

In The Matter Of:
McLEAN COUNTY ZONING BOARD OF APPEALS

May 11, 2016

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6 TRANSCRIPT OF PUBLIC HEARING
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9 Transcript of Public Hearing of the
10 McLean County Zoning Board of Appeals
11 Wednesday, May 11, 2016
12 7:00 p.m.
13 Room 400, Government Center
14 115 East Washington Street
15 Bloomington, Illinois
16
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18
19
20
21
22
23
24

Page 3

1 (Whereupon the public hearing commenced
2 at 7:00 P.M.)
3 **MS. RUDOLPH:** The McLean County Zoning
4 Board of Appeals will please come to order. The
5 secretary will call the role.
6 **MR. DICK:** Michael Kuritz?
7 **MR. KURITZ:** Here.
8 **MR. DICK:** Sally Rudolph?
9 **MS. RUDOLPH:** Here.
10 **MR. DICK:** Julia Turner?
11 **MS. TURNER:** Here.
12 **MR. DICK:** Drake Zimmerman?
13 **MR. ZIMMERMAN:** Here.
14 **MR. DICK:** Brian Bangert?
15 **MR. BANGERT:** Here.
16 **MR. DICK:** Chris Carlton?
17 **MS. CARLTON:** Here.
18 **MR. DICK:** Rick Dean?
19 **MR. DEAN:** Here.
20 **MS. RUDOLPH:** Okay, this is a
21 continuation of case SU-1509. And we had some
22 additional questions, I believe, from members of
23 the board. Any members of the board have any
24 questions?

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1 **APPEARANCES**
2 In Attendance:
3 Sally Rudolph
4 Hira Aamir
5 Philip Dick
6 Don Knapp
7 Drake Zimmerman
8 Julia Turner
9 Rick Dean
10 Chris Carlton
11 Brian Bangert
12 Michael Kuritz
13
14 Don Adams
15 William Peithmann
16 Don Odle
17
18 Mike Olson
19 Ron Fitchhorn
20 Trish Tilton
21 Sandra Beyer
22 Steven Funk
23 Jim Hanlin
24

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1 **MR. BANGERT:** In the staff report, it
2 says that the farm dwelling is located
3 approximately 1,200 feet from the edge of the mine
4 area. That's just the one part south of this
5 wetland 2 area.
6 Now, how far is the proposed plant and
7 the stockpile area from the proposed -- or the
8 proposed plant from the farm dwelling? Do we know
9 that?
10 **MR. ADAMS:** I would refer to two
11 different home dwellings to make sure we're in the
12 right spots here.
13 **MR. BANGERT:** Well, I guess both of them
14 then.
15 **MR. ADAMS:** Okay. On the mining plan,
16 we show a cultural resource area, that's not what
17 we're talking about. If you take road 1025 North,
18 it's about a mile and a half of roadway from the
19 north edge of this property to Route 136. The
20 farmhouse is on the east side, the right hand -- I
21 guess I'll say the east side of the road and it's
22 about a half mile up, maybe a little less. It's
23 about that. There's the hog confinement facility
24 to the west. And then less than an eighth of a

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1 mile or so up at the top of the hill is the
 2 farmhouse. That's the one that's most impacted by
 3 truck traffic.
 4 The other home, I can't tell you how
 5 close it is. That's Mr. Hanlin's home and his
 6 farmstead. And it's on the road that runs along
 7 the north edge of our property. He is to the east
 8 probably a quarter mile or less. So from the
 9 stockpile and the processing area, I would assume
 10 it's a third of a mile or more, but I'm guessing.
 11 I have not measured distances off of a map or
 12 anything like that.
 13 **MR. ZIMMERMAN:** I want to get some of
 14 the numbers straight. You said 5 to 8 million
 15 dollars is what you're planning to put in to fix
 16 the road and get everything all set up. Did I get
 17 that part correct?
 18 **MR. ODLE:** I said that's --
 19 **MS. RUDOLPH:** Turn your microphone on,
 20 please. And you might identify yourself also for
 21 the court reporter, please.
 22 **MR. ODLE:** My name's Don Odle, and I am
 23 the manager of the Odle Family Management Group.
 24 I'm the oldest of the family of six of us. But

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1 ask me what you said again.
 2 **MR. ZIMMERMAN:** The over -- I believe it
 3 was you, sir, who said the overall cost of what
 4 you're going to put in is an amount and you might
 5 just --
 6 **MR. ODLE:** If I was putting the plant in
 7 there and I know what it would take to do the
 8 amount of material that I wanted to produce and
 9 that, I would have to spend, in the plant and the
 10 dredge alone -- this is without the road -- the
 11 road's another million and a half dollars. But
 12 it's between 5 and 8 million dollars to set up
 13 that operation, plus that road's a million and a
 14 half.
 15 **MR. ZIMMERMAN:** Okay, thank you.
 16 **MR. BANGERT:** I'm curious, just from the
 17 standpoint we talked about sand and gravel. But
 18 as to what other kinds of geological materials are
 19 in this gravel, typical to this geographical area?
 20 We're not just talking about -- or are we -- just
 21 silica sand, gravel? I mean, what type of
 22 geological materials are we also talking about
 23 that could be a part of this?
 24 **MR. ADAMS:** Well, basically that's what

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1 we're after is the sand and gravels. We'll have
 2 -- depending upon where we're at on the site, we
 3 first have to remove top soil. We may have a
 4 couple of feet of topsoil because we're close to
 5 the bottom land here. So it's probably relatively
 6 thick. And then we get clay from there down to
 7 our gravel layer.
 8 Total of the topsoil and the gravel, the
 9 overburden that we have to move is probably going
 10 to be between 6 and 9 feet. Then we're going to
 11 get into the aggregates. It'll be mixtures of
 12 coarse aggregates and fine aggregates, and that's
 13 it. There's no other minerals or any other
 14 resources here that we hope to extract beyond the
 15 sand and gravel.
 16 Now, we might sell somebody a load of
 17 topsoil if they really want it. But quite
 18 frankly, that's maybe once every two or three
 19 years that happens. But it could happen. Or some
 20 fill dirt if they need it. But basically it's the
 21 sand and gravel is all we're after.
 22 **MR. BANGERT:** Okay. So as far as
 23 airborne, there would be nothing else airborne
 24 potentially other than sand and gravel that would

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1 be of concern or discussion?
 2 **MR. ADAMS:** Yes, it's whatever is there.
 3 So obviously when we're stripping topsoil, there
 4 may be some dust from the topsoil and removal of
 5 the overburden. Typically the gravels, it's too
 6 heavy, it isn't going to leave the site. We will
 7 get some dust from the operation. But really not
 8 much from that because it's such a wet material
 9 we're handling.
 10 Typically the dust that we have from the
 11 site is what the trucks track as they make the
 12 loop around to the scale to get loaded and get out
 13 of the site. And that is typically just, you
 14 know, very small sand particles in the dust. And
 15 that's it.
 16 **MR. BANGERT:** One last one. How do you
 17 -- how do you power a facility like this? Is this
 18 generator power? How do you bring power to these
 19 -- I'm guessing you've got conveyors and you've
 20 got other machinery like that.
 21 **MR. ADAMS:** Sure.
 22 **MR. BANGERT:** How do you power this?
 23 **MR. ADAMS:** The sorting equipment and
 24 crushers and conveyors will all be electrical

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1 power. The dredge can be either diesel powered or
 2 electric powered. The more recent ones I've seen
 3 where somebody's purchased a new dredge, they've
 4 gone electrical instead. And that could be fed
 5 off of the grid or they can have a generator on
 6 the site.

7 **MS. TURNER:** The only question I really
 8 had is we talked about this being in a floodplain
 9 obviously. And talked about as the waters rise
 10 from the creek, it goes into the pit that you
 11 have. Obviously as that water's there, it's
 12 sloshing around and then it recedes and some of
 13 that water's going to go back into the creek, just
 14 naturally flow back in there as it clears out.

15 **MR. ADAMS:** Right.

16 **MS. TURNER:** A lot of it will stay in
 17 the pit, but the creek takes it away. Are there
 18 any chemicals or byproducts from gravel pits that
 19 would be a concern with that mixing and sloshing
 20 that's going on as it's in the pit and going back
 21 into the creek?

22 **MR. ADAMS:** We don't use any kind of
 23 chemicals at all to treat the gravel or to break
 24 it loose or anything like that. It's not like a

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1 fracing process or anything like that. It's just
 2 we dig out of the ground and process it. So the
 3 only chemicals we have out here are the fuels for
 4 the vehicles, maybe for the generator, that sort
 5 of thing. And those are all out of the floodplain
 6 on the high ground off to the side. So I wouldn't
 7 anticipate that we would have anything that should
 8 get dumped into that lake, either accidentally or
 9 on purpose.

10 **MS. TURNER:** Okay. But what if -- you
 11 know, we're disturbing natural -- a natural way of
 12 things. You're going in and you're digging. Is
 13 there anything that that disturbance will cause?
 14 You know, normally it's not all mixed up. You
 15 haven't dug through all these layers and things
 16 like that. Is there anything that as you're
 17 digging, anything that exists naturally, but
 18 normally wouldn't be sloshed back into a creek,
 19 for instance, disturbing the gravel or the soil or
 20 anything like that? Is there anything that we're
 21 doing naturally?

22 **MR. ADAMS:** I can't imagine there would
 23 -- I'm trying to think, trying to understand the
 24 question, first of all. Basically there's nothing

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1 we're inserting into the ground that isn't there
 2 already. We disturb it. But in the case of a
 3 flood event, almost everything that we are trying
 4 to extract that we're disturbing at this bottom is
 5 heavier than water.

6 So yes, when we have a lot of velocity,
 7 there would be turbidity and some of that may
 8 leave. I can't imagine it's going to be any more
 9 than what's coming in because those farm fields
 10 upstream of us are even a worse condition because
 11 the topsoil is lighter than the gravel material.
 12 So we have a chance of more turbidity from farm
 13 ground upstream than we have probably from this
 14 gravel mine itself.

15 **MR. ZIMMERMAN:** If I may, I think what
 16 you're trying to get to is there anything that
 17 you're going to dig up that's really harmful
 18 that's in the subsoil? In other pits that have
 19 been opened up, have there been veins of arsenic
 20 or other nasty chemicals or anything like that
 21 that have been unearthed?

22 **MR. ADAMS:** No. In my experience, I've
 23 never seen that happen. I have never heard of
 24 that happening in any of the trade publications or

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1 anything of that nature.

2 **MR. ZIMMERMAN:** Back to topsoil, what do
 3 you do with the topsoil? Because this is bottom
 4 land, there may be a couple feet of topsoil. You
 5 are going to be sequestering and -- what's the
 6 term -- putting away --

7 **MR. DEAN:** Stockpiling.

8 **MR. ZIMMERMAN:** What are you doing with
 9 the topsoil?

10 **MR. ADAMS:** Topsoil is basically the
 11 same as the clay material. It's going back in the
 12 hole that it came from. Obviously we want to save
 13 as much of that topsoil as we can to go on the top
 14 of that. We want to make sure that we have a good
 15 surface to be able to grow a good crop of grass on
 16 our banks and on our processing area when we're
 17 done. You know, 12 acres takes a lot of topsoil
 18 to fill back in. But basically what comes out
 19 goes back in to make the banks. We save enough
 20 for the processing area to make the wetlands,
 21 which is going to eat up a lot of topsoil, as
 22 well. And then the rest is just filled back in to
 23 create those stable slopes that we need, along
 24 with the clay.

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1 **MS. RUDOLPH:** Any further questions from
 2 members of the board?
 3 (No audible response.)
 4 **MS. RUDOLPH:** Any questions from staff
 5 at this time?
 6 (No audible response.)
 7 **MS. RUDOLPH:** It's okay.
 8 **MR. ADAMS:** Do you want me to submit it
 9 now or wait when we do our closing arguments or
 10 our rebuttal later?
 11 **MR. KNAPP:** I'd just do it now.
 12 **MR. ADAMS:** All right.
 13 **MR. DICK:** We will enter this exhibit as
 14 Applicant's Exhibit 6.
 15 (Whereupon Deposition Exhibit No. 6 was
 16 marked for identification.)
 17 **MS. RUDOLPH:** You have no further
 18 questions?
 19 **MR. DICK:** No.
 20 **MR. ADAMS:** Do you want me to address
 21 that or do you want to ask questions about it? Or
 22 do you want to wait 'til it works its way around?
 23 **MR. KNAPP:** Have him explain.
 24 **MS. RUDOLPH:** I think the best time

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1 probably is now.
 2 **MR. ADAMS:** Okay. You may recall from
 3 last week's testimony, there was a question raised
 4 about how long we were going to mine gravel here.
 5 And we had testified 20 to 30 years we'd be mining
 6 gravel. And Phil rightly pointed out that in the
 7 wetlands and waters of the United States
 8 mitigation plan, it says ten years. I did some
 9 checking on that and found out what the issue is.
 10 When the wetlands mitigation report was prepared,
 11 we had a copy of the mining permit. Mining
 12 permits by the Illinois EPA are granted for a
 13 ten-year period. That's as far as they go out and
 14 then you renew them if your mine is still in
 15 operation.
 16 And the young lady who prepared the
 17 report for us just read the ten years off of the
 18 mining permit, put it in her report. I didn't
 19 catch it when I reviewed it. And that's how that
 20 happened.
 21 So what we've submitted tonight is a
 22 string of e-mails between Eva, our environmental
 23 engineer, and Jim Kelly with the Corps of
 24 Engineers, where she has disclosed that hey, we

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1 made this mistake, here's the corrected pages from
 2 the report, and his acknowledgment that he's
 3 received those.
 4 There's two places in the wetlands
 5 mitigation report -- I think it's the second page
 6 and the next to the last page of the texts --
 7 where it had the ten-year in and we've replaced
 8 that with 20 to 30 years. So that's the
 9 information that you have presented.
 10 **MR. ZIMMERMAN:** I have a question back
 11 to how long is it going to take to get the road
 12 fixed were you to receive the permit? How long
 13 does that take? And then when do you anticipate
 14 the mining would start?
 15 **MS. RUDOLPH:** Turn your mic on and
 16 identify yourself.
 17 **MR. PEITHMANN:** My name is Bill
 18 Peithmann. I'm the family's attorney. I think I
 19 said earlier I don't know a lot about mining
 20 engineering, but I've got a lot of background on
 21 contracts.
 22 I'm on a little thin ground here because
 23 I'm going to be putting words in Mr. Broadfield's
 24 mouth, but bear with me. I'm not going to take

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1 much license.
 2 He was concerned that the equipment to
 3 get into that site to start moving it is more than
 4 these oil and chip roads can handle. And he's
 5 right. You know, and we can break down parts of
 6 it, but a bulldozer is a bulldozer and it weighs a
 7 lot of money [sic]. And if you're not real
 8 careful you're going to ruin those roads.
 9 On the other hand, we're building a
 10 brand new road that -- I think it's 1050 -- 1025
 11 that comes south from 136 on an existing
 12 right-of-way, but it's short -- quarter mile --
 13 **MR. ADAMS:** About a half a mile.
 14 **MR. PEITHMANN:** -- about half a mile.
 15 So we're really sort of working on good faith here
 16 with Mr. Broadfield. And this is the language
 17 that his attorney, Mr. Bob Lenz, and I cobbled
 18 together. And I can't say that Mr. Broadfield's
 19 approved it, but I have because I wrote it and Bob
 20 accepted it. And it's going to work along the
 21 following line.
 22 When it comes to the road, we agree to
 23 substantially complete construction of the new
 24 road in coordination with and subject to the prior

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1 approval of the Commissioner. In other words,
 2 he's going to have his finger on the pulse as to
 3 what's going on.
 4 Before beginning construction on the
 5 aggregate extraction plant, in order to minimize
 6 or eliminate harm to any township roads other than
 7 1025. And then, of course, the Commissioner's
 8 approval for the beginning of construction shall
 9 not be unreasonably withheld.
 10 And what we imagined in the course of
 11 our conference call was that in the process of
 12 improving the road, we're going to finish that
 13 last quarter mile, half mile in a sufficiently
 14 engineered condition as to get the equipment down
 15 to the site, it being understood that we're going
 16 to improve that entire stretch anyway.
 17 Is that an accurate summary?
 18 **MR. ADAMS:** Uh-huh.
 19 **MR. PEITHMANN:** I'm sorry.
 20 **MR. ZIMMERMAN:** So when you get the
 21 permits, you're going to get the equipment down
 22 there as expediently as possible, with the
 23 understanding that you're going to fix up the
 24 road?

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1 **MR. ADAMS:** Let's take a calendar.
 2 Let's say we start June 1. We would build the new
 3 road from about the existing hog confinement
 4 facility down to the north edge of our property.
 5 It takes a couple months. Once that's complete,
 6 we would simultaneously start working on the north
 7 portion of the road and put the plant in.
 8 That total construction period basically
 9 takes us an entire construction season. So if we
 10 started June 1, October we might be done with the
 11 road and have the plant open and ready to run.
 12 That's just, you know, rough numbers. But
 13 basically it eats up a whole construction season
 14 to get everything set up and running probably. I
 15 think you can tell we worked at this to come up
 16 with a good compromise.
 17 **MS. RUDOLPH:** Does anyone have any
 18 questions about the document that was just passed
 19 about the change in the 20 to 30 years? Okay,
 20 we'll move on then.
 21 At this point for those that don't have
 22 the script, we're at 2(D), and I ask if there's
 23 any questions of interested parties, objectors or
 24 supporters of each witness. And I want to

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1 emphasize that this is for questions only. You
 2 can't make statements at this time. If you start
 3 to make a statement, I'll just interrupt you.
 4 Because we don't swear people in. So it's
 5 questions only. And it's for anyone. But I'm
 6 going to start with -- I'll go back and forth
 7 between the two sheets we have. And there may be
 8 more over there. So I'm going to go back and
 9 forth between the two papers here. So these are
 10 questions only. Trish Tilton?
 11 **MS. TILTON:** I don't have any questions.
 12 **MS. RUDOLPH:** Okay, that's fine. I have
 13 Bill Peithmann here, but I don't think he's going
 14 to ask any questions. Okay. Questions from Russ
 15 Broadfield?
 16 **MR. OLSON:** I'm Mike Olson, and I'm
 17 going to speak for Russ, if that's all right.
 18 **MS. RUDOLPH:** This is for questions
 19 only. We're going to get to --
 20 **MR. OLSON:** I've got a couple questions.
 21 **MS. RUDOLPH:** Fine. We'll get you up
 22 here.
 23 **MR. OLSON:** I'm Mike Olson. Is this on?
 24 **MS. RUDOLPH:** Just give your name and

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1 address, please.
 2 **MR. OLSON:** I'm Mike Olson. My address
 3 is Shirley, Illinois. I'm in Funks Grove
 4 Township. I'm a trustee. Russ couldn't be here
 5 tonight, so he asked me to ask a few questions
 6 that he has come up with. My first question --
 7 **MR. DICK:** Mr. Olson, could you tell us
 8 your address please?
 9 **MR. OLSON:** 10064 East 550 North Road.
 10 **MR. DICK:** Thank you.
 11 **MR. OLSON:** His first question is how
 12 are you going to transport topsoil to DeWitt
 13 County? Are you planning on doing that? Or
 14 what's the plan there?
 15 **MR. ADAMS:** Yes, we will. In the
 16 initial stages of the project, as we open up the
 17 very first piece, we will strip topsoil, we'll
 18 build a temporary crossing across the waterway
 19 through the middle of the site and we'll transport
 20 it to the area outside the floodplain, stockpile
 21 it. We'll also stockpile our clay overburden
 22 material in a separate stockpile the same way. So
 23 probably using larger trucks or scrapers to remove
 24 that material.

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1 **MR. OLSON:** So you will not be using any
 2 of the township roads to do that process?
 3 **MR. ADAMS:** That is correct.
 4 **MR. OLSON:** And then we also have a
 5 problem with flooding in the area. I just --
 6 we've had other pits in the area. He's just
 7 wondering what's going to happen when the pit is
 8 closed. Will it be -- how much returning to
 9 normal? We've had pits that just closed up and
 10 just look like a mess now in our area. We're
 11 wondering how much reclaiming or restructuring
 12 after the pit is over with?
 13 **MR. ADAMS:** As is required as a standard
 14 for our special use -- first of all, we have to
 15 prepare a reclamation plan. The reclamation plan
 16 consists of probably, most importantly, removal of
 17 all of our equipment, the shores of the lake that
 18 we create being stabilized. In other words, we
 19 can't leave them vertical. They have to be at a
 20 slope that will be maintained. We have to get
 21 grass to grow on them for erosion protection. We
 22 have to get grass to grow on the area where we're
 23 putting our stockpiles and our processing
 24 equipment.

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1 Then we are required -- as part of our
 2 404 permit, we'll be required to create and
 3 maintain a wetland area to compensate for the
 4 wetlands that we disturb. And we add some natural
 5 prairie grasses in that buffer area along the
 6 creek. That gets overseeded where it's not in
 7 timber now. And we even have a seed mix and
 8 everything all called out in the plan. And then
 9 those natural areas then are covered with a
 10 covenant that runs with the land forever that does
 11 not allow development of that natural area that we
 12 have created. So it's all spelled out.
 13 Now, the other thing that's required is
 14 a guarantee. Both Corps of Engineers and the
 15 County requires a guarantee. We submit an
 16 estimate of costs. The staff has looked at that,
 17 I believe, and they've rounded our number up a few
 18 thousand dollars. But there is a financial
 19 guarantee in place to make sure that those
 20 reclamation activities do, in fact, happen.
 21 **MR. OLSON:** Are you planning on doing
 22 anything to control the flooding in this area? I
 23 mean, are you planning on levying your pit or
 24 anything that would obstruct the normal flow of

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1 water that is there now?
 2 **MR. ADAMS:** No. We are not doing
 3 anything to obstruct flood flows in the area.
 4 We're not allowed to. It's on condition of our
 5 permit with DNR.
 6 The only thing we do that impacts
 7 drainage is the natural waterway that runs through
 8 our property, rather than going directly across,
 9 we're going to short-circuit and take it to the
 10 Kickapoo Creek a few hundred feet closer than
 11 where it enters now. But that's the only change
 12 we're making.
 13 We do not fence anything close to the
 14 creeks. We do not build berms anywhere close to
 15 the creeks. Nowhere in the floodplain can we
 16 stockpile material. So if it floods, it floods,
 17 it goes right past us and doesn't even know we're
 18 there.
 19 **MR. OLSON:** That's all the questions I
 20 have.
 21 **MS. RUDOLPH:** Thank you. Neil Finland?
 22 **MR. FINLAND:** I have no questions. I
 23 have no questions.
 24 **MS. RUDOLPH:** Okay. Ron Fitchhorn?

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1 **MR. FITCHHORN:** Yeah, I've got a
 2 question.
 3 **MS. RUDOLPH:** Please come forward.
 4 State your name, please.
 5 **MR. FITCHHORN:** Ron Fitchhorn, 2390N
 6 675E, McLean, Illinois 61754.
 7 **MR. DICK:** Mr. Fitchhorn, could you
 8 spell your last name and say your address one more
 9 time?
 10 **MR. FITCHHORN:** F-i-t-c-h-h-o-r-n.
 11 **MR. DICK:** And your address again.
 12 **MR. FITCHHORN:** 2390 North 675 E,
 13 McLean, Illinois 61754.
 14 **MR. DICK:** Thank you.
 15 **MR. FITCHHORN:** I'm interested in what
 16 you're going to do to get your crossing across the
 17 creek. How you're going to construct that.
 18 **MR. ADAMS:** Well, two crossings, I
 19 guess. The first crossing is of the waterway
 20 through the property to get our overburden and
 21 topsoil across to the other side. I would assume
 22 that what we will do is probably put a large tube
 23 in and build a temporary road over the top of it.
 24 Now, we're not going to put a tube in

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1 big enough to be able to handle a flood flow. So
 2 what we want to do is leave that lower than the
 3 surrounding ground, even after we have the tube
 4 in, so that if a flood happens while we're in the
 5 process of moving that material across that then
 6 it just flows over the top and we don't restrict.
 7 And that's how we would anticipate getting across
 8 initially.
 9 Across the creek, the Kickapoo Creek, we
 10 have to get across it, obviously, to build our
 11 pipelines across. I would assume we will have a
 12 crane there. We'll build from both ends because
 13 we cannot get into the creek channel with our
 14 trucks. So it'll just be built just like a bridge
 15 across the river is.
 16 **MR. FITCHHORN:** But your first tube and
 17 so forth would be on the east side of the
 18 property, I assume?
 19 **MR. ADAMS:** Probably farther to the
 20 east. I couldn't say exactly. And the reason I
 21 would say that is because it's a better approach
 22 to get up the banks to the high ground there than
 23 it is farther to the west. So it just seems to
 24 make more sense. The operator of the pit may feel

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1 differently and want to put it somewhere else.
 2 But that's kind of the way I would anticipate it
 3 happening.
 4 **MR. FITCHHORN:** That's the only
 5 questions I had. Thank you.
 6 **MS. RUDOLPH:** Okay, thank you. Sandra
 7 Beyer, do you have any questions?
 8 **MS. BEYER:** No.
 9 **MS. RUDOLPH:** Is it Michael Fonger?
 10 **AUDIENCE MEMBER:** Not here.
 11 **MS. RUDOLPH:** Did I get it right,
 12 though? Sometimes it helps to be a retired
 13 pharmacist. No offense. Steven Funk?
 14 **MR. FUNK:** I have no questions.
 15 **MS. RUDOLPH:** Do you have any questions?
 16 **MR. FUNK:** I have no questions.
 17 **MS. RUDOLPH:** Okay. Does anyone else
 18 have questions they'd like to ask of the
 19 applicant?
 20 (No audible response.)
 21 **MS. RUDOLPH:** Okay. We'll go to page 2
 22 of my -- I have a bigger one. Okay. Does the
 23 applicant have any redirect at this time? Any
 24 corrections?

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1 **MR. ADAMS:** No.
 2 **MS. RUDOLPH:** Okay. Has everyone that
 3 wants to give testimony signed in here? Looks
 4 like that's a yes. Okay. So at this time, we
 5 will call on those who have signed up in the order
 6 in which they have signed up to give testimony at
 7 this time. Supporters, interested parties and
 8 objectors may give testimony. We generally allow
 9 about ten minutes for the general public. We do
 10 have a category of something we call expert
 11 witnesses. And if someone qualifies as an expert
 12 witness, they will be allowed 30 minutes. They
 13 would need to identify your area of expertise and
 14 limit their testimony to that area.
 15 So I'm going to start with the list
 16 again. Trish Tilton?
 17 **MS. TILTON:** I have some papers. Would
 18 you like them passed around?
 19 **MS. RUDOLPH:** Why don't you wait.
 20 First, I need to swear you in.
 21 **TRISH TILTON,**
 22 after having been first duly sworn, testified as
 23 follows:
 24 **MS. RUDOLPH:** State your full name and

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1 address, please.
 2 **MS. TILTON:** My name is Trish Tilton. I
 3 live at 6381 East 535 North Road, McLean,
 4 Illinois.
 5 **MS. RUDOLPH:** Thank you. You may
 6 proceed.
 7 **MS. TILTON:** I'm the township supervisor
 8 for Funks Grove. And I just wanted to address the
 9 points that were made for -- in order to allow a
 10 special use permit.
 11 Number one, the proposed special use
 12 will be detrimental to and will endanger health,
 13 safety, morals, comfort and welfare of the public
 14 in the immediate area; namely, the Truman Beyer
 15 family home. The proposed special use will be
 16 injurious to the use and enjoyment of other
 17 property in the immediate vicinity for purposes
 18 already permitted and will substantially diminish
 19 property values in the immediate area; namely, the
 20 Truman Beyer family home.
 21 From sun up 'til sundown six days a
 22 week, 60 to 150 trucks will be creating noise,
 23 dust, traffic, and a total disturbance to their
 24 now tranquil, solitary, peaceful country

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1 residence. Their home will no longer have any
 2 resale value. Who would buy it? All the years
 3 they put into keeping up their residence and
 4 paying off their mortgage will amount to nothing
 5 because that will be what their home will be
 6 worth. I am sure they would gladly keep their
 7 mailbox on Route 136 to avoid the chaos this
 8 gravel pit will cause to their lifestyle.
 9 The proposed special use will impede the
 10 orderly development of the surrounding property
 11 for uses permitted in the district; namely, the
 12 Truman Beyer home. The big tree will be spared in
 13 the front yard, but their home will be worthless
 14 and their lifestyle will be totally diminished as
 15 their future -- as well as their future finances.
 16 They will not be able to hang the laundry out,
 17 have a picnic out in the front yard, allow the
 18 grandkids to play in the front yard, let the dog
 19 out without supervision, or even be able to hear
 20 the birds sing. They will not be able to live off
 21 the money gained from the sale of their home and
 22 leave their once valued home to their children as
 23 inheritance.
 24 Funks Grove Township is not sure that

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1 adequate drainage or management of chemicals,
 2 fuel, oil will be provided to avoid contamination
 3 of the Kickapoo Creek when flooding occurs. And
 4 this occurs five to six times every year, not
 5 every 100 years. It happens so often that we keep
 6 -- the Township keeps road closed signs at the
 7 local residences there so when it floods, they can
 8 just walk out and put the signs out. They don't
 9 have to call the road commissioner to put the
 10 signs out.
 11 And we're concerned that when this water
 12 goes, it's not waiting to settle. It's picking up
 13 whatever it can. And it moves, and it moves fast
 14 and it gets deep. There's a picture where you can
 15 just see -- barely see -- well, that's the bridge.
 16 There's one picture that -- there's the mail box
 17 at the top, that white arrow. You can just barely
 18 see the top of the mail box. So -- and it's not
 19 every 100 years. Like I said, it happens about
 20 five or six times a year.
 21 Funks Grove Township is concerned about
 22 the safety of the ingress and egress to the
 23 facility. Will proper traffic signage be
 24 displayed? Will there be a warning signal light?

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1 Will any changes be made on Route 136 to warn the
 2 oncoming traffic?
 3 Funks Grove Township is concerned that
 4 after the closure of the gravel facility, the area
 5 will not be restored to an acceptable condition or
 6 state that will return the area to pre-gravel pit
 7 condition or even better. And that's to be done
 8 within one year of the closing. That's the
 9 proposal.
 10 The closed pit down the road to the east
 11 -- this is a mistake, I had west on there, it
 12 should be east -- was never restored. And there's
 13 pictures. Well, there are pictures of the Scharf
 14 gravel pit to the east that has been -- it's been
 15 closed. Nothing's been done to it. It looks like
 16 it -- there. Keep going, I guess. It's still a
 17 gravel pit. And there's no activity. There's no
 18 business going on there now. It's just a hazard
 19 for the youth to go and have -- drink their beer
 20 and get in trouble. Let's see.
 21 Funks Grove Township has safety
 22 concerns. The research for the pit did not
 23 consider the topography or terrain of Route 136
 24 when designing the entrance and access road. It

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1 was only after several attendees at our township
 2 meeting brought it to the attention of the gravel
 3 pit owners and engineers multiple times just how
 4 dangerous that entrance would be considering the
 5 massive size and weights of the trucks, which
 6 range 30,000 pounds empty and up to 80,000 pounds
 7 when full, using that entrance and that there were
 8 hills on both sides of the access road to the east
 9 and the west.
 10 The traffic on Route 136 moves very
 11 quickly. And we have heard the entrance is being
 12 moved. But our concern if they brought it -- did
 13 all this work and didn't even go out and drive out
 14 and see what the condition of the road was, what
 15 other things are they missing? What other issues
 16 are they not addressing? This one item was so
 17 obvious to everyone, but not the engineers or the
 18 owner because they had not even researched enough
 19 to drive out there and look at what they were
 20 making drawings and plans about. The Township's
 21 very concerned about what else they might be
 22 overlooking.
 23 Funks Grove Township has an annual
 24 budget of \$90,000 for the year. That \$90,000 is

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1 all we have to maintain 49.8 miles of road. That
 2 budget has to pay for fuel, maintenance of
 3 equipment, labor, insurance and materials. It
 4 costs us \$2,800 a mile just to maintain our low
 5 weight limit roads.
 6 After major flooding last year in
 7 December, it cost the Township \$8,500 to repair
 8 200 feet of road. It cost \$15,000 a mile to cover
 9 seal a road. We will not be able to cover seal
 10 any of our roads this year because our budget this
 11 year will be minus the Illinois motor fuel tax
 12 revenue due to lack of the state budget and huge
 13 debt the state is dealing with.
 14 The Odles are building a nice road. And
 15 they are claiming that that's an improvement to
 16 our township. We don't use that road. Only the
 17 Beyers and the farmers use that road. So that
 18 road is going to not really enhance our township.
 19 In fact, the traffic and the noise and disturbance
 20 it's going to create is far more detrimental.
 21 We'd rather have a gravel road and the family
 22 would rather get their mail, even pick it up in
 23 town to avoid this disturbance.
 24 Funks Grove Township roads have a limit

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1 of 46,000 pounds. The gravel estimates -- gravel
 2 pit estimates it will cost \$1.5 million for the
 3 1.5 mile road to provide access to the facility.
 4 Township cannot compete with that, but that is the
 5 magnitude of what is needed to handle those huge
 6 heavy trucks and the volume of the trucks. Those
 7 trucks will destroy our township roads.
 8 Funks Grove Township has no means of
 9 policing the gravel trucks or the construction
 10 trucks that will be building the gravel pit and
 11 keeping them off our lower weight limit roads.
 12 These huge trucks will just tear up the roads.
 13 Badly damaged roads leads to accidents, injuries
 14 and sometimes even death. The Township will be
 15 left with the responsibility of fixing the roads,
 16 without the proper funding to do it.
 17 Funks Grove Township has concerns with
 18 the flooding taking chemicals, fuel and oil
 19 residue into the Kickapoo. How is that going to
 20 be prevented? Who is going to police that
 21 concern? The document, the IEPA or IDNR states
 22 ten years of business, and that was explained that
 23 was because they only allow a ten-year permit.
 24 But what other items have they overlooked?

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1 The sand and gravel mining operation
 2 will not benefit the area, the residents, the
 3 roads, the local economy. It will only benefit
 4 the owners and operators. It will destroy the
 5 Truman Beyer home, damage township roads, create
 6 noise, dirt and an eyesore and a scar to the
 7 Kickapoo Creek and local farmland. When it's all
 8 closed and finished, they propose to restore the
 9 area to natural state. We have nothing to gain
 10 and everything to lose. And I appreciate you
 11 listening and letting me have a chance to speak.
 12 And I'd like to just flip through the
 13 photos quickly. This is one of our road signs.
 14 It shows the weight limit. And then this is the
 15 Scharf Heyworth pit that has been abandoned. It
 16 is not back to a natural state. There's still
 17 piles. And this is their road. It's just still
 18 as it was, except nobody's using it. And that's
 19 another picture of the -- they're not as clear as
 20 -- and then let's see. So that's their sign.
 21 More gravel pit. This is part of the -- we did
 22 have a few other flooding pictures. So this is
 23 the bridge over the Kickapoo. And there it is
 24 again, flooding. It's a lot of water. And like I

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1 said, it happens. They have to close the road.
 2 And there you can see the fields in the
 3 background. It's a lot of water.
 4 Okay. I really do appreciate your time.
 5 Thank you so much. I'm going to --
 6 **MS. RUDOLPH:** This is our opportunity to
 7 ask you questions.
 8 **MS. TILTON:** Okay.
 9 **MS. RUDOLPH:** Questions from members of
 10 the Board?
 11 **MR. ZIMMERMAN:** First, what's the
 12 address of the Truman Beyer home?
 13 **MS. TILTON:** I don't have that.
 14 **MR. ZIMMERMAN:** So I believe I have been
 15 told that we're going to get that soon.
 16 **MS. TILTON:** They're on the road 1025.
 17 They're on that road.
 18 **MR. DEAN:** 1025 stops right at their
 19 home?
 20 **MS. TILTON:** It goes right by. They're
 21 the only home on that end of the road.
 22 **MS. RUDOLPH:** So do you know of any
 23 studies or any real evidence of a similar
 24 operation lowering property values the way you've

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1 discussed? I mean, are there other examples you
 2 know of?
 3 **MS. TILTON:** Would you buy the home?
 4 **MS. RUDOLPH:** I can't answer your
 5 question, but you can answer mine.
 6 **MS. TILTON:** Right. I don't have a
 7 specific example. But I do know that once this
 8 opens and starts, you probably couldn't buy that
 9 house for \$10,000. Who would want to live there?
 10 The owner of the operation or the person running
 11 the operation six days a week probably wouldn't
 12 even want to live there. He'd want to get out. I
 13 just can't imagine how the house would have any
 14 value.
 15 **MS. RUDOLPH:** I think I have a question
 16 that maybe is more properly directed to staff
 17 regarding the property. Regarding the old Scharf
 18 pit, it is closed, correct?
 19 **MR. DICK:** They're not operating.
 20 **MS. RUDOLPH:** And I know it's old. Was
 21 there any kind of a reclamation restoration plan
 22 in place at the time that began?
 23 **MR. DICK:** There is. And we are working
 24 on enforcing it.

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1 **MS. RUDOLPH:** Okay. That's what we
 2 needed to know.
 3 **MS. TURNER:** How long have you been
 4 working on enforcing it?
 5 **MR. DICK:** We've been working on it for
 6 a couple years already.
 7 **MR. BANGERT:** I have one other thing.
 8 It says road improvements to 1025 must be
 9 completed. I guess I wasn't reading that
 10 completely through. So this road dead ends?
 11 **MS. TILTON:** Yes.
 12 **MR. BANGERT:** So in the information that
 13 we've got here, we're talking about the mine and
 14 the LESA score for the soil that's being removed
 15 and for the mine to take place. Does this LESA
 16 score take into account the additional roadway and
 17 what -- so we're talking about farmland coming out
 18 of production, as well, for the road, too,
 19 correct?
 20 **MS. TILTON:** That's correct.
 21 **MR. BANGERT:** So does the road include
 22 -- do we have the information for what farm land
 23 will be taken out of production for the road? I
 24 guess I wasn't --

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1 **MR. DICK:** The LESA did not take into
 2 account the land that would be taken out for the
 3 road.
 4 **MR. BANGERT:** Thank you.
 5 **MS. RUDOLPH:** I had a question about
 6 your Funks Grove Township budget. I don't think
 7 you mean the total budget, because you have
 8 different funds, you have a --
 9 **MS. TILTON:** This is just the road fund.
 10 **MS. RUDOLPH:** This is just the road
 11 fund. And is the road commissioner paid out of
 12 the road fund or is that just for roads?
 13 **MS. TILTON:** He's paid out of the town
 14 fund. But the laborers are paid out of the road
 15 fund.
 16 **MS. RUDOLPH:** The Township means
 17 everything, your salary and the road
 18 commissioner's.
 19 **MS. TILTON:** I'm sorry, I thought I made
 20 that clear. But I have a statement, a copy of our
 21 annual -- a copy of our annual financial report.
 22 **MS. RUDOLPH:** Yeah, why don't we --
 23 **MS. TILTON:** I didn't bring --
 24 **MR. KNAPP:** I can make copies for you.

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1 **MS. TILTON:** Do you want every fund or
 2 just the road fund?
 3 **MS. RUDOLPH:** If you have them all,
 4 we'll just take them all. We won't need them all,
 5 but ...
 6 **MS. TILTON:** This is what was --
 7 **MR. KNAPP:** I'll take them.
 8 **MS. TILTON:** Okay.
 9 **MS. RUDOLPH:** So just wondering, so is
 10 that fund at the limit, about as high as you can
 11 go? Can you go higher?
 12 **MS. TILTON:** No. Yeah, we would have to
 13 have a truth in taxation. And I don't feel it
 14 would pass at this point in the game.
 15 **MS. RUDOLPH:** I understand.
 16 **MR. DICK:** The exhibit that Ms. Tilton
 17 submitted is Objector's Exhibit 1.
 18 **MS. RUDOLPH:** Thank you.
 19 **MR. KURITZ:** So if I'm -- unless I heard
 20 wrong, I thought there had been a surcharge
 21 negotiated to take care of the fact that you can't
 22 police the trucks getting off onto your county
 23 road. You don't agree that that's going to help?
 24 Or --

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1 **MS. TILTON:** Oh, yes, it will help. But
 2 I don't think it will be sufficient.
 3 **MR. KURITZ:** As their township
 4 supervisor, you don't have any input with the road
 5 commissioner in the negotiations of that fee?
 6 **MS. TILTON:** Well, we have an attorney
 7 and we've done the best we can. When we presented
 8 the idea, it was unprecedented, never done before,
 9 we can't do that, that's a tariff, it's not
 10 happening. But we have at least 1 percent now.
 11 **MS. TURNER:** There was a gravel pit that
 12 was in operation before, and you were maintaining
 13 the roads with this budget before with that gravel
 14 pit in operation.
 15 **MS. TILTON:** Which one?
 16 **MS. TURNER:** The Scharf that's now
 17 closed that was just up the road.
 18 **MR. OLSON:** I've been around a lot
 19 longer than Trish has.
 20 **MS. RUDOLPH:** I'm going to need you to
 21 come up and talk into the mic, please.
 22 **MR. OLSON:** Sure.
 23 **MS. RUDOLPH:** For the record, yes, we
 24 have to swear you in.

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1 **MR. OLSON:** Okay.
 2 MICHAEL OLSON,
 3 after having been first duly sworn, testified as
 4 follows:
 5 **MS. RUDOLPH:** And your name and address,
 6 please?
 7 **MR. OLSON:** Mike Olson, 10064 East 550
 8 North Road, Shirley, Illinois 61772.
 9 **MS. RUDOLPH:** Thank you.
 10 **MR. OLSON:** And your question about the
 11 other road. We made an agreement with them. They
 12 built the road, similar to what we're doing now.
 13 They upgraded it to a Class B road. They
 14 maintained it until the gravel pit's closed. Rowe
 15 gravel pit is south, farther south than Scharf.
 16 So Rowe has been taking care of that road. Once
 17 they leave, then we will take over the maintenance
 18 of that road. And it's supposed to be in
 19 completely good shape when the pit -- the Rowe pit
 20 closes. So that is the way that road is working
 21 right now.
 22 **MS. TURNER:** Okay. And is this
 23 agreement that you have with this proposed gravel
 24 pit any different than that?

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1 **MR. OLSON:** They -- I don't know exactly
 2 the Russ's last proposal. I haven't seen it. But
 3 I think that is the plan. They will maintain it.
 4 And then when they're gone, then it should be in
 5 the exact same state.
 6 **MS. TURNER:** And is it safe to say that
 7 the trucks that use the current gravel pit and the
 8 one that closed use essentially the same -- except
 9 for the access road. But as far as exiting and
 10 traversing the area, I would assume that there is
 11 always a preferred route and that they will all
 12 use the same thing?
 13 **MR. OLSON:** The trucks tend to take the
 14 shortest route. We see them going across our
 15 township when they shouldn't be, and we don't have
 16 any way to police that. That is a problem on our
 17 roads. There's more gravel pits at Shirley. And
 18 instead of going around and coming back, they just
 19 cut across us.
 20 **MS. TURNER:** And I'm aware of that.
 21 They probably get paid by the load, not by time.
 22 **MR. OLSON:** Exactly.
 23 **MS. TURNER:** But nonetheless, with your
 24 current budget, you have been maintaining the

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1 roads with the current traffic on it. And with --
 2 at one time, there were two pits that were
 3 creating traffic, because the Rowe pit is
 4 currently creating traffic and the Scharf pit has
 5 been closed for a few years.
 6 **MR. OLSON:** Right.
 7 **MS. TURNER:** But before that, they were
 8 all there?
 9 **MR. OLSON:** Yeah. I wouldn't say --
 10 we're maintaining them, but we're not keeping up.
 11 Let's put it that way. We're not doing a very
 12 good job because the money just can't cover the
 13 damages we're getting.
 14 **MS. TURNER:** And I certainly understand
 15 that this is going to be additional traffic. But
 16 I also want to clarify that it's not so much
 17 additional than what there has been in the past.
 18 **MS. TILTON:** Well, those others were
 19 closer to Heyworth, as well, too.
 20 **MS. RUDOLPH:** Mr. Olson, I just need
 21 some clarification. I understand you're
 22 representing the road commissioner,
 23 Mr. Broadfield. What is your capacity?
 24 **MR. OLSON:** I am a trustee at Funks

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1 Grove Township also. I've been a trustee for -- I
 2 was the clerk at one time. So I've got about
 3 probably 30 years of experience, and I've been
 4 around a little bit longer than some of these
 5 other people, Russ and Trish.
 6 **MS. RUDOLPH:** So just to make sure I
 7 have it clear in my mind. What is the status of
 8 this agreement between the company and the
 9 Township road commissioner?
 10 **MR. OLSON:** I feel like that -- I didn't
 11 know -- they're saying we have made an agreement.
 12 I didn't think we have come to a total agreement.
 13 One problem is in this construction of the road
 14 and starting the mining process and building the
 15 plant. Russell is pretty adamant about that we
 16 wanted to have the road completely in place before
 17 any construction starts. And also we're wanting
 18 to have -- we want to know what's going to happen
 19 to the little chunk of ground that they're going
 20 to have to move this road now into another piece
 21 of farm ground to get to the top of the hill so
 22 the trucks can see from both directions at that
 23 intersection.
 24 I don't know if you're familiar how this

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1 works, but when the road comes out to 136 now,
 2 it's just sitting in a hole and you can't see when
 3 you're coming out of there. There's going to be a
 4 pizza pie piece shape of ground that we don't know
 5 who's going to own or maintain that. Is it going
 6 to be part of the Township road or something
 7 they're going to take care of?
 8 And then I think we have come to an
 9 agreement on the -- we're going to get so much a
 10 truckload or so much a ton to help maintain our
 11 road some. But I mean, it's not going to be close
 12 to what the budget's going to take to do it.
 13 We're going to have damage from our regular road
 14 traffic, but we're going to have damage from all
 15 the other stuff going on, the trucks going across
 16 the Township lines once in a while.
 17 **MS. TURNER:** And I did understand. I
 18 felt like they stated pretty clearly they haven't
 19 come to a complete agreement yet. It's close.
 20 **MR. OLSON:** There's still a few
 21 questions involved.
 22 **MS. TURNER:** Right.
 23 **MR. ZIMMERMAN:** In terms of revenue
 24 sources, the only agreement that you're suggesting

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1 so far to provide extra income for you is 1
 2 percent of the entire gross sales of this?
 3 **MR. OLSON:** I thought they were talking
 4 about a dollar per ton.
 5 **MS. TILTON:** It went to a percentage.
 6 **MR. OLSON:** Okay. Sometime they've come
 7 to a percent. That's new to me. I missed the
 8 last township meeting, so I'm sorry, I'm not quite
 9 up-to-date.
 10 **MR. ZIMMERMAN:** It was originally some X
 11 cents or dollar per ton. And now you're to a
 12 percentage?
 13 **MR. OLSON:** Percentage.
 14 **MR. ZIMMERMAN:** What we had heard, I
 15 believe, was 1 percent of the revenues or 1
 16 percent of something. I forget. I'd have to
 17 check my notes.
 18 **MS. TURNER:** For me, I know this can't
 19 proceed until they get an agreement with the
 20 Township supervisor. So we really don't have a
 21 say in that. That's really up to you guys and
 22 coming to that agreement.
 23 **MR. OLSON:** Exactly.
 24 **MS. TURNER:** And they have to have that

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1 agreement for the road. So that's why I'm not
 2 digging in too deep here because I think that's
 3 really where you guys are with that.
 4 **MR. OLSON:** We'd like to come up with
 5 something to help us pay for this. And that was
 6 our solution to help us maintain these roads
 7 because right now we don't even have a motor fuel
 8 tax, which was a big part of our budget right
 9 there maintaining these roads. If we lose that,
 10 we're not going to be able to take care of these
 11 roads anymore.
 12 **MS. TILTON:** The last note I took was a
 13 royalty of 1 percent gross sales per month to help
 14 maintain the surrounding roads, which was
 15 estimated at 18 to \$20,000 a year.
 16 **MS. RUDOLPH:** Regarding your point
 17 number 11, I think maybe I can more properly ask
 18 this of staff. You're asking about -- I think
 19 you're asking about the who's going to police that
 20 concern. So maybe I could ask to have a general
 21 question about the county's responsibilities
 22 toward gravel pits once they're up and running.
 23 Does that vary a lot? Is that too hard? I'm
 24 asking.

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1 **MR. DICK:** Are you asking about the
2 policing of overweight trucks, that kind of thing?
3 **MS. RUDOLPH:** Yeah. And the operation
4 and making sure everything is done according to
5 the plan that's submitted. I just wondered how
6 that works.
7 **MR. DICK:** We are responsible to some
8 extent that if there are conditions that are
9 attached to the special use, that we attempt to
10 enforce them.
11 And with regard to the over weight
12 trucks and that kind of thing and what roads they
13 use, I'd ask the Acting County Engineer to speak
14 to that.
15 **MS. RUDOLPH:** I think I swore you in.
16 You were here the first night. So state your
17 name.
18 **MR. STOKES:** Yeah, Jerry Stokes, Acting
19 County Engineer, McLean County Highway Department.
20 Usually as far as policing the
21 overweights, usually it's complaint-driven. So if
22 there's complaints, then the road commissioner or
23 we can contact the Sheriff's office and they can
24 go out there and do some extra patrolling. So --

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1 but that's, you know, they can't have a guy
2 stationed out there 24/7. You know, they've got
3 too much area to cover. But it's complaint-driven
4 and it will -- they will go out there and patrol.
5 I think there's a road going north on
6 136, maybe 1200, that goes up towards Shirley.
7 And I think we had a problem there last summer
8 with a lot of gravel trucks running through there,
9 and they went out there and provided extra
10 enforcement and kind of corralled that issue.
11 **MS. RUDOLPH:** Okay.
12 **MR. ZIMMERMAN:** When you enforce it,
13 does the County get revenue from that? Or is it
14 more a deterrent? So by enforcing it, you get
15 fines. But the fines go to someone else, I would
16 imagine.
17 **MR. STOKES:** Yeah, they get ticketed for
18 disobeying a traffic-control device. And then if
19 there's a constant disobedience, then they'll start
20 getting written for over weight tickets and have
21 to go to the scales. I don't know where the
22 revenue goes from that. Mr. Knapp can answer that
23 a little bit better.
24 **MR. ZIMMERMAN:** What I was just trying

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1 to figure out if there's an enforcement by the
2 County and you have a bunch to enforce, maybe
3 that's raising revenue. But does that solve the
4 Township -- the Funks Grove Township issue, is
5 what I'm trying to tie. So it seems like you've
6 got an enforcement. You may reduce the
7 infractions, but it doesn't solve the revenue
8 issue.
9 **MR. STOKES:** No, it wouldn't.
10 **MS. TILTON:** The damage would already be
11 done.
12 **MS. RUDOLPH:** Were there questions from
13 members of the board?
14 **MR. ZIMMERMAN:** As a matter of
15 clarification, we can't set any -- we can't change
16 terms of the contract or anything. The only thing
17 we can do as a board is make any recommendation
18 contingent upon an agreement with the road
19 commissioner or with these other people. And as I
20 remember, there were like 18 different conditions
21 to start out with.
22 **MR. DICK:** One question I have of
23 Mr. Olson, was it your understanding that the road
24 would be completed by the time any work was done

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1 on the site?
2 **MR. OLSON:** Yes, that's one of Russ's --
3 he's very adamant about that. He doesn't want any
4 construction to start until the road is built.
5 **MR. DICK:** Was that significantly
6 different from what you heard Mr. Don Adams say
7 about it?
8 **MR. OLSON:** Well, he made it sound like
9 they were going to build the -- I'm not familiar
10 with it, but it's a gravel road for about a half
11 mile and then it's just an abandoned dirt road
12 that kind of went through the next road.
13 **MS. RUDOLPH:** Mr. Olson, I think I need
14 you to pull the mic a little closer.
15 **MR. OLSON:** He proposes, I think, what I
16 understood just a few minutes ago, that he is
17 going to build the part of the road that's not
18 there right now. Then he's going to use the
19 gravel road that we have now to bring the
20 construction in and build the new piece of the
21 road to get to his site.
22 I think what Russ would like to see
23 happen is have the Class III road completely built
24 from one end to the other before they start

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1 construction at the south end of that road. And I
 2 don't know that that is that agreement. Like I
 3 say, the agreement is still pending on that.
 4 **MS. TURNER:** I have a couple of other
 5 questions regarding a few of the other things.
 6 You state in 4 that you're not sure that adequate
 7 drainage or management of chemicals, fuel, oil
 8 will be provided to avoid contamination of the
 9 Kickapoo Creek when it's flooding. What would --
 10 what could they do to assure you? I mean, why do
 11 you have those doubts about -- they've said that
 12 they will keep their fuel and all of that stuff
 13 above the floodplain, that it would be above that.
 14 And you said you're not sure that that would
 15 happen. Do you have -- is there a history there?
 16 I guess I want to dig a little bit deeper as to
 17 why you don't trust that that would be the case.
 18 **MS. TILTON:** Well, when it's raining,
 19 the water's going to wash down from their high
 20 ground to the low ground. If there were trucks
 21 that broke -- that break down or broke down in the
 22 area and there's a fuel leakage or oil leak and
 23 that's in the ground, then when that water comes
 24 through, I don't know how you're going to stop it

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1 from picking that up and taking it into the
 2 Kickapoo.
 3 And yes, they're going to have that
 4 pond. But the water's going to go all around it.
 5 It's going to fill the pond and go over it and
 6 it's going to be on both sides of it and the
 7 pond's going to be buried.
 8 Or if the pipes going back and forth
 9 have a breakage or the equipment working on the
 10 pipes leak or some guy's fueling an implement and
 11 he spills a bunch of fuel, I'm just saying I don't
 12 know how you can police it and I don't know how
 13 you can avoid it. And I wouldn't be so concerned
 14 except that it floods so often.
 15 **MS. TURNER:** Do you have any -- I mean,
 16 any concept of how often this happens in gravel
 17 pits or how big a problem this could be as far as
 18 how much contamination could happen? I understand
 19 what you're saying. But that's a lot of water and
 20 I -- I don't think they're going to spill an
 21 entire fuel tank. I guess I'm wondering how much
 22 it would really impact. Those types of things
 23 that you've described, how much it would impact
 24 the water?

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1 **MS. TILTON:** Right, I'm not a scientist.
 2 I'm -- I just got elected to this job.
 3 **MS. TURNER:** Such a grateful position.
 4 **MS. TILTON:** Okay? We have 215
 5 population. That includes cats and dogs. So
 6 there's not a big pool to draw from. But we do
 7 love our township. It's the most beautiful
 8 township in McLean County. If you've ever been
 9 there, it's gorgeous. We have the southernmost
 10 maple syrup-producing facility in the United
 11 States. We have plants and wildlife there that
 12 you don't see in a lot of other areas. We are not
 13 very many, but we are mighty and do we do love our
 14 area. People love their homes. I hate to see
 15 this home taken away from them. I don't -- you
 16 know, you save all your life, you pay off your
 17 home and you think, okay, I'll leave this to my
 18 kids, it'll be a great inheritance. Or I'll sell
 19 it and we'll move to an apartment in town and
 20 we'll live off the money from the sale. But if
 21 your house is worth nothing, all those years are
 22 for naught.
 23 And I know the Hanlins are down the
 24 road, too. But this is going right in front of

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1 the Beyers' home, day in, day out, six days a
 2 week, sun up to sun down. Not in the winter
 3 probably that much. But it's just -- it's going
 4 to be devastating and I wouldn't wish it on
 5 anyone.
 6 And then our roads this year are -- we
 7 can't keep up with the maintenance. The flooding
 8 we had last year, last December, just it was
 9 incredible. Creeks that usually don't go over
 10 were over and were taking our roads with them.
 11 And if you've ever repaired a bridge, it's huge.
 12 **MS. TURNER:** You're not insinuating,
 13 though, that this gravel pit will increase the
 14 level of flooding or the amount of flooding.
 15 **MS. TILTON:** No, I don't know anything
 16 -- I don't think so. I just know what we have
 17 been dealing with.
 18 **MS. RUDOLPH:** Any further questions from
 19 members of the board?
 20 (No audible response.)
 21 **MS. RUDOLPH:** Any further questions from
 22 staff?
 23 **MR. DICK:** The exhibit that Ms. Tilton
 24 gave with the annual budget is Objector's

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1 Exhibit 2.
 2 **MS. RUDOLPH:** Does any member of the
 3 public have any questions for the witnesses?
 4 (No audible response.)
 5 **MS. TILTON:** If you would like, I do
 6 have -- that report that I gave you was for last
 7 year's annual financial report. But this is our
 8 current budget for this year, if you'd like that,
 9 as well.
 10 **MS. RUDOLPH:** Does the applicant have
 11 any questions for this witness?
 12 **MR. ADAMS:** No.
 13 **MS. RUDOLPH:** Okay.
 14 **MS. TILTON:** Thank you.
 15 **MS. RUDOLPH:** Mr. Olson, did you want to
 16 give any further testimony?
 17 **MR. OLSON:** No. I got mine in with the
 18 concern about the construction.
 19 **MS. RUDOLPH:** Okay, thank you. Ron
 20 Fitchhorn, I said that earlier, and he's not here.
 21 **MR. ZIMMERMAN:** He's here. The guy in
 22 the red.
 23 **MR. FITCHHORN:** I'm also a trustee and I
 24 have no other information. If somebody has a

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1 question --
 2 **MS. RUDOLPH:** Thank you. Sandra Beyers.
 3 **MR. FITCHHORN:** I do have a -- we were
 4 sort of blind-sided.
 5 **MS. RUDOLPH:** You can come and sit
 6 beside Ms. Beyer here.
 7 **MR. FITCHHORN:** The Township was.
 8 **MS. RUDOLPH:** I need to swear you in.
 9 You know, we have these silly procedures -- not
 10 silly -- important procedures.
 11 **RON FITCHHORN,**
 12 after having been first duly sworn, testified as
 13 follows:
 14 **MS. RUDOLPH:** State your name and
 15 address again, please. Your mic needs to be
 16 turned on.
 17 **MR. FITCHHORN:** Ron Fitchhorn.
 18 2390 North 675E, McLean, Illinois -- road --
 19 McLean, Illinois 61754.
 20 We were -- I'll say that Russell and the
 21 trustees and the supervisor, we were all sort of
 22 blind-sided.
 23 **MS. RUDOLPH:** I don't think everyone
 24 heard that you said that you are another trustee.

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1 **MR. FITCHHORN:** I am another trustee. I
 2 don't have the seniority that Mr. Olson does.
 3 **MS. RUDOLPH:** Okay. I'm sorry to
 4 interrupt you, but I wanted to clarify that.
 5 **MR. FITCHHORN:** We were all sort of
 6 blind-sided about this agreement with our -- the
 7 two lawyers were involved and then undoubtedly the
 8 last meeting, we weren't there. So when Mr. Adams
 9 said about the money part of it, that was all a
 10 surprise to all of us because we had not been, I
 11 guess, kept up-to-date about the negotiations
 12 between Mr. Lenz and Mr. Peithmann. So that's the
 13 reason we don't know too much about this
 14 agreement.
 15 It hasn't been signed by Russell
 16 Broadfield, our road commissioner or even
 17 discussed, which it really probably doesn't even
 18 have to be, by the trustees. But Russell usually
 19 gets everything to us anyway. That's really the
 20 only other information that I might be able to add
 21 about that, why we seem a little unsure of
 22 ourselves this evening about that agreement.
 23 **MS. RUDOLPH:** Any questions for
 24 Mr. Fitchhorn by members of the board?

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1 (No audible response.)
 2 **MS. RUDOLPH:** Any further questions from
 3 staff?
 4 (No audible response.)
 5 **MS. RUDOLPH:** Does the applicant have
 6 any questions?
 7 **MR. ADAMS:** No.
 8 **MS. RUDOLPH:** Any questions from any
 9 interested parties?
 10 (No audible response.)
 11 **MS. RUDOLPH:** Okay. Thank you.
 12 **MR. FITCHHORN:** Thank you.
 13 **MS. RUDOLPH:** Now Mrs. Beyer.
 14 **SANDRA BEYER,**
 15 after having been first duly sworn, testified as
 16 follows:
 17 **MS. RUDOLPH:** State your name and your
 18 address, please.
 19 **MS. BEYER:** Sandra Beyer, 1251 North
 20 1025 East Road in McLean.
 21 **MS. RUDOLPH:** You have kind of a soft
 22 voice. I'm going to have you pull that. There we
 23 go. Okay, you may --
 24 **MS. BEYER:** My name is Sandra Beyer. My

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1 husband Truman and I live in a single family
 2 residence on the 1025 East access road that's been
 3 discussed.
 4 Truman and I bought this five-bedroom
 5 house in 1972 and we wanted quiet country living
 6 to raise four boys. And we continue to enjoy the
 7 extended visits on our property with our nine
 8 grandchildren.
 9 When we bought this house, the road in
 10 question was not much more than a driveway to our
 11 home. It was gravel from the Highway 136 to a
 12 bridge down the road from us, which is no longer
 13 there. And passed over the bridge was just a dirt
 14 road to the blacktop behind us. It was really
 15 only used by local farmers for access to their
 16 fields. And I think the original road was
 17 probably actually the lane for this house and
 18 probably why the road passes so close by was, you
 19 know, because it was the initial road. And the
 20 existing road is approximately 103 feet from our
 21 front porch, right in front of the porch.
 22 And through the years, we have
 23 maintained, improved and invested in our home. As
 24 we get older, I foresee the day we might want to

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1 sell it and move closer to town, so we have
 2 concerns about how this is going to impact the
 3 value of our home.
 4 I've discussed the situation with the
 5 realtor who felt he would -- that we would more
 6 than likely see a reduction in value of 25
 7 percent. Again, keep in mind we bought this house
 8 because of its seclusion. And we knew the road
 9 was unusually close, but it was simply our
 10 driveway at the time. There was really no traffic
 11 except in the spring and fall when farmers were
 12 working. And now they want to turn it into a
 13 highway with 60 trucks or more a day. And if you
 14 do the math, that means there will be a truck
 15 coming or going every 5 minutes practically in our
 16 front yard.
 17 We also have concerns about the quality
 18 of our water since we rely on our own well for
 19 drinking water. And we've already noticed
 20 problems which started when the other gravel pits
 21 came in. The tests showed, that we've had done,
 22 increases in sulfur. They said it was still
 23 drinkable, but it's really got a smell to it.
 24 We aren't trying to be unreasonable.

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1 There are other existing routes to the east or
 2 west that could be used. But we know that the
 3 other routes would be more expensive for the
 4 gravel pit.
 5 What they don't understand is that their
 6 cheaper access is a big price for us to pay for
 7 their behalf. We have nothing to gain from this
 8 gravel pit. Why should we sacrifice the value of
 9 our property and quality of living? That's all.
 10 **MS. RUDOLPH:** Questions from members of
 11 the board?
 12 **MR. ZIMMERMAN:** You've had some
 13 interaction with the applicants. If -- or I'm
 14 asking what interactions have you had? They said
 15 something about moving their proposed road around
 16 the tree. And what interactions have you had with
 17 them so far?
 18 **MS. BEYER:** They came out -- I've got to
 19 think now -- Friday, I believe. Right? And where
 20 our road is right now -- say the road is right
 21 here, they're going to move it to right here on
 22 the other side of the edge of the road on the
 23 other side from our house. So that's still fairly
 24 close.

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1 **MR. ZIMMERMAN:** Have you had any other
 2 discussions with them? We've heard testimony that
 3 the value of your home is going to be reduced.
 4 Has there been any offer, any negotiation for
 5 compensation for that?
 6 **MS. BEYER:** I asked, but there was no
 7 amount or nothing. They pretty much told me I was
 8 getting a fabulous road and that was it.
 9 **MS. TURNER:** You mentioned you felt
 10 there were other options from the east or west.
 11 Can you expand on that a little bit?
 12 **MS. BEYER:** Well, down by the Kickapoo
 13 where the blacktop is behind us, they can go east
 14 or west. But it would cost a whole lot more for
 15 them to do it. If they went to the west, it would
 16 take them to another blacktop that would come this
 17 way to 136. And no one lives on that road. But I
 18 think Hanlin lives on this, on the blacktop, the
 19 first one. The other one has -- if you go east,
 20 then it's -- they have to go up a hill past some
 21 other houses.
 22 **MS. RUDOLPH:** Any further questions from
 23 members of the board?
 24 **MR. DEAN:** What is the distance that

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1 they would have to go west? What would be the
 2 distance approximately that they would have to go
 3 west?
 4 **MS. BEYER:** You would ask me that. I'm
 5 not that good -- west?
 6 **MR. DEAN:** Is it a mile?
 7 **MS. BEYER:** West from our road, I would
 8 guess a half mile?
 9 **MR. DEAN:** Thank you.
 10 **MS. RUDOLPH:** Any further questions?
 11 Any further questions from staff?
 12 (No audible response.)
 13 **MS. RUDOLPH:** Does the applicant have
 14 any questions for this witness?
 15 **MR. PEITHMANN:** No.
 16 **MR. ADAMS:** No.
 17 **MS. RUDOLPH:** Do any of the parties have
 18 any questions for this witness?
 19 (No audible response.)
 20 **MS. RUDOLPH:** Thank you. Michael
 21 Fonger, you are here? Steven Funk? Would you
 22 raise your right hand?
 23 STEVEN FUNK,
 24 after having been first duly sworn, testified as

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1 follows:
 2 **MS. RUDOLPH:** Could you state your name
 3 and address, please?
 4 **MR. FUNK:** My name is Steven Funk. I
 5 live on 7139 East 450 North Road in McLean,
 6 Illinois.
 7 **MS. RUDOLPH:** You may proceed.
 8 **MR. FUNK:** I really don't have anything
 9 new to state. But just to reinforce. My heart
 10 goes out to the Beyer family for what this is
 11 causing them.
 12 And then we've talked a lot about the
 13 Funks Grove Township roads. It's just a problem
 14 of trucks getting -- straying different
 15 directions. Our roads aren't built to handle that
 16 kind of weight. And this is an ongoing situation.
 17 This may not make it any worse than it was before,
 18 but it's still the same situation that we are
 19 trying to deal with. I think that's really all I
 20 have. I'm a clerk of Funks Grove Township.
 21 **MS. RUDOLPH:** Okay. Questions from
 22 members of the board?
 23 (No audible response.)
 24 **MS. RUDOLPH:** Any questions from staff?

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1 **MR. DICK:** No.
 2 **MS. RUDOLPH:** The applicant have any
 3 questions?
 4 **MR. PEITHMANN:** No.
 5 **MS. RUDOLPH:** Any interested parties
 6 have any questions for Mr. Funk?
 7 (No audible response.)
 8 **MS. RUDOLPH:** Okay, thank you very much.
 9 **MR. FUNK:** Thank you.
 10 **MS. RUDOLPH:** I have been -- we've been
 11 through our sign up sheets. There was another
 12 gentleman that told me he wanted to give
 13 testimony. Would you want to come forward,
 14 please, and then we'll ask if there's anyone else.
 15 Would you raise your right hand, please?
 16 JIM HANLIN,
 17 after having been first duly sworn, testified as
 18 follows:
 19 **MS. RUDOLPH:** Your name and address.
 20 **MR. HANLIN:** My name is Jim Hanlin. My
 21 name has been mentioned here a couple times this
 22 evening, so I thought I should inject a little bit
 23 here. My address is 10662 East 50 North Road,
 24 McLean, Illinois. I am the current tenant on the

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1 farmland that is in question with the gravel pit.
 2 The flood pictures you see there is on the farm
 3 that I do farm, both what I own and what I rent
 4 from the Odle family.
 5 That's not a 100-year flood. That's
 6 been pointed out. We had several floods last
 7 summer. We've had one yesterday. Not as bad as
 8 what you saw on the pictures. But that's just the
 9 way it is with the City of Bloomington and Normal
 10 development, we're getting more and more water
 11 down our way. And it's just something that we've
 12 lived with in the last five to eight years.
 13 I've lived in the house I reside in all
 14 my life except for about four years when I was
 15 gone teaching school. So the flood is not
 16 something that's new to us. It's just something
 17 that we deal with.
 18 As far as the gravel pit and the concern
 19 and so forth, this is a regional problem. I
 20 understand there's not enough gravel to keep up
 21 with the construction and so forth that needs to
 22 be done, I guess with the City of Bloomington,
 23 Champaign, as far away as Havana. I have seen
 24 trucks coming in getting gravel. So it is a

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1 concern to everyone involved, both the public, as
 2 well as those folks that live in the area.
 3 Like I said earlier, I've been
 4 associated with the Odle family for several years.
 5 They're a very fine family. When they talk and
 6 voice an opinion and promise and say -- my
 7 experience with them, they've been right there
 8 doing what they said they would do and so forth.
 9 If it's in their power, they'll do their utmost to
 10 see that everyone is taken care of as best as they
 11 can.
 12 It is a concern, it is a problem, both
 13 to the Township as well as to people in the whole
 14 county about the lack of gravel and facilities.
 15 As you journey around, you can see the current
 16 gravel pits, and there's a lot of sand stockpiled,
 17 but it does disappear and it does go away with all
 18 the construction at different times of the year
 19 and so forth.
 20 So a lot of concern voiced here tonight
 21 and in the previous meetings, there will probably
 22 be some more concerns in the upcoming meetings.
 23 But from my standpoint as a reinforcement to what
 24 the Odles and the engineers have told me and so

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1 forth, I think they're trying to do their utmost
 2 to keep everybody as satisfied as best they can
 3 and still provide a product to the betterment of
 4 the entire community and try and make it so
 5 everybody is satisfied as best they can be under
 6 the circumstances of the need for the gravel and
 7 the aggregate. So I'll entertain any questions
 8 that you might have at this time.
 9 **MS. RUDOLPH:** Okay. Thank you. So do
 10 you own all the property with this proposal?
 11 **MR. HANLIN:** No, I cash rent the Odle
 12 property where the family is proposing the gravel
 13 pit. I own around and adjacent to this area.
 14 **MS. TURNER:** In your opinion, you're
 15 very familiar with the land there in the flooding
 16 that goes on.
 17 **MR. HANLIN:** Yes.
 18 **MS. TURNER:** Will having a pit there
 19 alleviate any of the flooding that we see over the
 20 roads or anything like that? It's not in a
 21 position where it would have any impact on that.
 22 **MR. HANLIN:** No, it won't be any
 23 detriment to it. There's actually more
 24 detrimental effect on us from the pits to the east

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1 upstream on the Kickapoo than what this pit would
 2 be to me in my area. The problem we have is just
 3 too much water.
 4 **MS. TURNER:** I guess what I'm asking is
 5 the opposite. Would it help anything? Because it
 6 will have a pit -- to me, we've got more places.
 7 Now you've got a big pond for this water to go to.
 8 But would it impact any of this that we're seeing?
 9 **MR. HANLIN:** Very little. There's so
 10 much water coming down the Kickapoo. The Kickapoo
 11 starts at State Farm Corporate and another branch
 12 of it goes down in the Ellsworth area. Yesterday
 13 they had four and a half inches of rain east of
 14 Bloomington, and I had three feet. So that's just
 15 the way it is when you're downstream. But yes,
 16 good question. Thank you.
 17 **MR. DEAN:** With your experience in the
 18 area, Mr. Hanlin, could you help me understand why
 19 the Scharf pit is closed? Is it out of gravel?
 20 Or would you have any indication?
 21 **MR. HANLIN:** Couldn't answer that
 22 question.
 23 **MR. DEAN:** Thank you.
 24 **MR. HANLIN:** Just inject a little bit

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1 here from what -- I've been in the area for 65
 2 years plus. And my understanding was that
 3 Mr. Scharf started the pit that is on the Price
 4 property. This is the one that we had pictures of
 5 -- or that Trish had -- of a closed pit.
 6 Since Mr. Scharf opened up the other pit
 7 on 136 and developed it, I guess they've abandoned
 8 this other pit that was on 1200. But Rowe to the
 9 south of this particular pit in question is still
 10 functioning, five to six seven years still left in
 11 it. And they do maintain the road for the
 12 Township. And that 1200 is a shared road divided
 13 between Randolph Township and Funks Grove
 14 Township. So there's portions of the road that is
 15 shared between the two townships. If my
 16 understanding is correct of the trustees.
 17 **MS. RUDOLPH:** Any further questions from
 18 members of the board?
 19 (No audible response.)
 20 **MS. RUDOLPH:** Any further questions from
 21 staff?
 22 (No audible response.)
 23 **MS. RUDOLPH:** Applicant have any
 24 questions?

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1 **MR. ADAMS:** No questions.
 2 **MS. RUDOLPH:** Do any interested parties
 3 have any questions?
 4 (No audible response.)
 5 **MS. RUDOLPH:** Thank you.
 6 **MR. HANLIN:** Thank you.
 7 **MS. RUDOLPH:** I'm sorry, I neglected to
 8 call Truman Beyer. Did he want to testify, as
 9 well?
 10 **MS. BEYER:** No, he was just going to
 11 come up and support me.
 12 **MS. RUDOLPH:** Okay, I want to be sure.
 13 I saw his name on the second list. Okay. Are
 14 there any other interested parties, objectors or
 15 supporters that would like to give testimony at
 16 this time?
 17 (No audible response.)
 18 **MS. RUDOLPH:** Hearing none, this portion
 19 is closed. We'll take a little break and when we
 20 come back, we'll be at 5(B), which will be any
 21 rebuttal testimony and evidence by the applicant.
 22 We'll come back at 10 minutes, twenty minutes 'til
 23 9.
 24 (A break was taken from 8:27 to

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1 8:41 P.M., and the hearing continued as follows:)
 2 **MS. RUDOLPH:** Okay, Mr. Adams, you may
 3 proceed.
 4 **MR. ADAMS:** Thank you, Madame Chair.
 5 Just a few comments. It won't take long. I think
 6 all of the issues raised by those who have spoken,
 7 we've already addressed. I'm going to go back
 8 through to make sure we've got everything covered.
 9 First of all, the flooding issue. We
 10 recognize that this area floods. That is not a
 11 problem for us. We cease operation when it's
 12 flooding. We can still haul gravel out, but we
 13 cease mining when it floods until it's safe to go
 14 back again. We have no impact at all on the
 15 amount or frequency or level of flooding to
 16 anything upstream of this site.
 17 Downstream of this site, we will have a
 18 benefit. Now, it will be a slight benefit. I'm
 19 not going to tell you the water level's going to
 20 go down ten feet. But, you know, we're creating a
 21 big storage area. That water is going to sit
 22 somewhere when it floods and what goes in our
 23 gravel pit isn't in somebody's bean field or
 24 cornfield.

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1 The issue of contamination, again, yes,
 2 this is an industrial activity, but we do not use
 3 chemicals. We have oil and gas and lubricants for
 4 our equipment, just like a farmer does for their
 5 equipment. We do not put herbicides or
 6 insecticides in our gravel pit. We don't inject
 7 any chemicals to loosen the rocks up or use any
 8 chemicals in the processing. Any water we use in
 9 the processing, we keep in our closed system and
 10 we keep pumping back and forth from our pit to our
 11 plant. We don't infringe upon the creek.
 12 An issue came up about signage on the
 13 roads. We provide signage on the roads per IDOT
 14 standards, county standards and township
 15 standards. In fact, that was one of the review
 16 comments that we had on the road plan so far has
 17 been to adjust the location of some of the warning
 18 signage that goes with the road.
 19 Reclamation, again is there a guarantee
 20 that the site will be reclaimed? Yes, there's a
 21 \$400,000 guarantee that the site will be
 22 reclaimed. So I would hope that there is a
 23 feeling, a good feeling that that will be taken
 24 care of.

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1 Township road budget, I think everybody
 2 here recognizes that funding of all levels of
 3 government in the state of Illinois is a challenge
 4 far beyond anything we're going to do at this
 5 public hearing. Note that we're breaking new
 6 ground with what we're doing with our road royalty
 7 fees. \$20,000 maybe doesn't sound like a big
 8 amount of money. But think of it this way: It's
 9 a 20 plus percent increase in the Township's road
 10 budget. And I think it was testified that we have
 11 40 plus miles of roads. We're going to increase
 12 their budget by 20 percent. Are we going to
 13 increase the traffic on those roads by 20 percent?
 14 I doubt it. Yes, we're truck traffic and not car
 15 traffic. But we're not grain truck traffic
 16 either. So it's a mix.
 17 But we are doing something that no one
 18 else has done. There are other gravel pits in
 19 this area, and none of them are making a
 20 contribution to the Township road maintenance like
 21 we are.
 22 There was a comment made about there was
 23 no benefit from the gravel pit -- economic benefit
 24 from the gravel pit. And I would differ with that

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1 point. Obviously it's in all of our best
 2 interests to have good, reliable, competitive
 3 sources for gravel for our townships, counties,
 4 state of Illinois for road construction, plus
 5 private projects. Obviously there are jobs
 6 created with this. People are going to be out
 7 here working. They're going to be driving the
 8 trucks. There are people going to be working
 9 construction jobs. So it has a very definite
 10 economic impact.

11 So far as well water goes, as we
 12 testified, this is a wet operation. We are not
 13 dewatering anything. We don't impact anybody's
 14 well level. So as far as the issue of sulfur in
 15 water, I'm not sure how that has an impact. We
 16 don't mine sulfur, we don't inject sulfur. If
 17 it's there in the ground now, that's fine. If
 18 it's not, that's fine too. It's a naturally
 19 occurring element, but it's not going to come from
 20 any gravel pit that I've ever seen.

21 And we had a discussion about the roads
 22 and why don't we go some other way. Obviously
 23 from our perspective, we want to get our product
 24 to a state route and to our markets as fast and as

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1 efficiently as we can. And that's what we've
 2 done. We have looked at going alternate routes.
 3 We've looked at putting the gravel processing
 4 equipment on the south end of the property in
 5 DeWitt County. We've looked at going east.
 6 I have not looked at going west. I have
 7 looked at going east, northeast, and going south
 8 and east. And it impacts a lot more homes. We
 9 impact more waterways than the route we have
 10 chosen. This is the environmentally best
 11 alternative that we have.

12 And I don't mean to be crass or crude
 13 about this because we do impact the Beyers' home.
 14 We understand that. We are an industrial
 15 activity. We are an industrial area, because I
 16 look at agriculture as an industry. There is no
 17 guarantee to any of us that the conditions in our
 18 neighborhood are to remain the same forever and
 19 ever, no matter how much we would like them.
 20 There are processes in place like this that we
 21 handle those kind of changes.

22 That's it. I think that addresses the
 23 points I wanted to make prior to closing.

24 **MS. RUDOLPH:** Do any of your other

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1 witnesses want to add anything at this point?
 2 **MR. PEITHMANN:** I've been sitting here
 3 for five minutes thinking about this. I can't not
 4 respond to Mrs. Beyer because you can't listen to
 5 her testimony and not be touched. This is clearly
 6 an object of great anguish for Mrs. Beyer and her
 7 husband and her family. But I'd like to put that
 8 in perspective, if I may.

9 **MS. RUDOLPH:** I think I need you to pull
 10 the mic closer.

11 **MR. PEITHMANN:** There's no doubt this is
 12 great anguish. But I'd like to put that in
 13 perspective, if I may. I've been handling
 14 residential real estate transactions in Central
 15 Illinois since 1985. My law practice concentrates
 16 in ag. farm estate planning. Rural residences are
 17 something that I have a great deal of experience
 18 with. And if I may as politely and as gently as I
 19 can rebut some of Mrs. Beyer's observations.

20 No one can fairly expect that the
 21 circumstances that existed in 1972 are going to
 22 continue well into the 21st Century. Look at the
 23 people in Old Town Township and Downs who have had
 24 some pretty serious and dramatic expansions and

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1 development. That's one point I'd like to make.
 2 The second point is that when farmers
 3 buy a large tract of farmland with an attractive
 4 home on it, a certain percentage -- my friend
 5 Mr. Dean will understand what I'm saying -- a
 6 certain percentage -- 10, 20, 30 percent of the
 7 time they'll tear that house down because it
 8 obstructs their farm operation or they don't want
 9 the liability of having a residential home.

10 I mean, look at the skyline as you drive
 11 down the highway. The homes that were there 10
 12 and 20 and 30 years ago aren't there anymore. I
 13 mean, that's just development. And we don't all
 14 like it.

15 And then the third practical point I
 16 want to make with respect to this road is that
 17 rural residences are very, very difficult to
 18 appraise because they're unique. You're out in
 19 the middle of nowhere. Are you facing west? Are
 20 you facing east? Do you have two acres of
 21 acreage? 20 acres of acreage? They're very, very
 22 difficult to appraise. And the honest truth here
 23 is that the same buyer that may find Mrs. Beyer's
 24 home attractive because it's at the end of almost

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1 a private drive could easily be countered by a
 2 prospective buyer that wants the reliability of an
 3 all-weather 365-day road with dependability that
 4 runs through in the event of emergency.
 5 And what I'm trying to say is while I'm
 6 very aware -- and if she was my client, I'd have a
 7 long chat with her -- but Mrs. Beyer's objections
 8 are personal and very subjective and simply aren't
 9 supported by any evidence that's been submitted.
 10 And I'm going to have to respectfully say that
 11 most of those arguments should be disregarded.
 12 **MS. RUDOLPH:** Any questions from members
 13 of the board?
 14 (No audible response.)
 15 **MR. DEAN:** I'm a little disappointed
 16 that you had haven't looked at the west. And I'm
 17 thinking maybe you didn't want to look west
 18 because your market is north and east. Is that
 19 correct?
 20 **MR. ADAMS:** Certainly. That is correct.
 21 **MS. TURNER:** One thing that you -- I
 22 don't feel you addressed was the fact that you
 23 stated that more than likely it will be Scharf
 24 operating this pit. And we have -- they had

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1 pictures of a Scharf pit that's been abandoned and
 2 not anything done to it. We've been working with
 3 them for two years. Why would we want to enter
 4 into another agreement with someone -- with a
 5 company that has not been a great partner with us
 6 at this point? And why is it that you're looking
 7 at them as a great partner for you?
 8 If we have these issues, and you say
 9 that the reclamation and all that is of utmost
 10 importance, but you're choosing a company that
 11 it's obviously not of utmost importance to them.
 12 **MR. ADAMS:** I guess I would respond that
 13 I wish -- I wish we had a signed deal for a
 14 planned operator and we had them here. That would
 15 make our lives a lot simpler. I'm not -- I'm not
 16 in a position to speak for Mr. Scharf here. I
 17 know his response over the last two years is that
 18 he's not done with the bid. He's still hauling
 19 sand out and that, until he finishes hauling out
 20 all the piles, he's not really done with the pit.
 21 And I know staff's response to that is
 22 -- well, I'll be honest, I have encouraged him at
 23 every turn to speed up the process. But the fact
 24 remains you have the hammer. You're going to have

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1 \$400,000 worth of hammer over the operator of this
 2 pit. I don't know, to me, that's a heck of an
 3 incentive.
 4 The second point you have in this is you
 5 also have the Corps of Engineers on your side
 6 because they also have a stake in making sure this
 7 reclamation happens. So it's not -- it's not just
 8 the County level that an operator can get into
 9 trouble if he neglects to do his duty. The
 10 federal government will come after him. And I can
 11 assure you the Corps has no qualms about doing
 12 that.
 13 So I don't know if I can answer that
 14 question. I think it helps that our plan shows we
 15 reclaim the lake banks as we proceed because after
 16 the second year or third year, if it's evident
 17 that that is not happening, it's going to be very
 18 visible. And the County has the right to then
 19 stop and pull our special use if we don't comply
 20 with the conditions of that special use.
 21 So again, the County does have the
 22 hammer to make sure that the reclamation happens.
 23 **MR. KURITZ:** The \$400,000 bond -- I
 24 assume it's a bond -- who holds that? And if that

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1 two years comes and goes and he's not doing it and
 2 your operator's not doing that job, can that bond
 3 be called?
 4 **MR. ADAMS:** Yeah. And I'm not sure if
 5 it will be a bond or if it'll be a letter of
 6 credit. So far as what the procedures are when
 7 that happens, perhaps our attorney would be better
 8 to speak to that. I know it's not an action the
 9 County ever takes lightly and it can be an
 10 involved process to do. But I have seen
 11 municipalities and counties do it in the past.
 12 So ...
 13 **MR. ZIMMERMAN:** Is the \$400,000 you're
 14 referring to the reclamation bond? Or is that the
 15 annual revenue that --
 16 **MR. ADAMS:** No, that is the reclamation
 17 bond.
 18 **MR. ZIMMERMAN:** So in 20 to 30 years,
 19 that would be what we would have? Or are you
 20 suggesting that we might be able to call that into
 21 action sometime, like in a year or two or five,
 22 were there some infraction that we wanted to
 23 address?
 24 **MR. ADAMS:** Certainly. The purpose of

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1 that guarantee is to assure that the site is
 2 reclaimed. We have testified that we're going to
 3 reclaim the banks of the lake that we create as we
 4 go. It'll be a year lag behind. But at any time
 5 we are not in compliance, you can shut us down and
 6 you can take steps to cash that guarantee.
 7 Now, what hopefully happens is, over
 8 time, we live up to our end of the bargain. We
 9 continue to reclaim as we go. Perhaps 10, 15
 10 years down the road, we may come to the County and
 11 ask for a reduction if we can prove that we've
 12 done a certain percentage of the reclamation. I
 13 don't know if it's going to be a big amount that
 14 we'd get reclaimed because a big part of that cost
 15 is putting back the topsoil and the stockpile and
 16 the processing area, which won't happen until the
 17 very end. But that's kind of --
 18 And so far as who holds it, I don't know
 19 if I can answer that properly. And that might
 20 best come from the legal side.
 21 **MR. PEITHMANN:** If I may make a comment.
 22 I'm increasingly aware that Mr. Scharf isn't
 23 really popular around here. And I can't address
 24 that except as Don Odle's attorney, because this

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1 application is in the name of the Odle Family.
 2 And your first recourse is them. You're going to
 3 drop the hammer on Don Odle and their resources if
 4 you pull the permit or if the permit is pulled or
 5 there's any varying degree of enforcement action.
 6 So I like to think I wrote a pretty
 7 tight lease already. And, you know, we're going
 8 to have to revisit the forfeiture issues. The way
 9 that lease is written is that the permit and
 10 special use requirements are incorporated by
 11 reference and then they're specified. I mean,
 12 it's belts and suspenders. It's redundant.
 13 You've got to do this, this, this, all these
 14 things.
 15 And then there's a forfeiture clause in
 16 there that if he's in breach, he leaves and the
 17 gear stays and we basically have to find another
 18 operator.
 19 That's a pretty heavy hammer. But we're
 20 going to make it as tight as we can. Frankly, I'm
 21 appalled. I mean, it's just bad business to open
 22 a pit that's subject to government regulation and
 23 when the government says something, you don't do
 24 it. And I don't understand why, and I'm not going

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1 to pretend to. That's my posture, if that helps
 2 at all.
 3 **MS. TURNER:** It does. But being a
 4 business person myself, I'm usually very hesitant
 5 to go back into business with someone who hasn't
 6 done what they said they were going to do before.
 7 **MR. PEITHMANN:** But that's not them.
 8 **MR. ZIMMERMAN:** So I haven't seen a copy
 9 of the contract. Did I miss that as an item of
 10 evidence coming through?
 11 **MR. PEITHMANN:** No, it's not come
 12 through.
 13 **MR. ZIMMERMAN:** So you're just referring
 14 to this -- I understand, Mr. Peithmann, you do
 15 absolutely great work. I've seen it, and I will
 16 say that. But I haven't seen any evidence in
 17 these circumstances.
 18 **MR. PEITHMANN:** We don't have a signed
 19 lease. And it's not locked in that it's going to
 20 be Mr. Scharf. The problem with Mr. Scharf is,
 21 number one, he's ready, able and willing to do it.
 22 And number two, he's got adjacent land that's got
 23 proven reserves, which gives him incentives to do
 24 it. And we've had mixed reactions in our

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1 negotiations with other operators. But we are not
 2 locked in yet.
 3 **MR. ZIMMERMAN:** Generally our concern
 4 has been -- you heard the staff, the zoning board
 5 say they've been in negotiations for two years and
 6 heard Mr. Adams say that he's tried to get this,
 7 the other pit finished up. Maybe it's not
 8 finished, maybe it is. But what we as a board are
 9 trying to do is to make it easy on our staff so
 10 that they don't have to spend a lot of time
 11 spinning their wheels or doing enforcement. We
 12 would much prefer to have everything as clean,
 13 whether it's by contract or whatever, so that we
 14 don't have to have them spending time doing
 15 enforcement.
 16 So that's not your problem in one sense;
 17 it's more our issue. But we're trying to minimize
 18 that and make their lives easy.
 19 **MR. PEITHMANN:** You know what, if I may
 20 draw an analogy. I do a lot of tax work. And the
 21 Internal Revenue Service, believe it as not, is as
 22 badly underfunded as these road commissioners are.
 23 And they have made the tax professionals the first
 24 line of enforcement that if my good friend Don is

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1 playing hanky panky with his taxes, the Service is
 2 going to come after me as the person who prepared
 3 that return and signed it. And it's their
 4 intention to make sure that I hold his feet to the
 5 fire.
 6 I don't know if you know anything about
 7 the earned income credit, but there's tremendous
 8 enforcement. And it all goes through the tax
 9 preparers to fill out affidavits that the
 10 taxpayer's entitled to an earned income credit.
 11 That's my analogy or metaphor that your
 12 first line of recourse for whatever Mr. Scharf is
 13 recalcitrant is the permit holder. That's the
 14 best we can do under these circumstances. It's
 15 still -- at the end of the day, you're still
 16 looking at commercial feasibility. And if we
 17 can't find a way to develop this property for a
 18 reasonable profit, it's not going to happen. And
 19 then you're missing out. You know, then you lose
 20 the benefits of Mr. Adams.
 21 **MR. KURITZ:** So where is the \$400,000?
 22 Who holds it? How's it work?
 23 **MR. DICK:** They would be required to
 24 have a letter of credit with our -- with McLean

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1 County that we would hold.
 2 **MR. KURITZ:** Was that not included in
 3 the Scharf bid and the agreement with it before?
 4 **MR. DICK:** Scharf is in the neighborhood
 5 of \$40,000. And it probably can be reclaimed for
 6 \$40,000.
 7 **MR. KURITZ:** Okay. So but we can access
 8 it through the court system?
 9 **MR. DICK:** We can access that \$40,000.
 10 **MR. KURITZ:** The \$400,000.
 11 **MR. DICK:** Yes, we don't have to go to
 12 court to access that \$400,000.
 13 **MR. KURITZ:** Okay.
 14 **MR. ZIMMERMAN:** Further, what -- what
 15 recourse or what ability does the County have to
 16 go after an operator of a pit? So here we're
 17 faced with a situation if the operator of this pit
 18 contracted with another pit -- well, and they
 19 haven't fulfilled the conditions of the other pit,
 20 will the zoning permit be able to say that if the
 21 other pit isn't cleaned up, that particular
 22 operator has to cease operation?
 23 I'm just trying to figure this out how
 24 we, as a zoning board --

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1 **MR. KNAPP:** Well, I guess I have to
 2 caution this line of questioning because you're
 3 constrained to reviewing the seven factors in our
 4 ordinance and those seven factors are unique to
 5 this -- to this property and just, you know,
 6 reviewed them. Just reading through them right
 7 now, I don't necessarily know where this
 8 information is germane to those seven factors.
 9 So I understand that there may be
 10 concerns with an operator. There is loose
 11 evidence that he may be associated with this
 12 project. But again, I'm just -- I'm at a little
 13 bit of a loss of where the operation of this pit
 14 or where those concerns that I'm hearing being
 15 raised fit into these seven factors.
 16 The process of -- our special use
 17 process, be it a wind farm, be it a gravel pit, or
 18 a grain elevator, there are routinely financial
 19 assurances that are at play. Sometimes those
 20 financial assurances take the form of bonds.
 21 Other times they take the form of letters of
 22 credit. Sometimes escrow of cash being put into
 23 escrow.
 24 In this case, part of the application,

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1 it's my understanding, states that the applicant
 2 will put \$400,000 -- or deposit with us a letter
 3 of credit of \$400,000 that we could draw down on
 4 should we believe they're not fulfilling the
 5 conditions of their special use permit.
 6 And I suspect practically what would
 7 happen if we ever got to that point where we did
 8 believe they were not fulfilling their
 9 obligations, there would be a notice provision in
 10 there that we have to give notice and say cure
 11 your default or we will draw down on this letter
 12 of credit. And if they agreed they were in
 13 default, we draw down on it. If they didn't,
 14 other things would happen. So ...
 15 **MS. TURNER:** So are you saying that we
 16 -- that everyone has a clean slate every time they
 17 show up in front of us?
 18 **MR. KNAPP:** Well, I'm saying that -- I'm
 19 saying that where does that fit into these seven
 20 factors?
 21 **MS. TURNER:** But they did testify before
 22 this they were in negotiations with him and it
 23 looked like he would be more than likely the
 24 operator.

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1 **MR. KNAPP:** Sure.

2 **MS. TURNER:** And our first one -- and

3 our first statute, it says will not be detrimental

4 to endanger the health, safety, morals or comfort.

5 And if, in fact, they have endangered -- the

6 operator has endangered such things before, we're

7 not to take that into consideration?

8 **MR. KNAPP:** I guess what I'm saying is

9 be careful about that because, remember, the

10 property owner also has rights. This is where we

11 discussed the competing rights between the

12 neighbor's use to enjoy their property, the

13 county's ability to control its zoning and land

14 use, and an individual property owner's right.

15 **MS. TURNER:** Right, okay.

16 **MR. KNAPP:** And having said that, I have

17 to step out. I've got a message from my office.

18 I'll be right back.

19 **MS. RUDOLPH:** I wanted to ask about the

20 Township road agreement. Could that ever be

21 renegotiated down the line? What if the Township

22 said, you know, we thought it was going to be

23 enough at the time, but it isn't enough. Can we

24 renegotiate that agreement? Is that in any way

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1 possible? Or is that just crazy?

2 **MR. PEITHMANN:** People are always free

3 to contract. It's just as likely to say look,

4 we've contributed \$100,000 over the last 20 years.

5 Based upon our, you know, empirical evidence, all

6 of the truckers are going north because it's to

7 their best interests to do so. We have no

8 evidence that a single load has moved anywhere

9 except on Road 1025 and you're 100 grand ahead of

10 the game, why don't we call that enough.

11 I don't think they'd accept that

12 argument, but you know, we're on new turf here.

13 But while you've asked, I want to make this very

14 clear because there was no apparent -- there

15 seemed to be a sense that perhaps the Township

16 commissioners were taken by surprise. These

17 things are always based on draft and redraft and

18 discussion.

19 But the three of us attended a meeting

20 in Attorney Lenz's office on the 26th of December.

21 And we were talking about he built the road to

22 this, we talked the usual objective issues. And

23 then we were told without any room for doubt that

24 unless we were prepared to make a financial

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1 indemnity for the potential cost to the Township,

2 we weren't going to get the permit and

3 negotiations are over.

4 And as I understand it, that's a first.

5 So this is what we came up with. I was the one

6 that wrote the royalty language. I was told it

7 was okay. But attorneys, you know, negotiating

8 attorneys have a role, but they don't have a

9 binding vote. I can't say that if I say that your

10 indemnity is fine, Don doesn't have to read it and

11 sign it and agree to it. So Mr. Broadfield,

12 unfortunately, for scheduling and other reasons,

13 we haven't been able to get this finalized.

14 **MR. ADAMS:** One minor comment to make

15 about this, too, is remember this fee is a

16 percentage. So the more we sell our gravel for,

17 the more money the Township makes. So it's not a

18 lump sum. It's inflation-adjusted automatically.

19 As the material gets more expensive, so does the

20 amount that the Township gets.

21 Does it stay up with the cost of

22 building roads? You know, probably not. But it's

23 -- nothing has stayed up with that price increase.

24 **MS. RUDOLPH:** Mr. Odle, did you have

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1 anything you wanted to add to the rebuttal part of

2 this hearing?

3 **MR. OGLE:** Really, I'm not sure I do.

4 I've known Joe Scharf when he drove his first

5 truck. And I did a lot of business with him for

6 25 years. I ran a gravel pit in Spring Bay,

7 Illinois for construction materials. They were a

8 big company out of Chicago. Not only that, my

9 family's been in the sand and gravel business, and

10 we own this ground out here in Heyworth. And I've

11 had seven gravel pits under my belt so far and

12 I've closed them up and reclaimed [sic] every one

13 of them. But that was what I was responsible for.

14 I trust Joey. I know he's got the

15 business. I know he's got the trucks. I know

16 he's got he equipment. That's a big thing about

17 that, because if somebody else goes in there,

18 you're going to have a huge investment just to go

19 in and get started. Besides the fact that these

20 guys are going to be responsible other than what

21 we're giving up in royalties, he's got to put that

22 road in.

23 So I trust what he's done in the past.

24 I know he's got a reclamation problem going on

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1 with you guys, I don't know why. If it was me,
 2 I'd have had it done a long time ago. But that
 3 being said, I do know how to run wheel loaders and
 4 dozers too. So I might not do it real pretty, but
 5 I'd get out there and get it done.
 6 **MS. RUDOLPH:** Does any member of the
 7 board have any further questions for any of the
 8 rebuttal witnesses?
 9 (No audible response.)
 10 **MS. RUDOLPH:** Does staff have any
 11 questions?
 12 **MR. DICK:** Mr. Adams, did you understand
 13 that the road commissioner's saying that he would
 14 like to have that road completed before you move
 15 any equipment onto the site?
 16 **MR. ADAMS:** Yes. We've had discussions
 17 about that going back to the start of our
 18 negotiations on the road agreement. Our response
 19 back is that, you know, that's a lot of money to
 20 invest and not get any return.
 21 Think about it. Think about it if you
 22 take it literally. So we spend a construction
 23 season building a road. We spend a million and a
 24 half dollars. We then, after that's complete,

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1 sell that." So where that takes us, I don't know.
 2 **MR. PEITHMANN:** Let me repeat it to you,
 3 please, stripping away some of this. We're going
 4 to act in coordination with and subject to the
 5 prior approval of the Commissioner -- in
 6 coordination with and subject to the prior
 7 approval of the Commissioner -- to accomplish what
 8 he just said. So that if we can come up with a
 9 plan to get it done where in all fairness it's not
 10 having a negative impact on the other township
 11 roads, then we're expecting to be given permission
 12 to at least start the project at the aggregate
 13 site.
 14 That was our -- that was what our
 15 compromise proposal was, and that's as far as it
 16 is. Nobody's agreed to it at all. That's where
 17 we left it on the table. But you can't say that's
 18 not a constructive suggestion.
 19 **MS. RUDOLPH:** Any further questions from
 20 staff?
 21 (No audible response.)
 22 **MS. RUDOLPH:** Do any interested parties,
 23 objectors or supporters have any questions for the
 24 these gentlemen regarding the rebuttal?

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1 come in and put together our processing equipment,
 2 we strip dirt, we do all that sort of thing. So
 3 now we've taken up the whole season.
 4 Of course, you can't mine gravel in the
 5 wintertime. There isn't much of a market for it
 6 in the wintertime. So now all of a sudden we've
 7 spent literally millions of dollars and we get no
 8 return until the following year.
 9 So obviously we're trying to make money
 10 here. We'd like to ease that crunch as much as
 11 possible. And so that's why we came up with the
 12 idea of well, what you're really after is don't
 13 bring your equipment in on our existing oil and
 14 chip roads. Okay, we'll bring it in on the gravel
 15 road. We'll bring it in on our new road. That
 16 way we can overlap and save some of that time and
 17 we can get an economic income stream coming in to
 18 help pay for some of this cost that much quicker.
 19 And it solves the Township's concerns.
 20 Now, when we talked with Mr. Lenz about
 21 that on the phone -- and again Mr. Broadfield is
 22 gone -- I don't know if he's seen this or not,
 23 seen this new language, but the comment from Bob
 24 Lenz is, "That sounds fair to me. I think I can

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1 (No audible response.)
 2 **MS. RUDOLPH:** Okay. Seeing none, we'll
 3 go to number 6(A), which is rebuttal testimony by
 4 any objectors or interested parties. And this has
 5 to be people, of course, that have testified in
 6 the past tonight. So we'll start with 6(A).
 7 Anyone like to come forward? It's sort of like
 8 rebuttal of the rebuttal, let's call it that. Do
 9 you have anything you want to say to what they
 10 said?
 11 **MS. BEYER:** Do I come up there?
 12 **MS. RUDOLPH:** That's fine. State your
 13 name again, please.
 14 **MS. BEYER:** Sandra Beyer. You've been
 15 asked to ignore what I said. And I heard your --
 16 heard the argument it's just personal. Well, the
 17 house is important to us. And why should we
 18 sacrifice our value for the gravel pit? And I
 19 understand different people have different values.
 20 But this house has value to us. And this proposal
 21 greatly reduces that value to Truman and me. And
 22 I'm confused why it has become my burden to
 23 sacrifice our quality of life for their financial
 24 gain.

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1 **MS. RUDOLPH:** Any questions regarding
 2 that?
 3 (No audible response.)
 4 **MS. RUDOLPH:** Any questions?
 5 (No audible response.)
 6 **MS. RUDOLPH:** Do you have any questions?
 7 (No audible response.)
 8 **MS. RUDOLPH:** Any questions from --
 9 (No audible response.)
 10 **MS. RUDOLPH:** Okay, thank you. Anyone
 11 else?
 12 (No audible response.)
 13 **MS. RUDOLPH:** Please state your name
 14 again.
 15 **MS. TILTON:** Trish Tilton. This
 16 \$400,000, is that to guarantee that the
 17 reclamation gets done? Or is that to pay for the
 18 reclamation?
 19 **MS. RUDOLPH:** I'm not sure we can --
 20 yeah, you can answer that.
 21 **MR. DICK:** That's to make sure that the
 22 reclamation gets done.
 23 **MS. TILTON:** Okay. And one other
 24 comment. If the Beyers' house was burnt to the

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1 ground or hit by a tornado, at least they'd have
 2 some insurance money. This way, they have
 3 nothing.
 4 **MS. RUDOLPH:** Any questions? Any
 5 questions?
 6 (No audible response.)
 7 **MS. RUDOLPH:** Okay, thank you. Anyone
 8 else?
 9 (No audible response.)
 10 **MS. RUDOLPH:** Okay. At this point, the
 11 applicant can make a closing statement regarding
 12 the pit.
 13 **MR. ADAMS:** Thank you, Madame Chair and
 14 members of the board. First of all, thank you for
 15 your time and your attention. We appreciate what
 16 you do for us and for the community.
 17 A quick summary of our project. We're
 18 240 acres. About 160 in McLean County. We're
 19 going to create about a 70-acre lake when we're
 20 finished, extract about six million tons of gravel
 21 over about 20 or 30 years on this project. We're
 22 going to upgrade 1025 Road at our expense, mile
 23 and a half of new road. We're funding the
 24 Township road budget with a 1 percent royalty.

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1 Again about a 20 percent increase in what they
 2 have in their road budget today.
 3 Road agreement, as we've talked, I think
 4 we're very close on. Again, we have this issue of
 5 timing on the road construction. I think we'll
 6 get that accomplished. But clearly if we don't,
 7 we don't have a special use permit, so that gives
 8 us a feeling of confidence, I believe.
 9 We've got a number of permits required
 10 already completed. We have a number of additional
 11 permits underway and we expect to have them
 12 shortly. Obviously acceptance or receipt of all
 13 of those permits and evidence provided to the
 14 County is a condition of this special use. We
 15 understand that.
 16 And then when we're done, we leave a
 17 good road behind. We leave a natural area that is
 18 protected with covenants into perpetuity. We
 19 provide a guarantee to make sure that that
 20 happens. We have a plan that's as environmentally
 21 friendly as we can make it. We've gone to great
 22 lengths to protect the roads, the Kickapoo Creek,
 23 and the habitat that it provides. A lot of work
 24 has gone into these plans to get us where we are

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1 today, to make sure we have a good project that
 2 the Odle Family can be proud of and minimizes the
 3 impact on the environment and our neighbors.
 4 Now, we're an industrial activity. We
 5 are not claiming we have no impact. But we have
 6 done all that we reasonably can be expected to do,
 7 and beyond probably, to have as little impact as
 8 we possibly can.
 9 As you review the seven standards, I
 10 hope you remember all the testimony, the extra
 11 effort the applicant has gone to to create a good,
 12 quality project. We hope you agree with the staff
 13 that the standards for this special use are met
 14 and we hope you forward a positive recommendation
 15 on to the County Board. Thank you.
 16 **MS. RUDOLPH:** Thank you. Would any
 17 interested parties, objectors, supporters that
 18 gave testimony like to make a closing statement at
 19 this time?
 20 **MS. TILTON:** Trish Tilton. I would like
 21 to thank you all for your time, your patience. I
 22 would like to state that the economic benefit to
 23 our township is not going to -- the people driving
 24 the trucks aren't living in our township. The

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1 people working at the plant probably won't be
 2 living in our township. The economic benefit's
 3 going to be in the other areas. And thank you
 4 very much.
 5 **MS. RUDOLPH:** Thank you. This portion
 6 of the hearing is closed. At this time, we'll
 7 discuss the standards and discuss the proposal.
 8 I wanted to ask the staff one thing. I
 9 lost track, have we added any -- are there any
 10 provisions that should be added that are not on
 11 the original proposal that were discussed in the
 12 course of these two nights?
 13 **MR. DICK:** I think you'll want to read
 14 through the conditions to verify that this is how
 15 you want them to state, because they're stated in
 16 a different manner than what the applicant is
 17 requesting. And particularly with regard to the
 18 construction of that road, 1025 E.
 19 **MS. RUDOLPH:** Okay. Let me ask the
 20 Board how you'd like to proceed. Should we go
 21 through the -- should we go through the conditions
 22 of the special use first? Or should we get to the
 23 standards and then as they relate, these
 24 conditions relate to these particular standards,

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1 discuss it then?
 2 **MS. TURNER:** I think we need to go
 3 through the conditions first.
 4 **MS. RUDOLPH:** Anyone disagree with that?
 5 (No audible response.)
 6 **MS. RUDOLPH:** Okay.
 7 **MR. KNAPP:** And Julia, just to your
 8 point, as I look at these standards and all of the
 9 evidence you've heard here, if you believe that
 10 the operator -- the proposed operator does
 11 endanger the health, safety or welfare of the
 12 public, absolutely appropriate to consider in that
 13 standard or any of the other standards that you
 14 relate that to.
 15 I mean, our purpose of -- the State's
 16 Attorney's office, our purpose of being here is to
 17 act as the parliamentarian and provide a little
 18 guidance. And we just always like to remind our
 19 clients during public hearings that the
 20 evidence -- you know, it's for you to weigh the
 21 evidence. If you believe it fits into one of the
 22 standards, it's absolutely appropriate to say.
 23 Fair enough?
 24 **MS. RUDOLPH:** And I can say this now

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1 because we're in discussion, I was very happy that
 2 Ms. Turner brought that up, because Mr. Scharf was
 3 here. Not literally, but he was in the room.
 4 **MR. ZIMMERMAN:** And we go through the
 5 conditions at the end. And then if we go through
 6 it, if we find something else, there might be some
 7 adaption [sic] that we make and either add one or
 8 strike one of the conditions? Okay, thanks.
 9 **MS. RUDOLPH:** Julie, which way do you
 10 want to go?
 11 **MS. TURNER:** I think we need to do the
 12 conditions first, because I do see some glaring
 13 differences from what has been discussed here.
 14 **MS. RUDOLPH:** Okay. I think probably
 15 everyone here understands what we're going to be
 16 discussing.
 17 Now, in any special use permit, unlike a
 18 rezoning, any special use we can put any amount of
 19 conditions on. I think we have put -- certain
 20 cases maybe we've put as many as maybe 30. So
 21 okay.
 22 The Applicant shall obtain a road use
 23 agreement with the Funks Grove Township road
 24 commissioner that mitigates the negative impact to

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1 township roads by trucks hauling gravel from the
 2 subject property, and shall obtain an entrance
 3 permit from the Funks Grove Township road
 4 commissioner before a permit is issued for the
 5 mining operations.
 6 It seems like a pretty big safeguard for
 7 the Township road commissioner here.
 8 **MS. TURNER:** Yeah, that's fine.
 9 **MR. ZIMMERMAN:** And on here -- well,
 10 personally, I think that it would make sense that
 11 if they're going to move a bunch of equipment out
 12 there, equipment tears up the road. So logically,
 13 from my standpoint, I'd say that the Commissioner
 14 ought to say move it out whenever you want, but
 15 leave the pristine road when you're done with it.
 16 The road commissioner knows a lot more
 17 about this than I ever will. So whatever
 18 suggestion I might have is sort of crazy. Is
 19 there -- have we ever had a five-year renewal of a
 20 road agreement? Because if we have a road
 21 agreement, it's there. Our big issue that we've
 22 heard evidence on is this going to be enough? Is
 23 1 percent going to be enough revenue? Or is X
 24 number of dollars? We don't know that. And it's

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1 somewhere -- it's outside our bailiwick. All we
 2 can do is say that they get a road agreement.
 3 Whatever conditions they put on the road agreement
 4 is up to them.
 5 **MS. RUDOLPH:** Yeah, we've had other road
 6 agreements, of course. But they're just saying
 7 this one is unique.
 8 **MR. ZIMMERMAN:** And we could specify
 9 conditions. But generally it's up to them. It's
 10 their road agreement. It's their local condition.
 11 **MS. TURNER:** And that's exactly what I
 12 think. A and B, to me, go under that. You know,
 13 essentially what we're saying is they have to have
 14 a road agreement with the Township and for us to
 15 specify because, obviously -- I'm sorry to go to
 16 B.
 17 **MS. RUDOLPH:** That's fine. Why don't I
 18 read it. The applicant shall upgrade 1025 East
 19 Road to IDOT Class III truck route standards from
 20 the subject property at 50 North Road to
 21 U.S. Route 136 approximately 1.5 miles to the
 22 north before a permit is issued for the mining
 23 operation.
 24 **MS. TURNER:** And that's not what we've

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1 heard testified tonight. What we've heard is that
 2 they want to get an agreement with the Township
 3 road supervisor, or whatever we called him.
 4 **MS. RUDOLPH:** Road commissioner.
 5 **MS. TURNER:** Commissioner. And what
 6 they -- and they're not saying that they agree to
 7 this. They're saying we'll be in the process of
 8 doing that and we want to be making money as we're
 9 improving the road. And --
 10 **MS. RUDOLPH:** So you're saying this
 11 needs changing?
 12 **MS. TURNER:** What I'm saying is we need
 13 to combine A and B into one and say that the
 14 applicant has to have a complete agreement with
 15 the Township road commissioner that includes, you
 16 know, the standards of upgrading the road, as well
 17 as impact that addresses -- upgrading the road as
 18 well as the impact on surrounding township roads.
 19 **MS. RUDOLPH:** That was a mouthful.
 20 **MR. DICK:** I would think that the first
 21 thing, the A, you would definitely want before we
 22 would issue a permit. But the B, as you're
 23 saying, doesn't necessarily have to be issued
 24 before a permit. But it needs to be consistent

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1 with the road agreement.
 2 **MS. TURNER:** Correct. That's fine. So
 3 the -- they're not going to get a permit until
 4 they have an agreement with the road commissioner.
 5 **MR. DICK:** But at some point, if they're
 6 not going to fix road 1025E, that's a problem too.
 7 That's a separate kind of condition.
 8 **MS. TURNER:** So we just won't get as
 9 specific as we are.
 10 **MR. ZIMMERMAN:** Yeah. I think they're
 11 separate conditions. One, get road agreement.
 12 Number two, upgrade that. That makes sense.
 13 And by the way, the 20 percent of the
 14 road budget is -- the 16 to \$20,000 is less than
 15 20 percent of their road budget, just to -- we had
 16 a member of our Board called Joe. And Joe would
 17 always make picayune-ish corrections to it. But
 18 that's -- 16 grand isn't 20 percent. Just thank
 19 you, Joe.
 20 **MR. KURITZ:** But 20 is. 20's 20 percent
 21 of 100,000.
 22 **MR. ZIMMERMAN:** It's like 116. It's 116
 23 or something.
 24 **MS. TURNER:** It's 90. That's what she

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1 said.
 2 **MR. ADAMS:** That was the testimony. I
 3 don't know what was on the --
 4 **MS. TURNER:** That's the total revenues.
 5 **MR. ZIMMERMAN:** The total revenue is
 6 116.
 7 **MS. TURNER:** But that's not their road
 8 budget.
 9 **MR. ZIMMERMAN:** And their expenditures
 10 are 122. So 16 of 20 is less than 20 percent of
 11 that. In honor of Joe, I wanted to bring that up.
 12 **MS. RUDOLPH:** We'll tell him. Can we go
 13 on to C here? When necessary or when requested by
 14 the Director of Building and Zoning, dust
 15 inhibiting surface treatments shall be applied to
 16 the gravel surface area where truck traffic
 17 circulates on the site, where trucks are loaded
 18 and where material is sorted and classified.
 19 **MS. TURNER:** That's fine.
 20 **MS. RUDOLPH:** Anybody?
 21 (No audible response.)
 22 **MS. RUDOLPH:** D is, The applicant shall
 23 provide a site reclamation irrevocable letter of
 24 credit or escrow in the amount of \$400,000 before

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1 a permit is issued for the mining operation.
 2 **MS. TURNER:** That's fine.
 3 **MS. RUDOLPH:** E is the 404 permit from
 4 U.S. Army Corps of Engineers shall be submitted to
 5 the Department of Building and Zoning before a
 6 permit is issued for the mining operation.
 7 **MR. DEAN:** Is that not in place?
 8 **MR. ADAMS:** Not yet.
 9 **MS. RUDOLPH:** We can't really ask him
 10 any more questions.
 11 **MR. ZIMMERMAN:** Yes, that seems correct.
 12 That seems like a good condition.
 13 **MS. RUDOLPH:** F is, Reclamation of the
 14 site will be accomplished continuously during the
 15 mining operation as indicated in the application
 16 and will be completed within one year of the
 17 conclusion of active mining activities.
 18 (No audible response.)
 19 **MS. RUDOLPH:** G, The area shall be
 20 properly reclaimed with adequate seeding, grading
 21 with finished slopes above water level that do not
 22 exceed 3 feet horizontal to 1 foot vertical, and
 23 erosion shall be properly controlled for the life
 24 of the facility.

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1 (No audible response.)
 2 **MS. RUDOLPH:** Phil, I'm asking you to
 3 jump in, too, if you need to.
 4 **MR. DICK:** The only thing I would like
 5 to change in F is the word "will" to "shall". I
 6 didn't quite catch that when I --
 7 **MS. RUDOLPH:** Okay.
 8 **MR. DICK:** -- first reviewed that.
 9 **MS. RUDOLPH:** Okay. It now reads,
 10 Reclamation of this site shall be accomplished as
 11 indicated in the application and shall be
 12 completed within a year. Okay.
 13 **MR. ZIMMERMAN:** And that could be --
 14 practically, they might reclaim more one year
 15 versus another year. So by continuous, it's not
 16 week upon week upon week. It's more periodically.
 17 So if they take out five or seven acres
 18 of overburden and mine that out, it's not like
 19 they have to start reclaiming that immediately.
 20 We have to wait until afterwards.
 21 So this, the definition of continuously
 22 is -- I don't think we're going to have a problem
 23 enforcing it or have a problem with that. But
 24 just to be a little picky on shall be continuous,

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1 I think we can give them a little time on that.
 2 **MS. RUDOLPH:** Shall be completed.
 3 **MR. ZIMMERMAN:** It will be completed.
 4 Yeah, that's important. I don't want it
 5 continuous.
 6 **MR. KURITZ:** We could say shall comply
 7 with the project specifications as -- because
 8 that's what Mr. Adams said it says in their
 9 specifications. So it's pretty tightly defined in
 10 there.
 11 **MR. OGLE:** Can I add something to this?
 12 **MS. RUDOLPH:** Actually, no -- I hate to
 13 say that -- because we get to the discussion part,
 14 we're not allowed to take any more testimony. So
 15 I'm sorry.
 16 **MR. ZIMMERMAN:** Yeah, I just don't want
 17 to have us trying to enforce something
 18 continuously when it makes a lot more sense that
 19 they do it --
 20 **MS. TURNER:** Periodically.
 21 **MR. ZIMMERMAN:** -- periodically.
 22 **MR. DICK:** Could you suggest how that
 23 should be changed again?
 24 **MR. ZIMMERMAN:** Will be accomplished

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1 periodically during the mining operation.
 2 **MR. DICK:** We're talking about which one
 3 now?
 4 **MR. ZIMMERMAN:** Under F. Shall be
 5 accomplished regularly during the mining operation
 6 as indicated in the application and will be
 7 completed within one year of conclusion of the
 8 active mining activities.
 9 I think under enforcement, it's going to
 10 be a little easier if you say regularly than
 11 continuously, depending on how -- this will be
 12 under your successor and maybe whoever your
 13 successor's going to be. So ...
 14 **MR. DICK:** Although this language is
 15 kind of out of their application too.
 16 **MR. ZIMMERMAN:** Is it out of their
 17 application?
 18 **MR. DEAN:** That was my point. Mr. Adams
 19 proposed continuously, right?
 20 **MR. DICK:** Regularly is fine with me.
 21 **MS. RUDOLPH:** Let's leave it regularly.
 22 G -- oh, we did G. H, The hours of operation are
 23 limited to daytime hours since the residence is
 24 located within 2,000 -- something --

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1 **MR. DICK:** Should be feet.
 2 **MS. RUDOLPH:** -- feet of the mining
 3 operation.
 4 (No audible response.)
 5 **MS. RUDOLPH:** I is, The applicant shall
 6 comply with all township, county, state and
 7 federal requirements; and J, Development shall
 8 follow the plans and documents submitted with the
 9 application.
 10 Anything anyone needs to add? Did you
 11 have anything?
 12 (No audible response.)
 13 **MS. RUDOLPH:** Okay. We'll go to the
 14 standards. Did you have something?
 15 **MR. ZIMMERMAN:** No.
 16 **MS. RUDOLPH:** Okay. The first standard
 17 is, The proposed special use will not be
 18 detrimental to or endanger the health, safety,
 19 morals, comfort, or welfare of the public.
 20 (No audible response.)
 21 **MS. RUDOLPH:** Don't all jump in. It
 22 seems to me that if every I is dotted, every T is
 23 crossed in this application and everything is done
 24 the way we've heard -- and we've heard pretty good

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1 statements about the past history of this owner --
 2 applicant, I should say, it seems to me we can
 3 pretty much hang our hat on the standard being
 4 met.
 5 **MR. DEAN:** I think that standard is met.
 6 I believe that standard's met.
 7 **MS. TURNER:** I, too, think if everything
 8 was done to the measure of the application, that
 9 that would be -- I do have reservations given who
 10 they've stated the operator would be.
 11 **MS. RUDOLPH:** Anybody else on the
 12 standard number 1?
 13 (No audible response.)
 14 **MS. RUDOLPH:** Okay. Standard number 2
 15 is, The proposed special use will not be injurious
 16 to the use and enjoyment of other property in the
 17 immediate vicinity for purposes already permitted
 18 or substantially diminish property values in the
 19 immediate area.
 20 All right. I always have a hard time
 21 with property values because whether it's a wind
 22 farm or gravel pit or whatever it is, because --
 23 I'm very sympathetic to the owners of that home.
 24 I am, too. And I'm really touched by their

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1 attitude toward their property. But it's so hard
 2 to say -- you know, it's so hard to say.
 3 We've had -- certain cases, I think
 4 we've had real estate property experts come in,
 5 you know, and tell us it's going to go up or down.
 6 Or maybe the same case, we've had them both ways.
 7 And it's really hard. So ...
 8 **MR. ZIMMERMAN:** Yeah, I have trouble
 9 with this one being met because there's going to
 10 be so much more traffic there and it's going to be
 11 in the immediate vicinity.
 12 And that kind of truck traffic, if
 13 there's 60 trucks going in and 60 trucks going out
 14 every day, that's 120 passes by big trucks going
 15 by their quiet house in the country. And there
 16 hasn't been any -- it's only one house and there
 17 hasn't been any offer to pay any compensation or
 18 do something like that, like we have had in other
 19 cases like the wind farms and that.
 20 So I'm really -- I'm not sure we meet
 21 this particular standard along there.
 22 **MS. CARLTON:** I have a lot of trouble
 23 with this one, too. I know if this was my home, I
 24 would be very upset. There's just too much

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1 traffic going down to not be upset. Too fast.
 2 Children, dogs, cats, whatever. And I've sold
 3 several homes in rural areas and I know how
 4 property value goes down when things like this are
 5 around. We need them. I need gravel where I
 6 live. But I just don't think we meet this
 7 standard.
 8 **MS. TURNER:** I have trouble with this
 9 standard in general because we have to weigh that
 10 with progress. And as was stated in testimony,
 11 there are no guarantees that things aren't going
 12 to change around you. And we've certainly had
 13 this come up in virtually every case that's come
 14 before us in one way or the other.
 15 And while I agree it is going to impact
 16 that, I don't know that we can ever set out a
 17 guarantee that that's not going to happen. And
 18 any time you move, especially into a rural area
 19 with land all around you.
 20 And so to weigh that with a natural
 21 resource is a difficult thing here.
 22 **MS. RUDOLPH:** And the word substantially
 23 is difficult, too, because it's so subjective.
 24 And what is substantial? The house is worth so

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1 much and -- that's why I -- I'm just sort of
 2 discounting it. I'm not saying it doesn't matter,
 3 but ...
 4 **MS. TURNER:** Right. Exactly.
 5 **MR. BANGERT:** Well, I'm still -- you
 6 know, I didn't have it answered. I posed the
 7 question, you know, what other contaminants could
 8 exist, because they do. And there's other
 9 airborne particles. And it is well known that
 10 they get paid by the loads. They're not driving
 11 slow either. So that is a concern.
 12 **MS. RUDOLPH:** Are you relating that to
 13 this standard or another standard?
 14 **MR. BANGERT:** This standard.
 15 **MS. TURNER:** How do we -- you know, I
 16 really do think it's a conversation we need to
 17 have on this particular standard is we have a
 18 natural resource, there are going to be gravel
 19 pits. Whether or not there's going to be this one
 20 or another one, and people are going to be
 21 impacted like this. It is going to be impacted.
 22 We have one house here that's impacted
 23 versus what could be many others. And so how do
 24 we weigh that? What is -- you know, is it the

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1 lesser of the evils? Is it, you know, sorry, no,
 2 we have no -- you know, we have to take even one
 3 into consideration? What do we do here?
 4 **MS. RUDOLPH:** I'm sorry, we didn't ask
 5 when the house was built.
 6 **MS. TURNER:** 1972.
 7 **MR. ZIMMERMAN:** They moved in in '72, is
 8 what I heard.
 9 **MS. RUDOLPH:** It's a harsh thing to say,
 10 but in 1972 -- I wonder if that house would be
 11 built because in 1972 is when we began. And in
 12 1975, we were somewhat successful and it's gone on
 13 and it's not stopping. I don't want to say
 14 totally stopping, but really making it very
 15 difficult to build houses like that. And I think
 16 it would have been really hard with the mineral
 17 resource nearby to get a permit for a house like
 18 that.
 19 That's speculation, too. And I don't
 20 really have a crystal ball. Or a backward glass.
 21 **MR. ZIMMERMAN:** There doesn't seem to
 22 have been much -- other than moving the road
 23 around the tree, there doesn't seem to have been
 24 much attempt to accommodate it. It's one owner.

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1 This isn't a multi-township wind farm where there
 2 are 100 owners and potential people living there.
 3 This is one owner.
 4 And the stipulation -- I'm concerned
 5 because this does not meet this particular
 6 standard. The proposal would be injurious to the
 7 use and enjoyment of this property and the
 8 immediate vicinities. And it might -- and in this
 9 case, or substantially diminish property values.
 10 Now, we haven't heard testimony by
 11 realtors. But we also have not heard any attempt
 12 to make offers for the house or other things.
 13 We're talking about a project that's
 14 going to be tens of millions of dollars of
 15 substance coming out -- of materials coming out of
 16 this and this might be something that we could
 17 stipulate that if they reach some agreement with
 18 it. But I have trouble with this particular --
 19 this particular standard.
 20 **MS. TURNER:** I'm hesitant to set
 21 precedents in doing that. We certainly have not
 22 set precedent in doing that in the past as we've
 23 approved other industries in agricultural areas.
 24 And I would be very hesitant to do that at this

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1 point, that stipulation.
 2 **MR. BANGERT:** Somebody moving into the
 3 country, they have to sign an affidavit if they
 4 smell a farm, you know, if the farmer's kicking up
 5 dust, they sign an affidavit that they understand
 6 that that's what they're moving into. We're not
 7 talking about a farm here. So ...
 8 **MS. RUDOLPH:** I think I might have a
 9 copy of it in my bag. But essentially what I
 10 think it says when you move to the country, you
 11 get country things. And does it exclusively
 12 relate to farming operations or could it relate to
 13 other operations?
 14 **MR. DEAN:** Madame Chairman, while he's
 15 looking at that, I'd like to point out that there
 16 may be tens of millions of dollars of resources
 17 down there that these people are going to go
 18 after. But we're operating on margins just like
 19 other business. They don't have tens of millions
 20 dollars sitting there ready to be plowed out
 21 today. They're operating on margins.
 22 **MS. RUDOLPH:** I think you're right. I
 23 think it does relate totally to agricultural
 24 operations. So your point is well taken.

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1 Shall we move on and maybe have to come
 2 back to this. Standard number C is, The proposed
 3 special use will not impede the orderly
 4 development of the surrounding property for uses
 5 permitted in the district.
 6 **MR. KURITZ:** I'd say that standard's
 7 met. It's not going to change the farming pattern
 8 of the area. You know.
 9 **MS. TURNER:** I agree.
 10 **MS. RUDOLPH:** It's not anticipated that
 11 there'd be any development.
 12 **MS. TURNER:** If anything, it could
 13 create more after there's a lake there.
 14 **MS. RUDOLPH:** D, adequate utilities,
 15 access road, drainage and/or necessary facilities
 16 have been or will be provided.
 17 **MS. TURNER:** I agree that's met.
 18 **MR. KURITZ:** I agree with that, too.
 19 **MR. ZIMMERMAN:** Yeah.
 20 **MS. RUDOLPH:** Adequate measures have
 21 been or will be taken to provide ingress and
 22 egress so designed as to minimize traffic
 23 congestion in the public streets.
 24 **MR. ZIMMERMAN:** That's met. They

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1 actually resigned the ingress and egress point,
 2 especially on 136, to make it safer and better for
 3 all concerned.
 4 **MS. RUDOLPH:** Any disagreement with
 5 that?
 6 (No audible response.)
 7 **MS. RUDOLPH:** The establishment,
 8 maintenance and operation of the special use will
 9 be in conformance with the intent of the district
 10 in which the special use is proposed to be
 11 located.
 12 I think the intent of the district,
 13 yeah, it says -- well, he's -- in the staff report
 14 he's quoted that it's to conserve open space,
 15 wooded areas, streams and mineral deposits. That
 16 gets right in there in the intent of the district.
 17 **MR. ZIMMERMAN:** Actually, it would be to
 18 make use of mineral deposits. And they're
 19 actually upgrading the wetlands in this. So it
 20 preserves, protects and actually expands the open
 21 space and wooded spaces. And it's going to leave
 22 it with this 70-acre lake or X number of acre lake
 23 that may be a possible conservation area in the
 24 future. So I think this one's met very nicely.

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1 **MS. RUDOLPH:** Everybody okay with that
 2 one?
 3 (No audible response.)
 4 **MS. RUDOLPH:** The proposed special use,
 5 in all other respects, conforms to the applicable
 6 regulations in the district in which it is
 7 located.
 8 **MR. DEAN:** Yeah.
 9 **MS. RUDOLPH:** Everybody agree?
 10 **MS. TURNER:** Yes.
 11 **MS. RUDOLPH:** I want to go back to 1.
 12 Let's review what we said about the first
 13 standard.
 14 **MR. ZIMMERMAN:** Re-read the standard.
 15 **MS. RUDOLPH:** The proposed special use
 16 will not be detrimental to or endanger the health,
 17 safety, morals or comfort of the public.
 18 **MS. TURNER:** I think staff's second
 19 paragraph hits on, I'm sure, what their concerns
 20 are and what my concerns are. It says the
 21 proposed sand and gravel mining operation is
 22 appropriate for the area, provided the area is
 23 properly reclaimed with adequate seeding, grading
 24 with finished slopes above. They're hitting on

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1 exactly what the concerns have been in the past
 2 with these type of operations.
 3 And I like that -- I like very much that
 4 it's written in that there is a regular,
 5 continuous -- whatever it is -- reclamation
 6 because we will be able to tell early on if that's
 7 going to happen or not.
 8 And I can't emphasize enough to staff
 9 that I hope they would withdraw their permit if
 10 it's not being done and not mess around with it
 11 for 20 years.
 12 **MS. RUDOLPH:** So are we in agreement
 13 that if everything is done according to the --
 14 sorry, according to the application and the plan,
 15 that the standard would be met? Are we in
 16 agreement on that?
 17 **MR. KURITZ:** Yes.
 18 **MS. TURNER:** Yes.
 19 **MR. ZIMMERMAN:** Yeah. The \$400,000 may
 20 look like \$40,000 does now 30 years from now. So
 21 we hope that there's future enforcement by -- it
 22 would probably be Phil's successor and maybe the
 23 successor's successor. But we hope we never even
 24 have to get to that point. So ...

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1 **MS. RUDOLPH:** So we're down to this one
 2 sticky thing here, aren't we?
 3 **MR. KURITZ:** I agree with Julia. It
 4 seems like we stumble on this one an awful lot
 5 because any time that you have objectors in the
 6 audience, someone is -- their enjoyment of their
 7 property is being infringed on in some way.
 8 However, the landowner, if we say no,
 9 you can't do this, then we've stepped all over his
 10 toes. There's no -- it's a no win, no win
 11 situation here one way or another. You know. I
 12 mean, I feel very sorry for those people. They've
 13 had -- but they've had since '72 with that
 14 enjoyment.
 15 I remember that Frank Miles told one
 16 applicant that I've had a view of the sunset
 17 unlimited over the lake for 25 or 30 years. But
 18 you can't control what your neighbor's going to do
 19 with his property and you need to be thankful
 20 you've had it that long.
 21 It doesn't make it any more palatable
 22 when you've got all those trucks driving by. But
 23 it doesn't seem like -- it seems like any way you
 24 go, you're going right by somebody's house and

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1 increasing that traffic, you know.
 2 **MS. RUDOLPH:** That's such a memory
 3 because what he said was if you want to see the
 4 sunset, you have to buy everything between you and
 5 the sunset. That's an attorney that's since
 6 retired.
 7 **MR. KURITZ:** Exactly.
 8 **MR. ZIMMERMAN:** Yeah, it's tough to make
 9 a stipulation. We always have the ability to vote
 10 against the whole thing if it doesn't meet one of
 11 the standards. And our votes don't have to be
 12 unanimous either.
 13 **MS. RUDOLPH:** But we'd like to be.
 14 **MR. ZIMMERMAN:** We generally are.
 15 **MR. DEAN:** I want to question whether or
 16 not we're still hung up on Mr. Scharf's ability to
 17 -- okay, we're past that one. Okay. Because that
 18 sounds to me like between he and staff, there's
 19 some contingent about whether it's actually closed
 20 or not. So he hasn't told you it's closed. So --
 21 but that's a moot point at this point. Okay.
 22 **MS. TURNER:** I just really want it to be
 23 on record that it will be watched closely and that
 24 it is encouraged to watch it very closely.

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1 **MR. ZIMMERMAN:** Yeah, this particular
 2 pit cannot, from what I understand, say if the
 3 operator is screwing up on another pit, that they
 4 would shut down this one. That, I think, is
 5 beyond the scope of this particular thing.
 6 **MR. DEAN:** Yeah.
 7 **MR. ZIMMERMAN:** And we have the
 8 continuous or regular reclamation going on in
 9 here. So we've got a lot of testimony in the
 10 record.
 11 **MR. KURITZ:** Unfortunately, we're not
 12 giving this special use to any operator at this
 13 point. We're giving it to a gentleman and his
 14 family down there. And they're the ones that --
 15 the way I understand it or the way I see it,
 16 they're the ones that have to answer to us. And
 17 if their operator is screwing up, we'll be going
 18 to them.
 19 **MS. TURNER:** They lose their permit and
 20 all their investment that they've put into it.
 21 **MR. KURITZ:** Absolutely.
 22 **MS. TURNER:** Back to B. We do stumble
 23 over this one all the time. And this is the
 24 proposed special use would not be injurious to the

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1 use and enjoyment of other property in the
 2 immediate vicinity for purposes already permitted.
 3 So they can still live there. You know
 4 that. Or substantially diminish property values
 5 in the immediate area. And we haven't had
 6 anything -- we've had conjecture that it will
 7 diminish property value. But we've had nothing
 8 that actually shows it will substantially
 9 diminish. And I don't know what substantial is.
 10 Is 25 percent, which is what was thrown out here?
 11 And there's no definite there.
 12 **MR. ZIMMERMAN:** Yeah, we have no hard
 13 evidence to say it will go down on average 22.3
 14 percent and is that -- and that is material or
 15 whatever. We actually have very little evidence,
 16 other than some opinions, to base our decision on
 17 there. And so it would be really nice -- I'm
 18 disappointed that the applicant did not come with
 19 at least an offer of some negotiation in there for
 20 this. There was just one party.
 21 So we always grapple with this. It's
 22 really tough for us. There hasn't been any offer.
 23 There was one person. I would have really
 24 appreciated seeing that offer to the person.

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1 We're sort of stuck because we don't
 2 have any evidence on that, so here's where we are.
 3 This is -- we're making public our ongoing
 4 conversation about this.
 5 **MS. RUDOLPH:** Based on what I said
 6 previously, based on what you said, Julia said,
 7 and some of the things that Drake said, I think
 8 I'm ready to vote for recommending it to the
 9 County Board.
 10 **MR. DEAN:** I'm ready to vote. I'll
 11 second that.
 12 **MS. RUDOLPH:** I will need a real motion.
 13 **MS. TURNER:** Okay.
 14 **MS. RUDOLPH:** Motion would be to
 15 recommend case SU-1509 be recommended to the
 16 County -- be recommended to the County Board as
 17 approved.
 18 **MR. KURITZ:** So moved.
 19 **MR. ZIMMERMAN:** With all the conditions?
 20 **MS. RUDOLPH:** Oh, yeah.
 21 **MR. KURITZ:** Still so moved.
 22 **MS. RUDOLPH:** Do I have a second?
 23 **MR. DEAN:** Yes, ma'am.
 24 **MS. RUDOLPH:** Motion by -- motion by

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1 Kuritz. Second by Dean. Is there any further
 2 discussion?
 3 (No audible response.)
 4 **MS. RUDOLPH:** A roll call vote.
 5 **MR. DICK:** Kuritz?
 6 **MR. KURITZ:** Yes.
 7 **MR. DICK:** Rudolph?
 8 **MS. RUDOLPH:** Yes.
 9 **MR. DICK:** Turner?
 10 **MS. TURNER:** Yes.
 11 **MR. DICK:** Zimmerman?
 12 **MR. ZIMMERMAN:** Abstain.
 13 **MR. DICK:** Bangert?
 14 **MR. BANGERT:** Yes.
 15 **MR. DICK:** Carlton?
 16 **MS. CARLSON:** Yes.
 17 **MR. DICK:** Dean?
 18 **MR. DEAN:** Yes.
 19 **MS. RUDOLPH:** The motion is six in favor
 20 and one abstention. So the motion carries.
 21 To let all of you know what happens
 22 next. When will it -- it's because it's after
 23 10:00 -- June --
 24 **MR. ZIMMERMAN:** Now it's after 10.

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1 **MS. RUDOLPH:** County Board, when does it
 2 convene next?
 3 **MR. DICK:** The third Tuesday.
 4 **MS. RUDOLPH:** What is that date?
 5 **MR. DICK:** I'll tell you what it is.
 6 June 21st.
 7 **MS. RUDOLPH:** Okay. This will go as a
 8 recommendation to the County Board. The County
 9 Board meets on Tuesday, June 21st in this room at
 10 9 A.M.
 11 A case of this nature will -- well, I
 12 will speculate -- very likely be discussed by the
 13 County Board. But the County Board doesn't allow
 14 further testimony at the County Board meetings.
 15 But the County Board will discuss it and they will
 16 vote on that day, I would imagine. I think we're
 17 adjourned.
 18 (Whereupon the hearing concluded at
 19 10:00 P.M.)
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1 STATE OF ILLINOIS)
 2 COUNTY OF McLEAN) ss
 3
 4 I, SHELLEY MARVIN, CSR in and for the State
 5 of Illinois, do hereby certify that the foregoing
 6 hearing was taken on behalf of the County Board on
 7 the 11th day of May, 2016.
 8
 9 That said hearing was taken down in
 10 stenograph notes, afterwards reduced to
 11 typewriting by me, and is a true and accurate
 12 transcription of the testimony.
 13
 14 I do hereby certify that I am a disinterested
 15 person in this cause of action; that I am not a
 16 relative of any party or any attorney of record in
 17 this cause, or an attorney for any party herein,
 18 or otherwise interested in the event of this
 19 action, and am not in the employ of the attorneys
 20 for either party.
 21
 22 IN WITNESS WHEREOF, I have hereunto set my
 23 hand this 30th day of May, 2016.
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