17 going to be less than Providence, but it's not zero  
18 because it's affected by a wide area.

19 MR. FEINBLATT: Correct.

20 MR. ANDERSON: So, what's the relative  
21 comparison of the base line now?

22 MR. FEINBLATT: It's less than Providence.

23 MR. ANDERSON: Okay. Then we're not getting too  
24 far. If it goes from zero to three, are we at one  
25 now, or are we at a half now? Are we at a tenth now?

1 Are we at two now?

2 MR. FEINBLATT: There's no one answer to that  
3 question because we have to do it for every  
4 pollutant. It's different for every pollutant. The  
5 information is all in the report. I mean I can't  
6 give you one answer for every pollutant. There's  
7 multiple pollutants, and for every pollutant we have  
8 to do different averaging periods. So, there is  
9 essentially 25 different answers to the question you  
10 just asked.

11 MR. ANDERSON: Okay. But, in all cases it's  
12 more?

13 MR. FEINBLATT: It's below the standard.

14 MR. ANDERSON: But it's more than it is now?

15 MR. FEINBLATT: Yes.

16 MR. ANDERSON: We just can't quantify what that  
17 is. Okay, switching gears, because I do think it's  
18 all about that zoning wording; and, Mr. Pimentel, I  
19 think all of us are a bit exasperated that we didn't  
20 see a change in the character of this area; and, in  
21 your visualization (sic.), do you have visualizations  
22 of the nighttime view from all 360 degrees? It's a  
23 little different than the daytime view because  
24 there's going to be a lot of light. As you look  
25 across Wilson Reservoir, there is no ball of light

1 now; but I think there will be. So, are there  
2 visualizations from all 360 degrees in the evening?

3 MR. PIMENTEL: Excuse me, the visual simulations  
4 I referenced was in regards to the stacks, where they  
5 superimposed the stacks, where they were going to be  
6 placed, and then took them from different vantage  
7 points, visual simulation.

8 MR. ANDERSON: But you used that in your  
9 assessment that it doesn't change the character, and  
10 that's one piece.

11 MR. PIMENTEL: Yes.

12 MR. ANDERSON: But it does change the character  
13 when you look out there at night. As the gentleman  
14 who goes up on the top of the hill with the Cub  
15 Scouts said, it's a different look and feel, and it's  
16 not the same character at night. When it's 10 below  
17 zero and you end up with the vapors condensing, we  
18 don't see a huge cloud today. We will in January  
19 after it's built. That's not the same character as  
20 today. So, I think it's fraudulent -- true, it's a  
21 strong word, but it's imprecise to present that the  
22 area and the character is not changed visually  
23 because you can't see the stacks from very many  
24 angles. There's much more to it than that.

25 Now, from the Zoning Board's standpoint, the

1 heart and soul of this is the special permit use and  
2 any variances. Gotcha, Joe. So, I think that that  
3 wording in the zoning about the character of the  
4 area, the health, the welfare, the convenience, and  
5 enough has been said about all the other issues.  
6 And you're all smart people. You don't need somebody  
7 from out of town to tell you the character of the  
8 area isn't going to change. You know better.  
9 And the heart and soul of this special permit use  
10 thing is right there in the words that you all can  
11 interpret as well as anybody else in the guidance  
12 that we have for our zoning. Thank you.

13 MR. CLOUTIER: Okay. That will conclude the  
14 public comment portion of our hearing. Did you want  
15 to come up?

16 WOMAN FROM THE FLOOR: No, I'm all done.

17 MR. CLOUTIER: One more, last.

18 **L O R R A I N E S A V A R D**, first having been  
19 duly sworn, testified as follows:

20 MR. CLOUTIER: State your name, please.

21 MS. SAVARD: Lorraine Savard, S-A-V-A-R-D.

22 I have a couple of questions. One is for -- I  
23 don't -- I can't pronounce your last name, Oleg.

24 MR. NIKOLYSZYN: Please, Oleg will do.

25 MS. SAVARD: Oleg is fine. I haven't seen you

1 in a long time. You weren't at the Planning Board.  
2 Why are you here today? You weren't at the Planning  
3 Board meetings. I haven't seen you in a while.  
4 Can you tell me? Whoops, not an appropriate  
5 question?

6 MR. CLOUTIER: Well, I can tell you that he's  
7 the Town's attorney for the Zoning Board.

8 MS. SAVARD: Oh. Oh, but not the planning?

9 MR. NIKOLYSZYN: I'm the Town Solicitor.  
10 I represent the whole town, every board, every  
11 commission.

12 MS. SAVARD: Sometimes you're here, and  
13 sometimes you're not.

14 MR. NIKOLYSZYN: Do you have a question for this  
15 Board?

16 MS. SAVARD: I have -- that's my question to you  
17 and to the Board. I guess I have it answered.  
18 Thank you.

19 I have another question. The lawyer for  
20 Invenergy gave exhibits; and, when she was explaining  
21 the exhibits, she mentioned that our -- not our, but  
22 your, because I'm not from Burrillville, a  
23 Mr. Hessler, who is one of our experts, paid-for  
24 experts, said that Invenergy -- not Invenergy, but  
25 this power plant can keep within the 43 dBA's.



1           The lawyer said that tonight. When I heard  
2           Mr. Hessler speak the first time, and I guess that  
3           was March, he said he had never heard of a power  
4           plant doing this at 43 or 45 dBA's. The next time  
5           Mr. Hessler came and spoke, he changed his tune; and  
6           that's what the lawyer for Invenergy has stated  
7           today, that even Burrillville's experts on noise says  
8           that now they can do it; and I guess they're going to  
9           make changes. That's a concern of mine, that he said  
10          no first and now he says they can do it. Those are  
11          the only kind of comments I have about the Zoning  
12          Board and what was proposed tonight.

13                 What I do want to say is this: That, in these  
14          times, all zoning boards, including here in  
15          Burrillville, should be writing code to advance  
16          alternatives, not to write advisory opinions to the  
17          Energy Facility Siting Board. We, for years, over  
18          50 years, have been told that our earth is in  
19          trouble; and now, in 2016, here in Rhode Island, here  
20          in Burrillville, you want to build a 1000-megawatt,  
21          fracked gas burning power plant; and it just defies  
22          logic, defies logic.

23                 Also, one more thing, and then I'm done.  
24          I learned a word today in my reading, and I'm going  
25          to spell it and try to pronounce it, but I know the

1 definition. Let me give you the definition first.  
2 To steal valuable possessions from a place, and the  
3 word is despoilation; and that's what Invenergy is  
4 doing. They are going to steal a valuable possession  
5 here. Thank you and good night.

6 MR. CLOUTIER: Thank you. Are you going to be  
7 quick?

8 MS. CROOK-PICK: I will be very quick.

9 MR. CLOUTIER: Okay.

10 **CYNTHIA CROOK - PICK**, first having  
11 been duly sworn, testified as follows:

12 MR. CLOUTIER: State your name, please.

13 MS. CROOK-PICK: My name is Cynthia Crook-Pick.  
14 I'm from 700 Cherry Farm Road in Harrisville. So,  
15 two things, one regarding the stacks. How can you  
16 not say that the blinking red lights will not be a  
17 change in the rural character? Not to mention it's a  
18 security issue for us, and we really should start  
19 thinking about that. We'll have two power plants  
20 here in this area, very large ones, by the way.

21 The second thing I'd like to ask is if the  
22 Zoning Board, just like in a criminal court of law,  
23 they would go on a tour to visit a site, a crime site  
24 or something of that nature; would that not be  
25 something you would want to do, to see this location,

1 physically together as a group to render your  
2 advisory opinion? After you viewed the property, you  
3 will see the noise from the existing Spectra plant.  
4 You will see the location that it needs to go into,  
5 and you'll have all of the surrounding elements to  
6 make your decision. Is that not something the Zoning  
7 Board would do?

8 MR. CLOUTIER: We would love to be able to do  
9 that; but, as a matter of law, the Zoning Board is  
10 not allowed as a group to go tour an applicant.

11 MS. CROOK-PICK: So, could you go individually?  
12 I know you can't speak outside because it's ex parte,  
13 but could you go individually?

14 MR. CLOUTIER: Of course.

15 MS. CROOK-PICK: Okay. So, I would hope that  
16 you would all take that opportunity to do that, and  
17 we appreciate your help. Thank you.

18 MR. CLOUTIER: Okay. That concludes the public  
19 comment period of this meeting. And I have to  
20 correct something. When we reconvene on August 30th  
21 for this project, we will be conducting our meeting  
22 as we normally do with our normal rules, where the  
23 Board will be asking questions of the applicant, and  
24 then we'll hear comments from the audience, if we  
25 have time. Thank you. Questions up here?

1 MR. JOHNSON: No, not from me.

2 MR. KEELING: Not right now.

3 MR. PAGE: Yes. There is on the report from  
4 ESS --

5 MR. CLOUTIER: You need a minute? I can ask a  
6 couple of questions. Transportation expert, have you  
7 explored any alternate routes besides the route  
8 that's proposed that we're looking at of Route 100  
9 all the way through?

10 MS. CHLEBEK: No, we did not. We looked at that  
11 to see if it was compatible for truck traffic, but we  
12 did not look at alternate routes.

13 MR. CLOUTIER: Can you explain why you would not  
14 at least explore an alternate route?

15 MS. CHLEBEK: Well, we were asked to look at the  
16 traffic impact of the study. We were given the  
17 routes from the proponent in terms of where the  
18 trucks would come; but, obviously, looking at the  
19 area as well, there aren't a lot of different  
20 numbered routes which are the most appropriate routes  
21 for the trucks. So, we looked at it from two points  
22 of view. What's the influence area surrounding the  
23 street network, and what's the designated truck  
24 route; and is that an appropriate truck route.

25 MR. CLOUTIER: As you've heard, because you have

1       been to several of the meetings here, as you've  
2       heard, there's major concerns with using not so much  
3       Route 100, as you would call it, although it is Route  
4       100 all the way; but, from the bottom of South Main  
5       Street through that intersection and through the High  
6       Street intersection, I mean it's a major problem;  
7       and, as we heard last night, Church Street where the  
8       school is is a major problem, or a major concern I  
9       should say. Now, where are your trucks, especially  
10      the construction trucks, and maybe even the fuel oil  
11      trucks, where are they going to be originating from?

12           MS. CHLEBEK: From various places, but a lot of  
13      them will be to the south near Providence heading  
14      into Burrillville.

15           MR. CLOUTIER: Can I ask you to explore an  
16      alternate route? If you're coming even from  
17      Providence, if you travel 146 or if you travel 295 to  
18      146, to Route 16, to Route 96, you would be going  
19      through no cities, no actual town centers; and you'll  
20      be on Route 100 coming in from the exact opposite  
21      direction, but there will be no traffic. There's no  
22      hazards. There's no tight corners, and it's all open  
23      road. I don't know why you didn't explore that  
24      before committing to this route.

25           MS. CHLEBEK: We can look at that.

1           MR. CLOUTIER: Thank you. The one question on  
2 the construction of -- you are going to be  
3 constructing a pipeline from Well 3. Do you have  
4 somebody here who could speak to that pipeline  
5 construction?

6           MS. NOONAN: Our water expert is not here  
7 tonight. He can be here at the next hearing, or we  
8 can answer his questions if you want.

9           MR. CLOUTIER: It's not so much a water question  
10 that I have. It's a construction question. Is the  
11 route that you're going to be taking for that  
12 pipeline, are you going to cross or run along any  
13 streets? Are you going to be breaking any hardtop,  
14 any road construction?

15          MS. NOONAN: Yes.

16          MR. CLOUTIER: And, once your construction is  
17 done, once the pipe is laid, whether it be the water  
18 pipe or the sewer pipe, then what are you going to  
19 do?

20          MS. NOONAN: Part of what we did, and Mr. Smith  
21 who is in the audience testified about this, was  
22 we're doing a pavement analysis beforehand and then  
23 repairing, you know; and, when we put the lines in  
24 and fixing them, if there's problems or they need to  
25 be, you know, corrected or paved edge to edge, we'll

1 work with DOT on what they want done on those State  
2 highways.

3 MR. CLOUTIER: I don't know about you -- I don't  
4 know about any of you, but I have never -- I don't  
5 ever remember coming across a patched highway that  
6 isn't rougher than the original surface. It's always  
7 distinguishable. You always notice it. Your car  
8 feels it; you feel it. Now, here's my question.  
9 When Ocean State Power built their plant, they put in  
10 that holding pond in Slatersville. They piped the  
11 water from the Blackstone River to Slatersville.  
12 They came up 102 and 146A and Woonsocket city  
13 streets. When they went through, they repaved all  
14 the streets that they had traveled on, curb to curb.  
15 Can you do that for us?

16 MS. NOONAN: Yes.

17 MR. CLOUTIER: It will be a total repavement for  
18 our streets; it won't be a patch?

19 MS. NOONAN: For the ones that are affected by  
20 the -- yes.

21 MR. CLOUTIER: The streets that you dig into --

22 MS. NOONAN: Yes.

23 MR. CLOUTIER: -- you will repave curb to curb?

24 MS. NOONAN: Yes.

25 MR. CLOUTIER: Guaranteed? Thank you.

1           MR. KEELING: I have a question for the  
2           transportation person. Have you considered -- have  
3           you considered what's going to happen once the school  
4           buses start travelling and you're coming down 102 to  
5           High Street onto Church Street, and you're going to  
6           run into every one of them; and they're going to let  
7           off kids or pick up kids? They're going to have to  
8           stop and back up traffic for probably a half a mile  
9           or so.

10          MS. CHLEBEK: We drove those routes. We drove  
11          the truck routes. We met with RIDOT. We coordinated  
12          with them on what the truck routes will be.  
13          Obviously, we understand that there are bus stops  
14          that stop along that way. There are trucks on that  
15          road today that travel that roadway. It would be the  
16          same experience for the trucks that are related to  
17          Invenergy as the trucks that are experiencing the  
18          school bus traffic today.

19          MR. KEELING: I did a survey for the bus  
20          company, school bus company, and we stopped at every  
21          second or third house when you've got the little kids  
22          on a grammar school and middle school buses. So, are  
23          you going to put up with that?

24          MS. CHLEBEK: Well, a lot of the trucks that are  
25          bringing deliveries to the site are generally coming



1           between 9:00 and 3:00 which may be after the school  
2           buses go through in the morning.

3           MR. KEELING: No, you're right in school bus  
4           time.

5           MS. CHLEBEK: Right, nine o'clock maybe. I'm  
6           just saying the trucks are going to learn when the  
7           school buses are out there, and they're going to  
8           alter their routes, if possible; and, if not, then  
9           they're going to have to encounter those delays like  
10          the rest of the traffic on the roadway.

11          MR. KEELING: There's no alternate route.  
12          There's kids all over Burrillville getting off the  
13          school buses at that times.

14          MS. CHLEBEK: Okay.

15          MR. KEELING: Have you done anything to  
16          alleviate that problem?

17          MS. NOONAN: I think what just Maureen was  
18          saying is not that there's anything to alleviate it,  
19          but that either the truck deliveries are settled at  
20          times when there is less bus traffic and that the  
21          truck drivers, probably as they do now for other  
22          facilities, don't go at school times. So, you know,  
23          that's -- I think all of us know if you get caught  
24          behind school buses, multiple school buses, you're  
25          delayed; and, you know, certainly, trucks don't want

1 to be delayed as part of their practice, obviously.

2 MR. KEELING: I understand that, but I think  
3 more of the children --

4 MS. NOONAN: I understand. What would you  
5 suggest? I mean I'm not --

6 MR. KEELING: An alternate route.

7 MS. NOONAN: Okay. Well, I think --

8 MR. KEELING: How are you going to find one, if  
9 you're coming through Burrillville with those kind of  
10 trucks?

11 MS. NOONAN: The Chair has just suggested one  
12 alternate route. It may have the same impact; but,  
13 you know, we're open to suggestions, but we will  
14 explore the alternate route that was just provided  
15 this evening.

16 MR. CLOUTIER: Jeremy, did you have something?

17 MR. PAGE: I was wondering if I could get a  
18 clarification on the report from ESS Group --

19 MS. NOONAN: Sure.

20 MR. PAGE: -- regarding the stack heights.  
21 In one -- Section 3.2, it mentions a stack height  
22 design, minimum stack height design with EPA  
23 guidelines of 213 feet; and then further along in  
24 that section it mentions an actual design of 264  
25 feet; and I'm just wondering what the discrepancy

1 would be between that and the stack height of the  
2 proposed 200-foot for this plant, or if I'm  
3 reading --

4 MR. FEINBLATT: That section is not talking  
5 about our stacks. That's talking about a calculation  
6 of what the GEP stack height would be. There's a GEP  
7 stack height, Good Engineering Practice stack height  
8 at which, if you go above that, you can't take any  
9 credit for it. So, that's just a calculation that's  
10 sort of a generic calculation that would say that, in  
11 this case, the GEP stack height would be 264 feet.  
12 So, according to engineering principles, that's the  
13 optimal stack height for optimal dispersion, and  
14 going above that wouldn't give you any additional  
15 benefit. So, that has nothing to do with what our  
16 actual stack height is, which is 200 feet.

17 MR. PAGE: Okay. So, this is as an example for  
18 the model?

19 MR. FEINBLATT: No. One of the things that  
20 you're required to do is determine what the GEP  
21 height is.

22 MR. PAGE: Okay.

23 MR. FEINBLATT: It's just a piece of information  
24 so that you show that your stack height is not above  
25 that.

1 MR. PAGE: Because above that, like you said, it  
2 wouldn't have any extra benefit?

3 MR. FEINBLATT: You don't get any additional  
4 benefit from it. You don't get to take any credit  
5 for it.

6 MR. PAGE: I guess if you're below that, it has  
7 a diminishing value of dispersion.

8 MR. FEINBLATT: Right. It's a balancing between  
9 dispersion and visual impacts and FAA concerns. So,  
10 stack height, there's lots of different elements that  
11 go into picking a stack height. So, what that  
12 formula is telling us is that 264 feet would be, in  
13 the absence of any other concerns, the optimal stack  
14 height; but we're at 200 feet because of the concerns  
15 about visibility and FAA.

16 MR. PAGE: And so, minimum stack heights would  
17 be governed more on how the pollutants are dispersed?

18 MR. FEINBLATT: The results of the modeling.  
19 So, you could -- you know, if you were looking to  
20 make the stack as short as possible, you could  
21 continually do iterations of the model at lower  
22 heights until you got to a height where you were  
23 still complying; and then you'd get to a height where  
24 you are no longer complying. So, you know, you could  
25 do it in a process where you go as low as you can.

1 Again, that's a balancing because you don't want to  
2 be right up against the standards. So, you're trying  
3 to find a stack height that gives you good margin  
4 against the standards but also, you know, limits  
5 visibility issues and doesn't concern the FAA.

6 MR. PAGE: Okay, thank you.

7 MR. CLOUTIER: Okay.

8 MR. PAGE: I have a sound related question, and  
9 I know Dave Hessler isn't here and also your  
10 consultant. I don't know if I should ask this now,  
11 or maybe it can be posed in written format later.

12 I design floor beams and joists, as part of what  
13 I do for a living, and as part of that design we use  
14 deflection criteria; and there is a set criteria to  
15 use for, let's say, laying 20-foot joists you have to  
16 put a half a foot -- a half an inch deflection. Some  
17 companies have developed their own proprietary  
18 systems for what it feels like for joist deflections,  
19 and it's usually higher than what the minimum  
20 standards are for; and they're grouped by, instead of  
21 absolute values, how many people feel movement; like,  
22 say, 90 percent of people feel this joist moving, and  
23 so it has this rating and kind of goes down the  
24 scale; and then there's like a balancing between --  
25 you can't have zero people doing the deflections.

1           What I'm trying to get at, I guess, is if there's a  
2           more anecdotal standard of sound instead of just  
3           using dBA's or frequencies, or if there's more --  
4           like, I guess, wind chill, maybe there's a feels like  
5           for just what different sounds affect people.

6           MS. NOONAN: I'm not aware of one, but I can  
7           pose that question to our expert. I don't know if  
8           you want to pass it on to the Town's expert. I think  
9           I understand it in terms -- you were asking is there  
10          a more subjective standard?

11          MR. PAGE: Yes.

12          MS. NOONAN: Okay, I'll ask, and I can send the  
13          answer to Oleg, and we can talk about it next time,  
14          if you wish; or, if I get the answer, I'll send it  
15          off to Oleg, and he can disperse it.

16          MR. PAGE: Thank you.

17          MS. NOONAN: All right, thanks. Did you want to  
18          tell us how many letters you have after your name?  
19          Because you clearly have a lot.

20          MR. CLOUTIER: Okay, do you have anything that  
21          you'd like to put forth now or --

22          MS. NOONAN: No, not specifically. I just --  
23          no. I do want to on two points. One is I know  
24          there's frustration with the data. I just want to  
25          say we have responded -- Invenergy has responded to

1 300 data -- almost 300 data requests for subparts,  
2 two-thirds of which came from the Town. So, you  
3 know, we are trying to be responsive to the Town, and  
4 we will continue if we receive any others, so --

5 MR. CLOUTIER: Okay. You've answered 300.

6 Is that how many you received?

7 MS. NOONAN: I think it was -- Nicole can tell  
8 me? 287 were received, and many of them have  
9 subparts; and of that, 197, I believe, or 87 were  
10 from the Town; so, about two-thirds from the Town.  
11 Other ones came from other entities, so --

12 MS. VERDI: And there is no outstanding from the  
13 Town. We have answered all of the Town's to date.

14 MR. CLOUTIER: That was my question. Thank you.

15 MS. NOONAN: Nothing further, Mr. Chairman.

16 MR. CLOUTIER: Okay, thank you. Thank you for  
17 being with us tonight to answer our questions. Do we  
18 need August 30th?

19 MS. NOONAN: Continued to a date certain.

20 MR. CLOUTIER: Okay. So, we're on a course to  
21 meet again August 30th, seven o'clock.

22 MS. NOONAN: So, the hearing will be continued  
23 to a date certain on August 30th, correct?

24 MR. NIKOLYSZYN: Yes.

25 MR. CLOUTIER: Okay. We have one more bit of

1 business that the Board has.

2 (At this point, the hearing in this matter concluded.

3 The Board took up the election of officers and then

4 adjourned at 10:30 p.m.)

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C E R T I F I C A T I O N

I do hereby certify the foregoing pages to  
be a complete, true and accurate transcript,  
according to my stenographic notes, of the hearing  
IN RE: HEARING ON ADVISORY OPINION ON INVENERGY  
THERMAL DEVELOPMENT, LLC'S CLEAR RIVER ENERGY CENTER,  
heard before the Burrillville Zoning Board at the  
Burrillville High School Auditorium,  
425 East Avenue, Harrisville, Rhode Island, on  
July 12, 2016 at 7:00 p.m.

Andrew J. D'Angelo  
Andrew J. D'Angelo  
Court Reporter

(Signed Electronically)